Mexican Land Grants in California

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON PUBLIC LANDS AND SURVEYS UNITED STATES SENATE

SEVENTY-FIRST CONGRESS

FIRST SESSION

PURSUANT TO

S. Res. 291

A RESOLUTION TO INVESTIGATE CHARGES OF THE ILLEGAL DELIVERY TO PRIVATE INTERESTS OF LANDS CEDED TO THE UNITED STATES BY THE GOVERNMENT OF MEXICO

APRIL 2-6, DECEMBER 5, 1929, FEBRUARY 6 AND MAY 27, 1930

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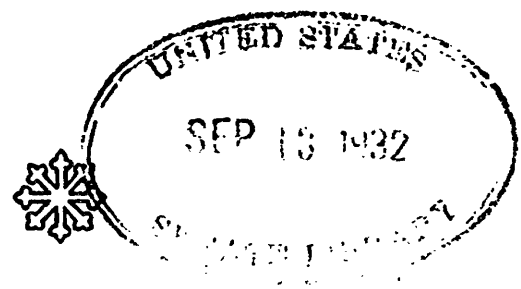

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MEXICAN LAND GRANTS IN CALIFORNIA

TUESDAY, APRIL 2, 1929

UNITED STATES SENATE,
SUBCOMMITTEE OF COMMITTEE ON
PUBLIC LANDS AND SURVEYS,
Los Angeles, Calif.

The Subcommittee of the Committee on Public Lands and Surveys of the United States Senate convened in room 552, courthouse, Los Angeles, Calif., at 10 o'clock a. m., Senator Gerald P. Nye presiding.

Present: Senators Nye (chairman), Dale, and Bratton.

Present also: The various representatives of the parties interested as will appear of record.

The CHAIRMAN. The committee will be in order. I shall ask the clerk to read the resolutions under which the committee is operating at this time.

The CLERK (INGHAM G. MACK). The resolutions are as follows:

[S. Res. 291, Seventieth Congress, second session]

Resolved, That the Committee on Public Lands and Surveys, or any subcommittee it may designate for the purpose, be, and it hereby is, authorized and directed to make a thorough investigation of and report to the Senate its findings and recommendations regarding charges that have frequently been made and continue to persist, and reports that have long been current and now prevail, that vast tracts of lands within the area of the lands ceded to the United States by the Government of Mexico were corruptly and fraudulent turned over to and delivered into the possession of private interests, and have been held and are now held by said interests without color of title; that qualified citizens seeking to exercise constitutional rights relative to said lands, and parts thereof, have been maliciously threatened, intimidated, slandered, libeled, and arrested, and have been corruptly indicted and held under outrageous bonds for long periods of time, and then released without a hearing or a trial; that private interests continue in the unlawful possession of the public lands by reason of their exerted influence over those whose study it is to enforce the law.

That said committee is hereby authorized to sit and perform its duties at such times and places as it deems necessary or proper, and to require the attendance of witnesses by subpœna or otherwise; to require the production of books, papers, surveys, maps, grants, patents, and al[illegible] and all other documents pertaining thereto; and to employ stenographers at a cost not exceeding 25 cents per hundred words. The chairman of the committee or any member thereof may administer oaths to witnesses and sign subpœnas for witnesses and records; and every person duly summoned before said committee, or any subcommittee thereof, who refuses or fails to obey the process of said committee or refuses to answer the questions pertaining to said investigation shall be punished as prescribed by law. The expenses of said investigation shall not exceed $1,500 which hall be paid from the contingent fund of the Senate on vouchers of the committee or subcommittee, signed by the chairman and approved by the committee who audit and control the contingent expenses of the Senate.

[S. Res. 329, Seventieth Congress, second session]

Resolved, That Senate Resolution Numbered 291, agreed to January 7, 1929, authorizing and directing the Committee on Public Lands and Surveys, or any subcommittee thereof, to investigate the cession of lands by the Government of Mexico to the United States, as fully set forth in said resolution, hereby is continued and extended in full force and effect until the end of the first regular session of the Seventy-first Congress, and that $5,000, in addition to the amount heretofore authorized, hereby is authorized to be expended from the contingent fund of the Senate in furtherance of the purposes of said resolution.

The CHAIRMAN. The committee is assembled here this morning for the purpose of proceeding with the investigation called for in these resolutions which have just been read. I think it hardly necessary for the Chair to state that the committee comes without any prejudice on the questions in controversy, and with a full and complete determination that equity, fairness, and justice shall be given every consideration in this study.

We hope that those that wish to be heard and those who may be asked to testify will confine themselves quite strictly to the letter of these resolutions. In these inquiries, such as this one is apt to be, frequently witnesses will go far out of their way and testify regarding matters quite removed from the real purposes for which the committee is sitting. We are going to confine the witnesses to the points which are within the bounds of these resolutions.

For the information of the committee I should like to know at this stage how many attorneys are here representing any individuals or any interests who desire to be heard, and who are available to be heard, if the committee should desire to call them. If there are any such present, I wish at this time that their names be recorded.

Mr. STIVERS. Mr. Chairman, I represent Stivers & Peabody, representing claimants of land between the Guadalasca Ranch Lines and the Pacific Ocean.

Mr. MUSICK. Mr. Chairman and gentlemen of the committee, the chamber of commerce has appointed a committee of lawyers to appear before this body representing the Chamber of Commerce of Los Angeles and the Los Angeles Realty Board. That committee is composed of the following:

Elvon Musick, chairman, of Woodruff, Musick, Pinney & Hartke, Los Angeles.
Oscar Lawler, of Lawler & Degnam, Los Angeles.
James G. Scarborough, of Scarborough & Bowen, Los Angeles.
Christian H. Hartke, of Woodruff, Musick, Pinney & Hartke, Los Angeles.

We are here to render whatever service we can to the committee.

Mr. WESTERVELT. I am an attorney at law of this city and I represent a number of homesteaders in Orange County and in the several ranches in this county which are involved.

Mr. PIERCE. My name is Joseph L. Pierce representing the heirs of Miguel Yorba on Ranchos Soo Bolsas, Sandiago-Santa Ana.

Mr. MITCHELL. My name is M. F. Mitchell, Petroleum Securities Building, Los Angeles, attorney for Malibu Rancho, Topango Sequit, owned by the Marblehead Land Co.

Mr. ROUTHE. My name is A. C. Routhe, 321 West Third Street, representing certain homesteaders relative to the Irvine and Palos Verde, with W. S. Summers.

Mr. WICKHAM. My name is George R. Wickham, lawyer. I was formerly assistant commissioner of the land office at Washington, D. C., and I wish to be heard in my own behalf.

The CHAIRMAN. So much for counsel for those who may be interested. Are there other people here, individuals, who would like to be heard?

Mr. JOHNSON. My name is Clinton Johnson, 615 Hibernian Building, Los Angeles.

Mr. CLARK. My name is V. E. Clark, 341 South Hope Street.

Mr. WHEELER. My name is H. N. Wheeler, 517 I. W. Hellman Building, Los Angeles.

The CHAIRMAN. Are there any others? (After a pause.) Apparently not at this time. Mr. Musick, I think you have requested to be heard briefly at this stage.

STATEMENT OF ELVON MUSICK, ATTORNEY, REPRESENTING THE LOS ANGELES CHAMBER OF COMMERCE

Mr. MUSICK. On behalf [illegible] Chamber of Commerce and the Los Angeles [illegible] extend a sincere welcome to your com[illegible] assistance within the power of th[illegible] and o[illegible]s in connection with your end[illegible] inv[illegible]ations. Wh[illegible] organizations did not bring [illegible] this inve[illegible]ation, we [illegible] nevertheless gratified and thankful [illegible] you are he[illegible]

The matt[illegible] which you are to consider have become matters of supreme im[illegible] in this entire community. They no longer concern a few [illegible], but they concern all who are interested in the welf[illegible] and the good name of this State. Particularly do they concern d[illegible] more than 20,000 people, numbers of farmers, whose homes, bu[illegible] properties [illegible] real estate holdings have been attacked and [illegible] upon. We hope [illegible] that the [illegible] under discussion vitall[illegible] concern [illegible] minds of tho[illegible] have been persuaded th[illegible] [illegible] properties are f[illegible]ent and that there is an op[illegible] [illegible] require ve[illegible] luable [illegible]ies by simply making homes[illegible]. Preposte[illegible]s it[illegible]m, these homestead filers have [illegible] cases [illegible] duced to believe that by the simple [illegible] declaration they can possess themselves of [illegible] owned by others. It would seem to be almost [illegible] that such a situation could actually exist, but nevertheless it does. And now that your presence here affords a much desired opportunity once and for all time to make clear the entire situation, we ask only that all of the facts be brought out.

As we understand it, the purpose of your investigation is to determine what, if any, frauds and misrepresentations have been perpetrated and whether there now exists bribery, fraud, and corruption with respect to Mexican land grant titles in California. We who are familiar with the facts and the law know and assert that our California land titles as based upon the original Mexican land grants, and confirmed by patents issued by the United States Government, are absolutely valid and impregnable. The validity of titles under these Mexican grants has already long since been repeatedly, completely and finally determined and sustained by the land department, by the local courts, and by the Supreme Court of the United States. If your committee wishes, we are prepared to make available to you all of the facts and legal decisions necessary to establish and prove this

BEST AVAILABLE COPY

assertion, and we shall be only too happy for an opportunity to do this at any time and in any manner you may suggest.

We have heard that charges have been made that citizens of the United States have been intimidated, libeled and threatened, and that officials of the United States Government have been and are even now being bribed and bought in order to perpetuate land frauds upon the Government, and that as a result of such corruption, bribery, and intimidation citizens of the United States have been deprived of their rights to file homestead entries. Respectfully we would request that those who are responsible for such charges be required to show upon what basis they have been made. If these charges, which we understand have been made openly and repeatedly for many years, are allowed to persist and to be continually reiterated, irreparable harm and damage will be done.

Because you and the other Members of the United States Senate may not be fully acquainted with the history of these homestead filings, perhaps a brief summary of the facts as we understand them would be of interest. Prior to the acquisition of California by the United States, many tracts of land were purchased by individuals from Mexico. These lands were conveyed by the Public of Mexico to such individuals by what has been known as Mexican Land Grants. These grants were issued at a time when the land was very cheap and this section of the country sparsely settled. The United States agreed to recognize these grants, provided the necessary legislative and judicial machinery for determining their extent and validity and after such determination in each case caused confirmatory patents to be issued by the United States Land Department. As the country grew these lands became more settled and portions were subdivided and conveyed to many different owners, until now there are thousands of owners and much of the property has become thickly settled and populated. These lands have now become highly improved, millions of dollars have been spent in the development of farms, roads, schools, industries, and in the erection of buildings and the making of the usual improvements incidental to rural and city growth. The San Fernando Valley alone has been subdivided into more than 30,000 different parcels owned by more than 24,000 different persons. Seven or eight modern and highly prosperous cities have sprung up in this valley alone, composed in the main of citizens who own their own homes. Large sums of money have been loaned on the security of these lands, large bond issues have been sold and the bonds distributed to the public. As a consequence, your hearing here now is a matter of general public concern and interest.

Subsequent to the time the original grants were made, and long after the Government patents were issued, certain individuals or groups of individuals have from time to time through the years, instituted and promoted so-called homestead raids and organized attacks upon the titles to such property. From time to time large numbers of persons have been solicited to file homestead applications on such land under an arrangement whereby, as we are informed, those promoting the plan were paid various sums of money ranging from $100 to $1,000 and more, for each application, and in addition were to receive a contingent interest in the expected profits to be realized. These promoters, in each case, we are told,

promised only that they would represent the applicants, file the original papers, and carry their appeals through the land department and perhaps to the courts, but in no case, so far as we can learn, did they promise or assure any definite results. None of these raids or attacks has ever succeeded; none of the applicants have ever received anything for their moneys expended; in each and every case they have lost or will lose all the moneys expended by them, except Government filing fees which have been or will be returned to them.

We are satisfied that all of the homestead entries with which you are now concerned, have been filed pursuant to an organized campaign on the part of those individuals who, for motives best known to themselves, have induced the respective applicants to enter homestead declarations.

We believe and urge that this committee should, as a part of its investigation of the subject, ascertain by careful examination of witnesses under oath the source of the activity pertaining to the filing of these homestead entries and discover, if possible, whether or not there does exist any general plan or organization for the procurement of the filing of homestead entries and, if so, what the motives of, or the compensation to, those active in such organization or plan may be. We are anxious to be of every possible assistance to the committee in developing all the facts pertaining thereto, and believe that we can obtain the services and assistance of the leading citizens of this community, of the civic organizations, of lawyers versed in land title law, and, indeed, any of the citizens, lawyers, civic or political organizations of California whose assistance may be thought desirable and helpful by your committee.

May we reiterate that California, the Los Angeles Chamber of Commerce, and the Los Angeles Realty Board extend to you a warm and genuine welcome? We appreciate and value highly your assistance and interest in the disposition of this entire matter, and we seize this opportunity to bring to full light all the facts pertinent to your inquiry. We know that your committee will make this a thorough and complete investigation and that the full truth will be brought forth. Those in charge of the United States land office in Los Angeles have been, for years, subject to tremendous annoyance and their legitimate activities within the scope of their official conduct has been the subject of wholly unwarranted criticism and abuse. They have recognized their inability to properly serve and protect both the Government and those who were being induced to make homestead filings on these lands. They have recognized the mischief that was being worked, but were possessed of no remedy which could be applied. We hope and expect that, as a result of this investigation, Congress will take appropriate action immediately to put an end once and for all to the possibility of the repetition of such activities. We hope also that means will be provided so that there may be vested in the land office such authority as will enable it to take swift and certain action to prevent the misuse of that department for the purpose of serving the interests and enhancing the fortunes of private individuals.

To adequately assist you, if you wish, in your inquiries, several leading attorneys of the Los Angeles bar are here in person to lend their services and help. Mr. Oscar Lawler and Mr. James Scar-

borough have collected a great mass of data concerning the law and the facts of the Mexican land grants and I am sure that they can quickly, and to your complete satisfaction, dispose of any questions that may arise in your minds. My partner, Mr. Hartke, has made a thorough study of the facts, as derived from witnesses and from reports of previous hearings, and will be very happy to assist, to whatever extent you may desire, in the presentation of evidence and in the examination or cross-examination of witnesses.

Mr. ROMERO. Mr. Chairman, may I ask permission to make a little explanation? The gentleman addressed his remarks to the Mexican treaty, but, nevertheless, they have never complied with the law. I know positively that here in Los Angeles—although I did not come here to correct the conduct of Los Angeles—but here in Los Angeles, as a matter of record, I had a grandfather or, rather, a great grandfather, who, according to the filings on this land here——

The CHAIRMAN. I beg your pardon, but I wish that you might let us proceed in the order that we have outlined this morning, and then, as to direct witnesses like yourself, who have anything to offer to-morrow, we shall afford every opportunity for you to be heard.

Mr. ROMERO. Thank you very much, but I live quite a distance from here and I just came for the particular purpose.

The CHAIRMAN. Can you not be here to-morrow?

Mr. ROMERO. Well, if it is your pleasure, I could.

The CHAIRMAN. The committee would prefer that you would.

Mr. ROMERO. Thank you very much. I simply wanted to show you the record.

The CHAIRMAN. We want to give you every opportunity to be heard, but for your own information, and the information of others, who might anticipate being heard to-day, let the Chair announce that the committee's plan is to confine itself this morning to witnesses in the persons of Mr. Musick and Mr. Wheeler, and, taking what we hear this morning as a foundation, we will then determine just what our line of procedure shall be, starting to-morrow, when we open up the more general hearing. Then we will want everyone to have opportunity and will give everyone the opportunity to be heard.

In order that there may be a more thorough understanding of the purposes of the committee at this time, I am going to ask Senator Bratton, of New Mexico, who is more conversant, I believe, than any other member of this committee, with these land matters, to outline what occurs to his mind to be the real purpose of the committee hearing, in order that all witnesses who are going to be heard to-day or to-morrow, or at any future time, will be more readily able to confine themselves to the concrete points that the committee wants to study. Senator Bratton, if you please.

Senator BRATTON. Complying with the request of the chairman, it is my conception that the proper scope of this inquiry is to accomplish two things: To enable the Senate to have the data upon which to legislate with reference to this situation, or and also with reference to similar situations which may hereafter arise; that is the proper scope of the investigation with which we are concerned. In other words, we desire to secure all of the facts, historical and otherwise, for the purpose of ascertaining what legislation, if any, is needed to remedy any of the evils which have occurred in connection with the titles to the various grants involved, and to prevent the

occurrence of similar situations elsewhere in the country. We are not concerned with personal animosities or differences. Those are entirely beside the purposes and plan of the committee. We want to know the facts upon which the Congress may legislate intelligently and effectively, to remedy whatever evils have grown up in this case, and to prevent their occurrence in other cases elsewhere in the country.

We shall ask the witnesses, and counsel, to confine themselves to those two basic principles and to allow their facts to bear relevancy to them. Keep that in mind, gentlemen, and do not wander afield from those two things, because if you do it will necessitate action on the part of the committee to draw you back to the two principles involved and to the purpose to be attained.

That, Mr. Chairman, is my concept of the purposes of the committee, in order that we might advise the Senate, and the other branch of Congress, if it may be, as to what we think should be done in the way of legislation to deal with this situation and to obviate a repetition of the inequities, if any have occurred, here and in other instances.

STATEMENT OF H. N. WHEELER, LOS ANGELES, CALIF.

The CHAIRMAN. Thank you, Senator. Now, Mr. Wheeler, you will be sworn by the chairman, please.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Mr. Wheeler, we want you to proceed in your own way. In view of the fact that you have been, with the others associated with you, very intimate with these affairs and these titles, we are going to be largely dependent upon the outline of your case here to-day in determining the course that we shall take during the balance of the week in the hearing. In other words, we are going to take what you present to-day as a basis, largely, for other inquiries that we have in mind. We hope that you will so present your case.

Mr. WHEELER. Mr. Chairman and gentlemen, I am not a lawyer, as you all know; but if you do not know it now you will know it before I get through, because I will not present the case, either to the committee, nor to the public, from a legal standpoint, but merely from the angle of presenting the evidence as we have it and as we can ascertain it from the official records.

I think the first thing, and the most interesting thing would be—and this is for the benefit of the committee because a great many of the people here, as was said a moment ago, know the facts—but I think the most interesting thing would be first to ascertain whether there was a grant. In order to do that we must go back and take up a little bit of history.

Spain was the first country that claimed this territory as sovereign territory, and when the territory was taken over, after the revolution in Mexico, there was a treaty made between Mexico and Spain, called the treaty of Cordova. That treaty, so far as I know personally, has been lived up to by Mexico.

When the United States acquired this territory from Mexico—some three or four million acres of land—and paid $15,000,000 for it the United States also entered into a treaty with Mexico, and that treaty is known as the treaty of Guadalupe Hidalgo, of which treaty

I have a copy. The copies of these documents are copies of public documents published by the United States Government, and I think those documents can be recovered from the archives in Washington, those that I will introduce as evidence. Then when we come down to the cession from Mexico to the United States, so far as we are concerned here, there are just two questions to discuss.

We acquired from Mexico two kinds of land; that is to say, public land and private land. The public land would be that land which had not been granted; the private land would be the pueblos or the grants that had actually been made by Mexico in this territory. And that is a simple matter to find out.

The Mexican Government, and also the Spanish Government, had to have and did have a record of what they did grant. The reason for that was that if they did not have a record that same grant might be granted again. For instance, some one might have a grant including the city of Long Beach and possibly the city of San Pedro and the Palos Verdes Hills; that grant may have been valid, put of record and made according to law and all that, and then another party at a later date might come along and ask for a grant to the city of San Pedro and the Palos Verdes Hills, and if they had no record of what they had made previously there would be plenty of trouble. Therefore Mexican law specifies that there must be a record, and that is given in Document No. 17. Now, Mr. Chairman, as I go along do you want this evidence put out here?

The CHAIRMAN. I think you should, Mr. Wheeler. There may be some of it that we can replace in Washington, but we would be glad to have you offer the evidence as exhibits.

Mr. WHEELER. Yes. It will all be referred to later.

The CHAIRMAN. When you refer to a given volume will you also please state the page and title of the volume itself?

Mr. WHEELER. Yes, sir. Let me first introduce a document known as Executive Document No. 17. In Appendix No. 5, at page 141, we find "General rules and regulations for the colonization of Territories of the Republic—Mexico, November 21, 1828."

The CHAIRMAN. Mr. Wheeler, do you offer that as Exhibit A?

Mr. WHEELER. I do, Mr. Chairman, except that I will have to use this book in the rest of the work here and will need it again.

The CHAIRMAN. You will have access to it and may keep it right there with you.

DOCUMENT No. 17

APPENDIX NO. 5

General rules and regulations for the colonization of territories of the Republic—Mexico, November 21, 1828.

It being stipulated in the sixteenth article of the general law of colonization of the 18th of August, 1824, that the Government, in conformity with the principles established in said law, shall proceed to the colonization of the territories of the Republic; and it being very desirable in order to give to said article the most punctual and exact fulfillment, to dictate some general rules for facilitating its execution in such cases as may occur, his excellency has seen fit to determine on the following articles:

First. The governors (gefes politicos) of the territories are authorized (in compliance with the law of the general Congress of the 18th of August, 1824, and under the conditions hereafter specified) to grant vacant lands in their respective territories to such contractors (empresarios) families, or private per-

sons, whether Mexicans or foreigners, who may ask for them for the purpose of cultivating and inhabiting them.

Second. Every person soliciting lands, whether he be an empressario, head of a family, or private person, shall address to the governor of the respective territory a petition, expressing his name, country, profession, the number, description, religion, and other circumstances of the families or persons with whom he wishes to colonize, describing as distinctly as possible by means of a map, the land asked for.

Third. The governor shall proceed immediately to obtain the necessary information whether the petition embraces the requisite conditions required by said law of the 18th of August, both as it regards the land and the candidate, in order that the petitioner may at once be attended to; or if it be preferred, the respective municipal authority may be consulted, whether there be any objection to making the grant or not.

Fourth. This being done the governor will accede or not to such petition, in exact conformity to the laws on the subject, and especially to the before-mentioned one of the 18th of August, 1824.

Fifth. The grants made to families or private persons shall not be held to be definitely valid without the previous consent of the territorial deputation, to which end the respective documents (espedientes) shall be forwarded to it.

Sixth. When the governor shall not obtain the approbation of the territorial deputation, he shall report to the supreme government, forwarding the necessary documents for its decision.

Seventh. The grants made to empressarios for them to colonize with many families shall not be held to be definitely valid until the approval of the supreme government be obtained; to which the necessary documents must be forwarded, along with the report of the territorial deputation.

Eighth. The definitive grant asked for being made, a document signed by the governor shall be given, to serve as a title to the partly interested, wherein it must be stated that said grant is made in exact conformity with the provisions of the laws in virtue whereof possession shall be given.

Ninth. The necessary record shall be kept, in a book destined for the purpose, of all the petitions presented, and grants made, with the maps of the lands granted, and the circumstantial report shall be forwarded quarterly to the supreme government.

Tenth. No capitulization shall be admitted for a new town, except the capitulator bind himself to present, as colonists, 12 families at least.

Eleventh. The governor shall designate to the new colonist a proportionate time within which he shall be bound to cultivate or occupy the land on the terms and with the number of persons or families which he may have capitulized for, it being understood that if he does not comply, the grant of the land shall remain void: nevertheless, the governor may revalidate it in proportion to the part which the party may have fulfilled.

Twelfth. Every new colonist, after having cultivated or occupied the land agreeably to his capitulization, will take care to prove the same before the municipal authority, in order that, the necessary record being made, he may consolidate and secure his right of ownership, so that he may dispose freely thereof.

Thirteenth. The reunion of many families into one town shall follow, in its formation, interior government, and policy, the rules established by the existing laws for the other towns of the Republic, special care being taken that the new ones are built with all possible regularity.

Fourteenth. The minimum of irrigable land to be given to one person for colonization shall be 200 varas square, the minimum of land called de temporal shall be 800 varas square, and the minimum for breeding cattle (de obsevadeso) shall be 1,200 varas square.

Fifteenth. The land given for a house lot shall be 100 varas.

Sixteenth. The spaces which may remain between the colonized lands may be distributed among the adjoining proprietors who shall have cultivated theirs with the most application, and have not received the whole extent of land allowed by the law, or to the children of said proprietors, who may ask for them to combine the possessions of their families; but on this subject particular attention must be paid to the morality and industry of the parties.

Seventeenth. In those territories where there are missions, the lands occupied by them can not be colonized at present, nor until it be determined whether they are to be considered as the property of the establishments of the neophytes, catechumens, and Mexican colonists.

Mr. WHEELER. Then the decree of the 18th of August, 1824, respecting colonization. Would it be advisable to read this whole thing in respect to this point?

The CHAIRMAN. I would suggest, if you are quite conversant with it, and I assume that you are, that you tell us briefly what the contents of it is.

Mr. WHEELER. It would save time that way and then the whole thing can be copied in.

The CHAIRMAN. That would be the better way to do it.

APPENDIX NO. 4.—DECREE OF AUGUST 18, 1824, RESPECTING COLONISATION

The sovereign general constituent Congress of the United Mexican States has been pleased to decree—

First. The Mexican Nation promises to those foreigners who may come to establish themselves in its territory, security in their persons and property, provided they subject themselves to the laws of the country.

Second. The objects of this law are those national lands which are neither private property nor belong to any corporation or pueblo, and can, therefore, be clonized.

Third. To this end the Congress of the States will form, as soon as possible, the laws and regulations of colonization of their respective demarcation, with entire conformity to the constitutive act, the general constitution, and the rules established in this law.

Fourth. Those territories comprised within 20 leagues of the boundaries of any foreign nation, or with 10 leagues of the seacoast, can not be colonized without the previous approval of the supreme general executive power.

Fifth. If, for the defense or security of the nation, the Federal Government should find it expedient to make use of any portion of these lands for the purpose of constructing warehouses, arsenals, or other public edifices, it may do so, with the approbation of the general Congress, or during its recess with that of the Government council.

Sixth. Before the expiration of four years after the publication of this law, no tax or duty (direcho) shall be imposed on the entry of the persons of foreigners, who come to establish themselves for the first time in the nation.

Seventh. Previous to the year 1840, the general Congress can not prohibit the entry of foreigners to colonize, except compelled to do so, with respect to the individuals of some nation, by powerful reasons.

Eighth. The Government, without prejudicing the object of this law, will take the precautionary measure which it may consider necessary for the security of the federation, with respect to the foreigners who may come to colonize. In the distribution of lands, Mexican citizens are to be attended to in preference; and no distinction shall be made amongst these, except such only as is due to private merit and services rendered to the country, or inequality of circumstances, residence in the place to which the lands distributed belong.

Tenth. Military persons who are entitled to lands by the promise made on the 27th of March, 1821, shall be attended to in the States, on producing the diplomas granted to them to that effect by the supreme executive power.

Eleventh. If by the decrees of capitulization, according to the probabilities of life, the supreme executive should see fit to allenate any portion of land in favor of any military or civil officers of the federation, it may so dispose of the vacant lands of the territories.

Twelfth. No one person shall be allowed to obtain the ownership of more than one league square, 5,000 varas, of irrigable land (de regadio), four superficial ones of land dependent on the seasons (de temporal), and six superficial ones for the purpose of rearing cattle (de abreradiso).

Thirteenth. The new colonists can not transfer their possessions in mortmain (manos muertas).

Fourteenth. This law guarantees the contracts which the grantees (empressarios) may make with the families which they may bring out at their expense; provided they be not contrary to the laws.

Fifteenth. No one who, by virtue of this law, shall acquire the ownership of lands, shall retain them if he shall reside out of the territory of the Republic.

Sixteenth. The government, in conformity with the principles established by this law, will proceed to the colonisation of the territories of the Republic.

Mr. WHEELER. The law specifies that there shall be a record kept in a book, in the archives in Mexico, and it went so far as to say that if there was no record that the grant could not be recognized as valid. With that to start with, anyone who had a valid grant that was made according to Mexican law, or I might say, before the United States had taken the country over, the fact that there was a grant could be ascertained from the record. With that thing in view the United States then, in the treaty of Guadalupe Hidalgo, which is given here in the book, known as The Public Domain and Its History, with Statistics, published by the Government in 1880, on page 126 we find the beginning of the treaty of Guadalupe Hidalgo.

The CHAIRMAN. Let that be recorded as Exhibit B.

Mr. WHEELER. The treaty was made by Nicholas Trist, Esq., on behalf of the United States (although a long time before recalled), and Luis G. Cuevas, Bernardo Couto, and Miguel Atristain on the part of Mexico. This treaty was done at the city of Guadalupe Hidalgo, Mexico, February 2, 1848. Mr. Trist transmitted it to Mr. Buchanan, Secretary of State, and President Polk sent it to the Senate with a message on Wednesday, February 23, 1848. He recommended that the tenth article should not be ratified. The Senate, after debate, amended it. It was finally adopted with amendments, March 10, 1848, by a vote of yeas 38, nays 14.

By and with the advice of the Senate, President Polk appointed Hon. Ambrose H. Sevier (United States Senator), of Arkansas, and Hon. Nathaniel Clifford (Attorney General), of Maine, commissioners to Mexico, as envoys extraordinary and ministers plenipotentiaries. They took with them a copy of the treaty, with the amendments of the Senate duly ratified by the President, and had full powers to ratify the same. The protocol to the treaty was their work. They arrived at the city of Queretaro May 5, 1848. The amended treaty was submitted to the Mexican Senate on that day, and it passed by a vote of 33 ayes to 5 nays. It had previously passed the House of Deputies.

On the 30th of May, at the same city, ratifications were exchanged, and afterwards the commissioners at the city of Mexico paid over the $3,000,000 cash payment.

THE TREATY OF GUADALUPE HIDALGO

Treaty of peace, friendship, limits, and settlement, with the Republic of Mexico, concluded February 2, 1848; ratifications exchanged at Queretaro, May 30, 1848; proclaimed July 4, 1848.

In the name of Almighty God:

The United States of America and the United Mexican States, animated by a sincere desire to put an end to the calamities of the war which unhappily exists between the two Republics, and to establish upon a solid basis relations of peace and friendship, which shall confer reciprocal benefits upon the citizens of both, and assure the concord, harmony, and mutual confidence wherein the two people should live, as good neighbors, have for that purpose appointed their respective plenipotentiaries, that is to say:

The President of the United States has appointed Nicholas P. Trist, a citizen of the United States; and the President of the Mexican Republic has appointed Don Luis Gonzaga Cuevas, Don Bernardo Souto, and Don Miguel Atristain, citizens of the said Republic; who, after a reciprocal communication of their respective full powers, have, under the protection of Almighty

God, the author of peace, arranged, agreed upon, and signed the following treaty of peace, friendship, limits, and settlement between the United States of America and the Mexican Republic:

ARTICLE I. There shall be firm and universal peace between the United States of America and the Mexican Republic, and between their respective countries, territories, cities, towns, and people, without exception of places or persons.

ART. II. Immediately upon the signature of this treaty, a convention shall be entered into between a commissioner or commissioners appointed by the general in chief of the forces of the United States, and such as may be appointed by the Mexican Government, to the end that a provisional suspension of hostilities shall take place, and that in the places occupied by the said forces, constitutional order may be reestablished, as regards the political, administrative, and judicial branches, so far as this shall be permitted by the circumstances of military occupation.

ART. III. Immediately upon the ratification of the present treaty by the Government of the United States, orders shall be transmitted to the commanders of their land and naval forces requiring the latter (provided this treaty shall then have been ratified by the Government of the Mexican Republic, and the ratifications exchanged) immediately to desist from blockading any Mexican ports; and requiring the former (under the same condition) to commence, at the earliest moment practicable, withdrawing all troops of the United States then in the interior of the Mexican Republic, to points that shall be selected by common agreement, at a distance from the seaports not exceeding 30 leagues; and such evacuation of the interior of the Republic shall be completed with the least possible delay; the Mexican Government hereby binding troops, on their march and in their new positions, and for promoting a good understanding between them and the inhabitant. In like manner orders shall be dispatched to persons in charge of the customhouses at all ports occupied by the forces of the United States, requiring them (under the same condition) immediately to deliver possession of the same to the persons authorized by the Mexican Government to receive it, together with all bonds and evidences of debt for duties on importations and on exportations, not yet fallen due. Moreover, a faithful and exact account shall be made out, showing the entire amount of all duties on imports and exports, collected at such customhouses, or elsewhere in Mexico, by authority of the United States, from and after the day of ratification of this treaty by the Government of the Mexican Republic; and also on account of the cost of collection; and such entire amount, deducting only the cost of collection, shall be delivered to the Mexican Government, at the City of Mexico, within three months after the exchange of ratifications.

The evacuation of the capital of the Mexican Republic by the troops of the United States, in virtue of the above stipulation, shall be completed in one month after the orders there stipulated for shall have been received by the commander of said troops, or sooner if possible.

ART. IV. Immediately after the exchange of ratifications of the present treaty all castles, forts, territories, places, and possessions, which have been taken or occupied by the forces of the United States during the present war, within the limits of the Mexican Republic, as about to be established by the following article, shall be definitely restored to the said Republic, together with all the artillery, arms, apparatus of war, munitions, and other public property, which were in the said castles and forts when captured, and which shall remain there at the time when this treaty shall be duly ratified by the Government of the Mexican Republic. To this end, immediately upon the signature of this treaty, orders shall be dispatched to the American officers commanding such castles and forts, securing against the removal or destruction of any such artillery, arms, apparatus of war, munitions, or other public property. The City of Mexico, within the inner line of intrenchments surrounding the said city, is comprehended in the above stipulation, as regards the restoration of artillery, apparatus of war, etc.

The final evacuation of the territory of the Mexican Republic, by the forces of the United States, shall be completed in three months from the said exchange of ratifications, or sooner if possible; the Mexican Government hereby engaging, as in the foregoing article, to use all means in its power for facilitating such evacuation, and rendering it convenient to the troops, and for promoting a good understanding between them and the inhabitants.

If, however, the ratification of this treaty by both parties should not take place in time to allow the embarkation of the troops of the United States to be completed before the commencement of the sickly season, at the Mexican ports on the Gulf of Mexico, in such case a friendly arrangement shall be entered into between the general in chief of the said troops and the Mexican Government, whereby healthy and otherwise suitable places at a distance from the ports not exceeding 30 leagues, shall be designated for the residence of such troops as may not yet have embarked, until the return of the healthy season. And the space of time here referred to as comprehending the sickly season shall be understood to extend from the 1st day of May to the 1st day of November.

All prisoners of war taken on either side, on land or on sea, shall be restored as soon as practicable after the exchange of ratifications of this treaty. It is also agreed that if any Mexicans shall now be held as captives by any savage tribe within the limits of the United States, as about to be established by the following article, the Government of the said United States will exact the release of such captives, and cause them to be restored to their country.

ART. V. The boundary line between the two Republics shall commence in the Gulf of Mexico, 3 leagues from land, opposite the mouth of the Rio Grande, otherwise called the Rio Bavo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence westwardly, along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence, northward, along the western line of New Mexico, until it intersects the first branch of the River Gila (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same); thence down to the middle of the said branch and of the said river, until it empties into the Rio Colorado; thence across the Rio Colorado, following the division line between upper and Lower California, to the Pacific Ocean.

The southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitled "Map of the United Mexican States, as Organized and Defined by Various Acts of the Congress of said Republic, and Constructed According to Best Authorities. Revised edition. Published at New York, in 1847, by J. Disturnell," of which map a copy is added to this treaty, bearing the signatures and seals of the undersigned plenipotentiaries. And, in order to preclude all difficulty in tracing upon the ground that the limit separating upper from Lower California, it is agreed that the said limit shall consist of a straight line drawn from the middle of the Rio Gila where it unites with the Colorado to a point on the coast of the Pacific Ocean, distant 1 marine league due south to the southernmost point of the port of San Diego, according to the plan of said port made in the year 1782 by Don Juan Pantoja, second sailing master of the Spanish fleet, and published at Madrid in the year 1802, in the atlas to the voyage of the schooners *Sutil* and *Mexicana;* of which plan a copy is hereunto added, signed and sealed by the respective plenipotentiaries.

In order to designate the boundary line with due precision upon authoritative maps and to establish upon the ground landmarks which shall show the limits of both Republics, as described in the present article, the two Governments shall each appoint a commissioner and a surveyor who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep journals and make out plans of their operations; and the result agreed upon by them shall be deemed a part of this treaty and shall have the same force and effect as if it were inserted therein. The two Governments will amicably agree regarding what may be necessary to those persons, and also as to their respective escorts, should such be necessary.

The boundary line established by this article shall be religiously respected by each of the two Republics, and no change shall ever be made therein except by the express and free consent of both Nations, lawfully given by the General Government of each, in conformity with its own constitution.

ART. VI. The vessels and citizens of the United States shall, in all time, have a free and uninterrupted passage by the Gulf of California, and by the River Colorado below the confluence with the Gila, to and from their possessions

situated north of the boundary line defined in the preceding article; it being understood that this passage is to be by navigating the Gulf of California and the River Colorado, and not by land, without the express consent of the Mexican Government.

If by the examinations which may be made it should be ascertained to be practicable and advantageous to construct a road, canal, or railway, which in whole or in part runs upon the River Gila, or upon its right or its left bank, within the space of the marine league from either margin of the river, the Governments of both Republics will form an agreement regarding its construction, in order that it may serve equally for the use and advantage of both countries.

ART. VII. The River Gila, and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico, being, agreeably to the fifth article, divided in the middle between the two Republics, the navigation of the Gila and of the Bravo del Norte below said boundary shall be free and common to the vessels and citizens of both countries, and neither shall, without the consent of the other, construct any work that may impede or interrupt, in whole or in part, the exercise of this right; not even for the purpose of favoring new methods of navigation. Nor shall any tax or contribution, under any denomination or title, be levied upon vessels or persons navigating the same, or upon merchandise or effects transported thereon, except in the case of landing upon one of their shores. If, for the purpose of making the said rivers navigable, or for maintaining them in such state, it should be necessary or advantageous to establish any tax or contribution, this shall not be done without the consent of both Governments.

The stipulations contained in this present article shall not impair the territorial rights of either Republic within its established limits.

ART. VIII. Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account, to any contribution, tax, or charge whatever.

Those who shall prefer to remain in the said territories may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.

In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to its guarantees equally ample as if the same belonged to citizens of the United States.

ART. IX. The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the meantime, shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.

ART. X. (Stricken out.)

ART. XI. Considering that a great part of the territories, which, by the present treaty, are to be comprehended for the future within the limits of the United States, is now occupied by savage tribes, who will hereafter be under the exclusive control of the Government of the United States, and whose incursions within the territory of Mexico would be prejudicial in the extreme, it is solemnly agreed that all such incursions shall be forcibly restrained by the Government of the United States whensoever this may be necessary; and that when they can not be prevented, they shall be punished by the said Government, and satisfaction for the same shall be exacted—all in the same way, and with equal diligence and energy, as if the same incursions were meditated or committed within its own territory, against its own citizens.

it shall not be lawful, under any pretext whatever, for any inhabitant of the United States to purchase or acquire any Mexican, or any foreigner residing in Mexico, who may have been captured by Indians inhabiting the territory of either of the two Republics; nor to purchase or acquire horses, mules, cattle, or property of any kind, stolen within Mexican territory by such Indians.

And in the event of any person or persons, captured within Mexican territory by Indians, being carried into the territory of the United States, the Government of the latter engages and binds itself, in the most solemn manner, so soon as it shall know of such captives being within its territory, and shall be able so to do, through the faithful exercise of its influence and power, to rescue them and return them to their country, or deliver them to the agent or representatives of the Mexican Government. The Mexican authorities will, as far as practicable, give to the Government of the United States notice of such captures; and its agents shall pay the expenses incurred in the maintenance and transmission of the rescued captives; who, in the meantime, shall be treated with the utmost hospitality by the American authorities at the place where they may be. But if the Government of the United States, before receiving such notice from Mexico, should obtain intelligence, through any other channel, of the existence of Mexican captives within its territory, it will proceed forthwith to effect their release and delivery to the Mexican agent, as above stipulated.

For the purpose of giving these stipulations the fullest possible efficacy, thereby affording the security and redress demanded by their true spirit and intent, the Government of the United States will now and hereafter pass, without necessary delay, and always vigilantly enforce, such laws as the nature of the subject may require. And, finally, the sacredness of this obligation shall never be lost sight of by the said Government, when providing for the removal of the Indians from any portion of the said Territories, or for its being settled by citizens of the United States; but, on the contrary, special care shall then be taken not to place its Indian occupants under the necessity of seeking new homes, by committing those invasions which the United States have solemnly obliged themselves to restrain.

ART. XII. In consideration of the extension acquired by the boundaries of the United States, as defined in the fifth article of the present treaty, the Government of the United States engages to pay to that of the Mexican Republic the sum of $15,000,000.

Immediately after this treaty shall have been duly ratified by the Government of the Mexican Republic, the sum of $3,000,000 shall be paid to the said Government by that of the United States, at the City of Mexico, in the gold or silver coin of Mexico. The remaining $12,000,000 shall be paid at the same place, and in the same coin, in annual installments of $3,000,000 each, together with interest on the same at the rate of 6 per cent per annum. This interest shall begin to run upon the whole sum of $12,000,00 from the day of the ratification of the present treaty by the Mexican Government, and the first of the installments shall be paid at the expiration of one year from the same day. Together with each annual installment, as it falls due, the whole interest accruing on such installment from the beginning shall also be paid.

ART. XIII. The United States engage, moreover, to assume and pay to the claimants all the amounts now due them, and those hereafter to become due, by reason of the claims already liquidated and decided against the Mexican Republic, under the conventions between the two Republics severally concluded on the 11th day of April, 1839, and on the 30th day of January, 1843; so that the Mexican Republic shall be absolutely exempt for the future from all expense whatever on account of the said claims.

ART. XIV. The United States do furthermore discharge the Mexican Republic from all claims of citizens of the United States, not heretofore decided against the Mexican Government, which may have arisen previously to the date of the signature of this treaty; which discharge shall be final and perpetual, whether the said claims be rejected or be allowed by the board of commissioners provided for in the following article, and whatever shall be the total amount of those allowed.

ART. XV. The United States, exonerating Mexico from all demands on account of the claims of their citizens mentioned in the preceding article, and considering them entirely and forever canceled, whatever their amount may be, undertake to make satisfaction for the same, to an amount not exceeding $3,250,000. To ascertain the validity and amount of those claims,

a board of commissioners shall be established by the Government of the United States, whose rewards shall be final and conclusive: *Provided*, That in deciding upon the validity of each claim, the board shall be guided and governed by the principles and rules of decision prescribed by the first and fifth articles of the unratified convention, concluded at the City of Mexico on the 20th day of November, 1843; and in no case shall an award be made in favor of any claim not embraced by these principles and rules.

If, in the opinion of the said board of commissioners or of the claimants, any books, records, or documents, in the possession or power of the government of Mexican Republic, shall be deemed necessary to the just decision of and claim, the commissioners or the claimants, through them, shall, within such period as Congress may designate, make an application in writing for the same, addressed to the Mexican minister for foreign affairs, to be transmitted by the Secretary of State of the United States; and the Mexican Government engages, at the earliest possible moment after the receipt of such demand, to cause any of the books, records, or documents, so specified, which shall be in their possession or power (or authenticated copies or extracts of the same), to be trasmitted to the said Secretary of State, who shall immediately deliver over to the said board of commissioners; provided that no such application shall be made by or at the instance of any claimant, until the facts which it is expected to prove by such books, records, or documents, shall have been stated under oath or affirmation.

ART. XVI. Each of the contracting parties reserves to itself the entire right to fortify whatever point within its territory it may judge proper so to fortify for its security.

ART. XVII. The treaty of amity, commerce, and navigation, concluded at the city of Mexico on the 5th day of April, 1831, between the United States of America and the United Mexican States, except the additional article, and except so far as the stipulations of said treaty may be incompatible with any stipulation contained in the present treaty, is hereby revived for the period of eight years from the day of the exchange of ratifications of this treaty, with the same force and virtue as if incorporated therein; it being understood that each of the contracting parties reserves to itself the right, at any time after said period of eight years shall have expired, to terminate the same by giving one year's notice of such intention to the other party.

ART. XVIII. All supplies whatever for troops of the United States in Mexico, arriving at ports in the occupation of such troops previous to the final evacuation thereof, although subsequently to the restoration of the customhouses of such ports, shall be entirely exempt from duties and charges of any kind; the Government of the United States hereby engaging and pledging its faith to establish, and vigilantly to enforce all possible guards for securing the revenue of Mexico, by preventing the importation, under cover of this stipulation, of any articles other than such, both in kind and in quantity, as shall really be wanted for the use and consumption of the forces of the United States during the time they may remain in Mexico. To this end it shall be the duty of all officers and agents of the United States to denounce to the Mexican authorities at the respective ports any attempts at a fraudulent abuse of this stipulation, which they may know of, or may have reason to suspect, and to give to such authorities all the aid in their power with regard thereto; every such attempt, when duly proved and established by sentence of a competent tribunal, shall be punished by the confiscation of the property so attempted to be fraudulently introduced.

ART. XIX. With respect to all merchandise, effects, and property whatsoever, imported into ports of Mexico whilst in the occupation of the forces of the United States, whether by citizens of either Republic, or by citizens or subjects of any neutral nation, the following rules shall be observed:

1. All such merchandise, effects, and property, if imported previously to the restoration of the customhouses to the Mexican authorities, as stipulated for in the third article in this treaty, shall be exempt from confiscation, although the importation of the same be prohibited by the Mexican tariff.

2. The same perfect exemption shall be enjoyed by all such merchandise, effects, and property, imported subsequently to the restoration of the customhouses, and previously to the 60 days fixed in the following article for the coming into force of the Mexican tariff at such ports, respectively; the said merchandise, effects, and property being, however, at the time of their importation, subject to the payment of duties, as provided for in the said following article.

3. All merchandise, effects, and property described in the two rules foregoing shall, during their continuance at the place of importation, and upon their leaving such place for the interior, be exempt from all duty, tax, or impost of every kind, under whatsoever title or denomination. Nor shall they be there subjected to any charge whatsoever upon the sale thereof.

4. All merchandise, effects, and property described in the first and second rules, which shall have been removed to any place in the interior whilst such such place was in the occupation of the forces of the United States, shall, during their continuance therein, be exempt from all tax upon the sale or consumption thereof, and from every kind of impost or contribution, under whatsoever title or denomination.

5. But if any merchandise, effects, or property described in the first and second rules shall be removed to any place not occupied at the time by the forces of the United States, they shall, upon their introduction into such place, or upon their sale consumption there, be subject to the same duties which, under the Mexican laws, they would be required to pay in such cases if they had been imported in time of peace, through the maritime customhouses, and had there paid the duties conformably with the Mexican tariff.

6. The owners of all merchandise, effects, or property described in the first and second rules, and existing in any port of Mexico, shall have the right to reship the same, exempt from all tax, impost, or contribution whatever.

With respect to the metals or other property exported from any Mexican port whilst in the occupation of the forces of the United States, and previously to the restoration of the customhouse at such port, no person shall be required by the Mexican authorities, whether general or state, to pay any tax, duty, or contribution upon any such exportation, or in any manner to account for the same to the said authorities.

ART. XX. Through consideration for the interests of commerce generally, it is agreed, that if less than 60 days should elapse between the date of the signature of this treaty and the restoration of the customhouses, conformably with the stipulation in the third article, in such case all merchandise, effects, and property whatsoever arriving at the Mexican ports after the restoration of the said customhouses, and previously to the expiration of 60 days after the day of signature of this treaty, shall be admitted to entry; and no other duties shall be levied thereon than the duties established by the tariff found in force at such customhouses at the time of the restoration of the same. And to all such merchandise, effects, and property the rules established by the preceding article shall apply.

ART. XXI. If unhappily any disagreement should hereafter arise between the Governments of the two Republics, whether with respect to the interpretation of any stipulation in this treaty, or wit hrespect to any other particular concerning the political or commercial relations of the two nations, the said governments, in the name of their nations, do promise to each other that they will endeavor, in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of peace and friendship in which the two countries are now placing themselves; using, for this end, mutual representations and pacific negotiations. And if, by these means they should not be able to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression, or hostility of any kind, by the one Republic against the other, until the Government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighborship, whether it would not be better that such difference should be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation. And should such course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference, or the circumstances of the case.

ART. XXII. If (which is not to be expected, and which God forbid) war should unhappily break out between the two Republics, they do now, with a view to such calamity, solemnly pledge themselves to each other and to the world to observe the following rules; absolutely where the nature of the subject permits, and as closely as possible in cases where such absolute observance shall be impossible:

1. The merchants of either republic then residing in the other shall be allowed to remain twelve months, (for those dwelling in the interior), and six months, (for those dwelling at the seaports), to collect their debts and settle their affairs; during which periods they shall enjoy the same protection, and be on the same footing, in all respects, as the citizens or subjects of the most

friendly nations; and, at the expiration thereof, or at any time before, they shall have full liberty to depart, carrying off all their effects without molestation or hindrance, conforming therein to the same laws which the citizens or subjects of the most friendly nations are required to conform to.

Upon the entrance of the armies of either nation into the territories of the other, women and children, ecclesiastics, scholars of every faculty, cultivators of the earth, merchants, artisans, manufacturers, and fisherman, unarmed and inhabiting unfortified towns, villages, or places, in general all persons whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments unmolested in their persons. Nor shall their houses or goods be burnt or otherwise destroyed, nor their cattle taken, nor their fields wasted, by the armed force into whose power, by the events of war, they may happen to fall; the same shall be paid for at an equitable price. All churches, hospitals, schools, colleges, libraries, and other establishments for charitable and beneficent purposes, shall be respected, and all persons connected with the same protected in the discharge of their duties, and the pursuit of their vocations.

2. In order that the fate of prisoners of war may be alleviated, all such practices as those of sending them into distant, inclement, or unwholesome districts, or crowding them into close and noxious places, shall be studiously avoided. They shall not be confined in dungeons, prison ships, or prisons nor be put in irons, or bound, or otherwise restrained in the use of their limbs. The officers shall enjoy liberty on their paroles, within convenient districts, and have comfortable quarters; and the common soldiers shall be disposed in cantonments, open and extensive enough for air and exercise, and lodged in barracks as roomy and good as are provided by the party in whose power they are for its own troops. But if any officer shall break his parole by leaving the district so assigned him, or any other prisoner shall escape from the limits of his cantonment, after they shall have been designated to him, such individual, officer, or other prisoner shall forfeit so much of the benefit of this article as provides for his liberty on parole or in cantonment.

And if any officer so breaking his parole, or any common soldier so escaping from the limits assigned him, shall afterwards be found in arms, previously to his being regularly exchanged, the person so offending shall be dealt with according to the established laws of war. The officers shall be daily furnished, by the party in whose power they are, with as many rations and of the same articles as are allowed, either in kind or by commutation, to officers of equal rank in its own army; and all other shall be daily furnished with such ration as is allowed to a common soldier in its own service; the value of all which supplies shall, at the close of the war or at periods to be agreed upon between the respective commanders, be paid by the party on a mutual adjustment of accounts for the subsistence of prisoners; and such accounts shall not be mingled with or set off against any others, nor the balance due on them be withheld, as a compensation or reprisal for any cause whatever, real or pretended. Each party shall be allowed to keep a commissary of prisoners, appointed by itself, with every cantonment of prisoners, in possession of the other; which commissary shall see the prisoners as often as he pleases; shall be allowed to receive, exempt from all duties or taxes, and to distribute whatever comforts may be sent to them by their friends; and shall be free to transmit his reports in open letters to the party by whom he is employed.

And it is declared that neither the pretense that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending the solemn covenant contained in this article. On the contrary, the state of war is precisely that for which it is provided; and, during which, its stipulations are to be as sacredly observed as the most acknowledged obligations under the law of nature or nations.

ART. XXIII. This treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of the Mexican Republic, with the previous approbation of its general congress; and the ratifications shall be exchanged in the city of Washington, or at the seat of the Government of Mexico, in four months from the date of the signature hereof, or sooner if practicable.

In faith whereof we, the respective plenipotentiaries, have signed this treaty of peace, friendship, limits, and settlement, and have hereunto affixed our seals respectively.

Done in quintuplicate, at the city of Guadalupe Hidalgo, on the 2d day of February, in the year of our Lord one thousand eight hundred and forty-eight.

N. P. TRIST. [L. S.]
LUIS G. CUEVAS. [L. S.]
BERNARDO COUTO. [L. S.]
MIGL. ATRISTAIN. [L. S.]

PROTOCOL

In the city of Queretaro, on the 26th of the month of May, 1848, at a conference between their excellencies, Nathan Clifford and Ambrose H. Sevier, commissioners of the United States of America, with full powers from their Government to make to the Mexican Republic suitable explanations in regard to the amendments which the Senate and Government of the said United States have made in the treaty of peace, friendship, limits, and definitive settlement between the two Republics, signed in Guadalupe Hidalgo, on the 2d day of February of the present year; and his excellency, Don Luis de la Rosa, minister of Foreign Affairs of the Republic of Mexico; it was agreed, after adequate conversation, respecting the changes alluded to, to record in the present protocol the following explanations, which their aforesaid excellencies the commissioners, gave in the name of their Government and in fulfillment of the commission conferred upon them near the Mexican Republic:

First. The American Government by suppressing the ninth article of the treaty of Guadalupe Hidalgo and substituting the third article of the treaty of Louisiana, did not intend to diminish in any way what was agreed upon by the aforesaid article ninth in favor of the inhabitants of the territories ceded by Mexico. Its understanding is that all of that agreement is contained in the third article of the treaty of Louisiana. In consequence all the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of the ceded territories, if the ninth article of the treaty had been retained, will be enjoyed by them, without any difference, under the article which has been substituted.

Second. The American Government, by suppressing the tenth article of the treaty of Guadalupe, did not in any way intend to annul the grants of lands made by Mexico in the ceded territories. These grants, notwithstanding the suppression of the article of the treaty, preserve the legal value which they may possess; and the grantees may cause their legitimate (titles) to be acknowledged before the American tribunals.

Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing, the ceded territories are those which were legitimate titles under the Mexian law in California and New Mexico up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836.

Third. The Government of the United States, by suppressing the concluding paragraph of Article XII of the treaty, did not intend to deprive the Mexican Republic of the free and unrestrained faculty of ceding, conveying, or transferring at any time (as it may judge best) the sum of $12,000,000 which the same Government of the United States is to deliver in the places designated by the amended article.

And these explanations having been accepted by the minister of foreign affairs of the Mexican Republic, he declared, in name of his Government, that with the understanding conveyed by them the same Government would proceed to ratify the treaty of Guadalupe as modified by the Senate and Government of the United States. In testimony of which their excellencies, the foresaid commissioners and the minister have signed and sealed, in quintuplicate the present protocol.

[SEAL.] A. H. SEVIER.
[SEAL.] NATHAN CLIFFORD.
[SEAL.] LUIS DE LA ROSA.

Mr. WHEELER. In the prelude to the treaty it says that President Polk recommended that article 10 of the treaty should not be ratified; and further along it says that it was finally adopted, with amendments, on March 10, 1848. In other words, it took two years to get this treaty made up and accepted by the Senate after the time the United States had taken the country over.

Then on page 129 we find article 10 stricken out and the amendment which took the place of article 10 is on pages 132 and 133, and that is listed and known as a protocol to the treaty.

Paragraph 2 of this amendment or protocol says this [reading]:

The American Government, by suppressing the tenth article of the treaty of Guadalupe, did not in any way intend to annul the grants of lands made by Mexico in the ceded territory. These grants, notwithstanding the suppression of the article of the treaty, preserved the legal value which they may possess, and the grantees may cause their legitimate (titles) to be acknowledged before the American tribunals.

I think that is fair.

The next paragraph reads:

Conformably to the law of the United States, legitimate title to every description of property, personal and real, existing in the ceded territories of those which were legitimate titles under the Mexican law in California and New Mexico up to the 13th of May, 1846, and in Texas up to the 2d of March, 1836.

Now, while we are on this treaty, let us just find out how much force and effect this treaty has, because I find a great many people, including a great many lawyers, do not seem to know this; and that is given in a book known as The Constitution of the United States of America, Annotated, published in 1923 by the Government, on page 529, we find:

A treaty is a solemn agreement between nations—

skipping a line or two—

It binds the Nation in the aggregate and all its subordinate authorities and judges, State as well as Federal—

and then follow several decisions of the Supreme Court—

When duly ratified a treaty becomes, under this clause, a supreme law of the land. A treaty is in the nature of a contract, but in the United States it is something more; it is like an act of Congress of which the courts must take judicial notice and which constitutes a rule of decision in all courts. The courts are empowered to administer a treaty according to its terms, but they can not annul or disregard any of those terms.

In other words, no court can disregard the provisions of this treaty, where it states that legitimate titles would be those which were made up to or before May 13, 1846.

Senator BRATTON. Was that date May 13, 1846, or July 7, 1846?

Mr. WHEELER. I can explain that. The treaty stipulates May 13, 1846, for this reason, and I think that is the main reason why they set that date—that if the United States declared war on Mexico an international law would prohibit any grant being made during the period of war.

Senator BRATTON. I am under the impression, although I have not given it recent consideration, that the Supreme Court of the United States has held that the power of Mexico to make grants terminated July 7, 1846, that being the date that the flag was raised at Monterey. Are we in accord or in discord about that?

Mr. WHEELER. I am certainly in accord with that because that is true; but the Supreme Court did not have under consideration at that particular time, with reference to the treaty, the date after which no grants had been made or could be made. What I mean is, the court did not say that it could make grants up to July 7, 1846.

Senator BRATTON. You say that the court did not hold that?

Mr. WHEELER. Not in that case, as I remember the facts.

Senator BRATTON. My recollection is that the court did say that the power terminated July 7, 1846. But that can be determined later.

Mr. WHEELER. All right, then. The answer to that is this: The Constitution of the United States and treaties are on a par; they are equal, and the Constitution and treaties are the rule by which the Supreme Court of the United States is governed and ruled, are they not? Any decision handed down by the Supreme Court of the United States would, of necessity, have to be in accord with the Constitution and the treaties.

Senator BRATTON. If the court held that the power on the part of the Mexican Government to grant ceased on July 7, 1846, you would not question the soundness of that opinion, would you?

Mr. WHEELER. No; I would not presume to do that. All I can say in answer, not being a lawyer, is this: That if a treaty is a contract and if it is a document like an act of Congress, I think the court must take judicial notice, and then if that decision was handed down not in accord with the treaty, that is open for argument along the line of that thought.

But to go back to this, the real answer to that thing is that the Mexican Government certifies they never made any grants since May 13, 1846. Since the statement is made, I might just as well give the documents. I have here a certificate from Mexico, which is O. K.'d by the United States vice consul as being genuine and authentic, in which Mexico states—I do not read Spanish so I will have to get an exact translation here for the record—but the certificate states that no valid grant has been made in the State of California by any authorized Mexican authority since May 13, 1846. That will clear up that point anyway.

The CHAIRMAN. Have you the original document?

Mr. WHEELER. Have I the original of this?

The CHAIRMAN. Yes.

Mr. WHEELER. I can have it here before the session is over. We have photostats of it and it is also published in Senate Document 333.

The CHAIRMAN. I think it would be important to have the original document before the hearing is closed.

Mr. WHEELER. The man who has the original document is present here, and if you wish the original, he can produce it. Would you like to have it?

Senator BRATTON. You may supply it later.

The CHAIRMAN. Not necessarily to-day. You can have it here when we convene to-morrow.

Mr. WHEELER. All right; thank you. The next point that I think is intensely interesting is this:

In the treaty with Mexico, respecting the lower part of Arizona, known as the Gadsen Purchase, and we have here the map of 1848 showing the cessation at that time from Mexico to the United States, and this map shows very clearly what was known as the Gadsen Purchase. In the Gadsen Purchase treaty they refer back to the treaty of Guadalupe Hidalgo and say this in articles 5 and 6, on page 137 of this book known as The Public Domain, a Government document [reading]:

Article V. All the provisions of the eighth and ninth, sixteenth and seventeenth articles of the treaty of Guadalupe Hidalgo shall apply to the territory ceded by the Mexican Republic in the first article of the present treaty, and to all the rights of persons and property, both civil and ecclesiastical, within the same as fully and effectually as if the said articles were herein again recited and set forth.

Then at the bottom of the next article it says:

No grants of lands within the territory ceded by the first article of this treaty—

no, further down—

or will any grants made previously be respected or considered as obligatory which have not been located and duly recorded in the archives of Mexico.

In other words, they not only have that in the law, but they bring that up in their treaties.

Then we get down to a concrete case. There is one thing certain when we took this country over from Mexico there were two kinds of land that came to us: Some of it was private and some of it was public, and the date which enables us to determine which was private and which was public was really not July 7, 1846, but May 13, 1846. All right, with this thought in mind, then the thing to find out is the status of any particular piece of ground on May 13, 1846. Let us take a concrete case. We will begin with the San Fernando Valley. That, I believe, is the most important case. I have here the affidavit of C. C. Groves, sworn to before George D. Howland, a notary public in and for the county of Los Angeles, State of California.

The CHAIRMAN. Pardon me, you have there copy of an affidavit.

Mr. WHEELER. Thank you, Senator. It is a copy.

Senator BRATTON. Where is the original, Mr. Wheeler?

Mr. WHEELER. The original of this particular affidavit I do not have. I do not know where the original is. Mr. Groves himself is listed in the witnesses and I believe can be had, if he is not here in the room, and he may have the original.

Senator BRATTON. Well, if he is here, then he can state the facts.

Mr. WHEELER. It goes on to say [reading]:

STATE OF CALIFORNIA,
County of Los Angeles, ss:

C. C. Grove, a citizen of the United States, and of the State of California, of lawful age, being duly sworn, deposes and says:

The petition and grant as set forth in the foregoing Exhibit A are correctly printed from copies certified by the United States surveyor general of California.

Also, that the foregoing field notes of the San Fernando mission lands, according to the reported patent survey of Henry Hancock, and the subsequent surveys of W. B. Reynolds, and Ensign and Wright, as found in the foregoing Exhibit B are correctly copied from the files of documentary evidence, relied on and produced in the Superior Court of Los Angeles County, Calif., by claimants under the United States patent for said lands. Also that the facts and figures set forth in Exhibit C are correctly copied by me from original documents now in the office of the United States surveyor general of California; and that the facts and figures set forth in the above-named exhibits, to wit, Exhibits D and F, were copied by me from the records of the United States District Court for the Southern District of California, now in charge of the clerk of the District Court of the Northern District of said State, and that the same are true and correct.

C. C. GROVE.

Subscribed and sworn to before me this 31st day of December, 1895.

GEO. D. HOWLAND,
Notary Public in and for Los Angeles County, Calif.

EXHIBIT A.

BEFORE THE COMMISSIONERS TO ASCERTAIN AND SETTLE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Eulogio de Celis gives notice that he claims a tract of land situated in the present county of Los Angeles, known by the name of mission of San Fernando, bounded as follows: On the north by the rancho of San Francisco, on the west by the mountains of Santa Susanna, on the east by the rancho of Miguel Trunfo, and on the south by the mountains of Portesuelo, which tract is supposed to contain 14 square leagues.

Said land was sold to the said Celis by a deed of grant dated the 17th day of June of the year 1846, by Pio Pico, constitutional Governor of California, thereto duly authorized by the Supreme Government of the Nation and by a decree of the departmental assembly of April 3, 1846. Said sale was made for the sum of $14,000, which was paid by the said Celis to the said Pio Pico, who acknowledged receipt thereof, as will more full appear by reference to the aforesaid deed of grant, copy whereof marked "A" is hereto annexed, together with a certified copy of the instructions from the minister of war and navy to the Governor of the Californias, marked "B," and a certified copy of the entry made in the archives of the former Spanish and Mexican territory of department of upper California, of the aforesaid deed of grant marked "C," which said documents are hereto annexed.

Claimant avers that the aforesaid deed of sale contains the condition that the Government of México shall have the right to annul the contract by reimbursing to this claimant the aforesaid sum of $14,000 with the current rates of interest, and in case said sum is not reimbursed within said eight months, said mission of San Fernando shall be his in full property. And this claimant avers that said sum of $14,000 was never reimbursed to him by the Mexican Government or by any person whatsoever.

Said mission of San Fernando was leased by the government of Mexico to Andres Pico in December, 1845, for the term of —— years, which lessee has been in the occupancy of the said property up to the present date.

Claimant further avers that he knows of no other claim to the aforesaid mission, and he relies on the documents above referred to and witnesses he shall produce to substantiate his claim.

N. HUBART,
Attorney for Claimant.

(Translation)

The undersigned constitutional governor of the department of California, in virtue of the powers vested unto him by the supreme government of the nation, and in virtue of a decree of the honorable departmental assembly of April third of the present year, to raise means for the purpose of maintaining the integrity of the territory of this department for the sum of fourteen thousand dollars which he receives, sells unto Don Eulogio de Celis and his heirs, the exmission of San Fernando with all its properties, estates, lands, and movables with the exception of the church and all its appurtenances, which remain for public use. Said purchaser obligating himself to maintain on their lands the old Indians on the premises during their life time, with the right to make their crops, with the only condition that they shall not have the right to sell the lands they cultivate and any other which they possess without anterior title from the departmental government. For all of which the aforesaid Senor Celis shall be acknowledged as the legitimate owner of the aforesaid exmission of San Fernando, to use the same as to him shall seem best, guaranteeing unto him as the government does guarantee, that he is well possessed of the aforesaid estate with all of the prerogatives granted by law to purchasers, with the only condition that the above-mentioned purchaser shall not take posse sion within the space of eight months from the date hereof, within which delay the government shall have the right to annual this contract by reimbusing to the aforesaid Senor Celis the sum of four'een thousand dollars, with interest at the current commercial rates; but if this reimbursement is not operated within the aforesaid eight months, this sale shall be valid.

The above-mentioned purchaser binds himself to warrant to the father minister of the aforesaid establishment his subsistence and clothing, with all possible decency, together with the rooms assigned to h m or those which he justly requires.

And for the establishment of this fact and the security of the purchaser, the present document is issued, and shall be acknowledged and respected by all the authorities of the department for its better accomplishment.

And in faith of which the undersigned and secretary of the department grant their authority and affix their signatures in the city of Los Angeles, on this ordinary paper for want of stamped paper, the seventeenth of June, one thousand eight hundred and forty-six.

PIO PICO.

JOSE MATIAS MORENO,
Secretary pro tem.

Mr. WHEELER. This document can be had from our county records.

Senator BRATTON. Let me suggest that it will be much more satisfactory to the committee, and to the Senate, if all of these documents on which you rely and to which you make reference are put in the record in order that we may examine them in full.

Mr. WHEELER. I will be very glad to furnish them. I have duplicate copies of this.

Senator BRATTON. For instance, you refer now to parts of an affidavit made in 1895, the whereabouts of the original of which is unknown. Obviously that is secondary evidence and in no way helpful to the committee. I understand the maker of the affidavit is here.

Mr. WHEELER. I intend to have him called.

Senator BRATTON. We would like to hear from him, and I remind you that the matter you are now discussing is hearsay and rather remote.

Mr. WHEELER. All right. I had supposed I should present the evidence and then call the man who made it and ask for a copy of the record to show——

Senator BRATTON. If he knows the facts and can state them under oath I think we would prefer to hear him rather than consider his affidavit made thirty-odd years ago.

Mr. WHEELER. Shall I just read this alleged bill of sale or grant of the San Fernando Valley, and strike out reference to the affidavit?

Senator BRATTON. Well, I do not know your purpose in offering that.

Mr. WHEELER. The purpose is to determine whether or not the San Fernando Valley is public domain, and the only way I see of getting at it or getting started at it is to give the documents under which they claim.

Senator BRATTON. Then the committee would prefer to have the document.

Mr. WHEELER. The original?

The CHAIRMAN. Yes.

Senator BRATTON. That is the point. How do you know it is a copy? How do you know how it was obtained? While I am sure that you are acting in the best of good faith, Mr. Wheeler, I want—still when you say you have a copy of a document, how do you know it is a copy, and to what verity is it entitled unless we have some substantiation of its authenticity?

Mr. WHEELER. I would answer the question in this way. I would say I know it is a copy of it because that is the one thing that has been found of record anywhere that we have been able to check up and this man Grove has sworn that this is a true copy, and that can be ascertained from the surveyor general of California.

Senator BRATTON. Our purpose is to either examine the originals or to ascertain their absence. We are dealing with land titles now, Mr. Wheeler.

Mr. WHEELER. Yes, sir.

Senator BRATTON. They rest upon records, or the absence of records. Now, if they exist I think the committee would prefer to have the originals or certified copies from the proper custodian; if they do not exist then let some one come before us who can testify that he has examined the records wherever they should be recorded and that no such document exists. Do I make my view plain?

Mr. WHEELER. I would be very glad to get a list of these witnesses. My purpose is to set out the facts as I know them and then call witnesses to substantiate the facts, and call for the documents.

Senator DALE. Have you ever seen the original?

Mr. WHEELER. No, sir, I never have seen the original of this so-called San Fernando Valley grant.

Senator DALE. Have you ever searched for that and tried to find it?

Mr. WHEELER. I have.

Senator BRATTON. Where?

Mr. WHEELER. In the county records of Los Angeles and everywhere that we could find access to any private records or Government records or list of grants.

Senator BRATTON. Did you ever talk with Mr. Grove about it?

Mr. WHEELER. No, I have not, for two reasons: Mr. Grove, I understand, is a man who will tell the absolute truth, and who absolutely fears no one, and I did not want to be in the position of talking to him before this hearing. I would rather that he be called in here as a stranger to me.

Senator DALE. Is there not some place where this original should be recorded?

Mr. WHEELER. If it was a grant, it should be and would have to be recorded in Mexico City.

Senator DALE. But is there any place in this country where it should be recorded?

Mr. WHEELER. In this country they would noturally be of record in the county records if they had issued deeds or certificates of title or any kind of title in this district——

Senator DALE. (interposing). Do you mean the records of this county?

Mr. WHEELER. I would say the county of Los Angeles.

Senator DALE. Have you ever looked for them there?

Mr. WHEELER. Yes; I have.

Senator DALE. And they are not recorded there?

Mr. WHEELER. I do not know that. I did not get to see them.

Senator BRATTON. Has the board of land commissioners affirmed the grant covering this valley?

Mr. WHEELER. I will bring that point out in just a minute.

This Exhibit A reads: "Before the commissioners to ascertain and settle private land claims of the State of California." Then follows the application made by N. Hubart, attorney for claimant. These records are easily ascertained from the commission's records in Washington. Then follows what they call a translation of what

they call the Spanish or Mexican grant covering the whole of the San Fernando Valley. It is a rather lengthy document, and, if you do not mind, I will refer to a few of the paragraphs and then submit a copy of the document. As we run over the document we find that it is not a grant. The wording of the document is this: "For the sum of $14,000, which he receives (meaning Pio Pico, the ex-governor), sells"—he does not grant, he sells—"unto Don Eulogio de Celis and his heirs, the ex-mission of San Francisco with all its properties"—and that is interesting right there, because they convey the mission with whatever it owned, with all its property, but nowhere in the document do they say how many acres or how many leagues of land. Now, the missions in this country were 6 acres of land. Now, when they want to convey this mission and all its properties they state the mission with all its properties without referring to how much land that would be. It is like a man buying a ranch with a big red barn on it, and when he went to get title they would say, "We mean by this 'big red barn,' the barn with all its ground," without saying how many acres of land, and I do not think any of us would buy the ground. But regardless of how many acres were really included in the bill of sale, it is not subject to question right at this point, because as we go on we find this, where it says "purchaser shall not take possession within the space of eight months from the date hereof, within which delay the Government shall have the right to annul this contract."

The date of the document is June 17, 1846. It is signed "Pio Pico," by Jose Matias Moreno, secretary pro tempore.

Now, inasmuch as this man made application to the board of commissioners for confirmation of this bill of sale or grant, I think it would be proper right here to refer to his application. It says this:

> Eulogio de Celis gives notice that he claims a tract of land situated in the present county of Los Angeles, known by the name of mission of San Fernando, bounded as follows: On the north by the rancho of San Francisco, on the west by the mountains of Santa Susana, on the east by the rancho of Miguel Trunfo, and on the south by the mountains of Portesuelo, which tract is supposed to contain 14 square leagues.

Now, the Mexican law of August 18, 1824, states that no one individual shall acquire under any circumstances an amount of land in excess of 11 square leagues, but we go on with the application and it says:

> Said land was sold to the said Celis by a deed of grant dated the 17th day of June of the year 1846, by Pio Pico, consitutional Governor of the Californias.

That is interesting and we presume that this commission affirmed that application for a grant inasmuch as they claim to have obtained it.

Senator BRATTON. You say you presume the board of land commissioners confirmed the grant. Don't you know as a fact whether it did or not?

Mr. WHEELER. I am told it did. I do not have their actual confirmation of the grant. That can be subpœnaed from the records, and I would like to have it subpœnaed.

Senator BRATTON. In preparing your case for submission to the committee, have you not inquired into that matter?

Mr. WHEELER. I did this, Senator: I took the act of March 3, 1851, known as the act to ascertain and settle private land claims in the State of California, and section 11 of that act says this:

And be it further enacted, That all commissioners herein provided for, and the district and supreme courts, in deciding on the validity of any claim brought before them under the provisions of this act, shall be governed by the treaty of Guadalupe Hidalgo, the law of nations, the laws and usages and customs of the government from which the claim is derived, principles of equity, decisions of the Supreme Court of the United States so far as they are applicable.

And that is what we take to measure the document with.

Senator BRATTON. But my exact inquiry is whether the board of land commissioners, acting under the act of March 3, 1851, did confirm this particular grant.

Mr. WHEELER. That is a point I would like to have clear, but I do not have that confirmation. I can only give what I have been successful in getting hold of myself. Under the law and under the decisions of the Supreme Court of the United States and that commission was bound by the act of Congress which created it; it was not to manufacture a grant but to come out here and ascertain and segregate the private property in the grants from the public domain. Now, I am not so much concerned with their confirmation, or the exact wording of it, as I am with the facts of whether they could do this thing legally.

The CHAIRMAN. I think you are presenting an interesting angle of this inquiry.

Mr. WHEELER. That is true.

Senator BRATTON. Let us assume that the board of land commissioners, acting under the authority vested in it by the act of Congress of March 3, 1851, exercising that vested jurisdiction, heard this application and confirmed the grant, although it may have been irregular and although anyone interested might have opposed the proceeding successfully.

Mr. WHEELER. That is true.

Senator BRATTON. The act afforded a corrective if the board of land commissioners made an error, and that was to appeal to the courts. If the board acted and all parties interested acquiesced in the action and failed to avail themselves of the corrective afforded by the act, what do you think the status is; what can this committee do or what can Congress do now? Isn't it final and res judicata just as much as though the court had rendered a decree and nobody had appealed from it within the prescribed time? I think you are approaching that question and that is an interesting one.

Mr. WHEELER. My answer to that, Senator, would be that the Government of the United States, according to the Supreme Court in several decisions, is not and can not be bound by the illegal and unauthorized and fraudulent acts of its agents, whether it is a commissioner, or lower court, or land-office official, or the Secretary of the Interior. There are some decisions to support that.

Senator BRATTON. Nobody questions that.

Mr. WHEELER. Then another answer to it is this: The court states in two or three cases here that it is elementary that the constitutional

limitation—that is, the statute of limitations—whether it be 1 year, 6 years, or 10 years, the court says, on page 51 of the Senate hearings:

> It is elementary that the statute of limitations does not run against the Government of the United States; hence, as against it, title to land can not be acquired by adverse possession. That is found in the document headed, "Mexican Land Grant Frauds," or more generally known as Senate Resolution 366.

I think the proper name of it is "Mexican Land Grant Frauds."

The CHAIRMAN. You are referring to a copy of the hearing conducted by the Senate committee?

Mr. WHEELER. Yes; in 1927.

Senator BRATTON. In order to avail yourself of the rule that you have just announced, namely, that the Government is not bound by illegal or fraudulent acts of its agents, is it not incumbent upon you, and those who attack these titles, to show either that the board of land commissioners acted fraudulently or without authority of law?

Mr. WHEELER. I can easily show that, Senator.

Senator BRATTON. Which do you contend, that they acted fraudulently or without authority of law?

Mr. WHEELER. I contend that they acted without authority of law and without jurisdiction in confirming something that never existed.

Senator BRATTON. You eliminate the fraudulent feature of it?

Mr. WHEELER. I will for the time being. That will come up later. I would like if possible to bring out just the cold, hard facts and keep away from any criminal connections or any fraud or anything of that nature at this time if it is agreeable to the committee. My authority for saying that they exceeded their jurisdiction and had no authority to confirm that which did not exist is simply section 11 of the act of 1851, which says they shall be bound by the treaty. When we refer to the treaty of Guadalupe Hidalgo it distinctly stipulates that valid titles would be those which they made up to May 13, 1846.

Senator BRATTON. My view, while I do not know how the other members of the committee feel, Mr. Wheeler, is this: That at most the board of land commissioners exercised erroneously a vested jurisdiction. The act vested the board with jurisdiction to consider these grants, to confirm them or deny confirmation as the board might see fit. That vested the board with jurisdiction, and at most the board wrongfully exercised a vested jurisdiction if it confirmed a grant which should not have been confirmed.

Mr. WHEELER. Also, in that same act, it says that anyone presenting a claim before this board must do so under some right or title from the Mexican Government. In other words, they had no authority to start a case unless it was presented on that basis.

Senator BRATTON. And the board was to decide whether they had such title?

Mr. WHEELER. Yes, sir.

Senator BRATTON. If the board determined that they did have such title and confirmed it—you say no appeal was taken—then I am impressed with the thought that it is simply an erroneous exercising of a vested jurisdiction, which must have been taken advantage of in the manner prescribed by the act and within the time prescribed by the act. I would like to hear you on that.

Mr. WHEELER. All right. If that were not done, then I will just give a specific case: Suppose there is a statute of limitations that operates against the Government at the end of six years; suppose some one by mistake gave to somebody a patent to the State of California or to the county of Los Angeles; that it could go along for a period of six years. Would that be a valid title? Would the confirmation by any court in the land make it valid?

Senator BRATTON. If a man had the color of title and presented his title to a court vested with jurisdiction to exercise the corrective provided for in the act, if the corrective provided for in the act was not taken advantage of within its prescribed time, I should say yes.

Mr. WHEELER. But in this case, Senator, they had not what is termed "Color of title." "Color of title," as I understand it, not being a lawyer, would be some sort of document in a court of law which had started or which did start to convey the title. Application for homestead is color of title, and the title is completed after a patent is issued. However, I am not competent to argue the point and Mr. Westervelt, one of the attorneys, wants to give you a little angle on the law in that case.

The CHAIRMAN. Mr. Westervelt?

Mr. WESTERVELT. Mr. Chairman and gentlemen of the committee, addressing myself particularly to the inquiry of Senator Bratton, which seems to me goes right to the gist of the whole matter, I am satisfied that Mr. Wheeler knows the answer but, not being a lawyer, he does not know how to put it before you concretely and briefly. I will endeavor to do it in just a few moments. The position, as I understand it, of Judge Summers and of the homesteaders who have filed applications here on that point, is this:

After the confirmation of the treaty of Guadalupe Hidalgo the Congress, in its wisdom, saw fit to provide means for carrying that section of the treaty out, and in due time it appointed, by the act of March 3, 1851, a commission or a committee, call it what you will, but in all events it was a tribunal with limited jurisdiction, with its jurisdiction definitely defined in the act creating it; but whether it was a court or a commission, or whatever it was, it was a tribunal of original jurisdiction, which jurisdiction was definitely limited and defined in the act creating it. If its jurisdiction was confined to ascertaining the status at a given date, the date, whether it be July 7 or whether it be May 13 or whenever Mexico ceased to grant titles, but the question and the only question which the commission under the act of March 3, 1851, had authority and jurisdiction to consider, was whether or not under the facts stated in a given petition brought before them for the confirmation of a Mexican grant, the land described in that grant was or was not, under the provisions of the treaty of Guadalupe Hidalgo, entitled to be considered by that commission. That was the first question. Having determined that they had jurisdiction, then they could go ahead and decide the case.

Now, it seems to us that the law on that particular point is this: That the commission, being a tribunal of original limited jurisdiction, in so far as it had jurisdiction of the res judicata or subject matter, then in any case which was brought before them and which they decided and in which they gave a grant or an alleged grant, that would be res adjudicata, would be final and binding upon the

courts and upon your honorable body and every body else thereafter, after the time for appeal had expired. I think that is a point to which you address yourself; but if, upon the fact of the petition presented to the commission it affirmatively appeared that the commission did not have jurisdiction, then anything that it did was void; it was nothing, it created no rights; it gave rise to no obligations on the part of anybody. That is elementary, and of course I need not state that to this honorable committee, but the act of a tribunal of limited jurisdiction, in excess of that jurisdiction, is nothing; it does not exist. It never did exist. It has no body, no spirit—nothing.

Now, to illustrate the point, it seems to me it is exactly a parallel case with such a case as this. Under the laws of California we have provisions for divorce to be granted by the superior court. The superior court has jurisdiction to determine actions for divorce, but one of the conditions for its exercising that jurisdiction as set forth in the statute is that it shall appear that the plaintiff has been a resident of the State for one year, and of the county in which the suit is brought, I think it is for six months—I do not recall exactly because I do not have a great deal of divorce practice. But it is one year residence in the State. Now, let us assume that a plaintiff comes into the superior court in this county and states that they have perfectly good ground for divorce against wife or husband, as the case may be, under the statute, but upon the face of the complaint it appears that the plaintiff has lived in the State only eight months and has lived in the county but 60 days; but, nevertheless, the court goes ahead and disregarding that fact, which shows lack of jurisdiction upon the face of the complaint, and grants a divorce to one or the other of the parties; that after that divorce has become final one of the parties marries. If a question is raised, they are just out of luck. That divorce did not mean anything; never did mean anything. Now, we believe this: That taking the provisions of the treaty and the protocols of the treaty of Guadalupe Hidalgo, and Mexico's solemn certificate to the effect that May 13 is the date, and May 13, 1846, was the date mentioned in the protocol of the treaty, which itself was made a part of the bounds of the jurisdiction of the commission under the act of 1851, then, if a petition is presented to that commission or was presented showing upon its face as this one that Mr. Wheeler has just mentioned did, that the alleged grant or sale or deed or whatever it was from Pico to Celis to the San Fernando mission was dated about June 17, 1846, it then appeared upon its face and immediately divested the commission of jurisdiction to hear that case. If, in spite of that they went ahead and heard it, it does not make any difference and there is no decision that it is binding.

Senator BRATTON. What is your understanding with reference to whether or not the Supreme Court of the United States has held that the power on the part of the Mexican Government to make grants terminated July 7, 1846, instead of May 13, 1846? Do you understand the court has so held?

Mr. WESTERVELT. I do not recall any such case. I would say there is not. I have but comparatively recently come into this case and I do not recall any such case. You may be right. I would not say you are not, but I do not recall any such case. I would go so far as to say it was an erroneous decision, and if their attention were called

to the provisions of the treaty naming May 13, 1846, as the date, that they would probably modify that opinion.

Senator BRATTON. Let me call your attention to two decisions in order that you may have them for reference. I did not mean to disturb you, Mr. Westervelt.

Mr. WESTERVELT. I had completed all that I care to say.

Senator BRATTON. I cite you to 3 Wallace 478 and 23 Howard 321.

Mr. WHEELER. To go back to this question of record to determine whether or not this commission had jurisdiction to hear the case, the Supreme Court of the United States in a great number of cases, which are given on page 35 of this Senate document, Mexican Land Grant Frauds, says this: "The Supreme Court of the United States has many times held that title under a Mexican grant can not be held valid without evidence of its being recorded as required by Mexican law. The rule is that, in order to support title under a Mexican grant, the written evidence of the grant in the forms required by the Mexican law must be found in the public archives and records where they were required by law and regulations to be deposited and recorded. In order to support a title by secondary evidence, it is necessary to produce positive evidence that the title papers have been deposited and recorded in the proper office and that they have been lost or destroyed. If there is no record evidence to prove either the existence or the authenticity of a grant, it can not be held valid." Further on, it says, "It is believed under the decisions of the Supreme Court the Senate can serve notice on parties in possession and claiming title thereto under Mexican grants, to produce the grant or certified copy thereof, showing they have been duly recorded as required by law." Does that help to clear up that point, Senator?

Senator BRATTON. I agree, Mr. Wheeler, that title depends upon the existence of proper evidence of title, muniments of title; but the question I have in mind is whether that was the rule which guided the board of land commissioners in considering the case, or whether it is open for the courts now to take advantage of it——

Mr. WHEELER (interrupting). I would say this: If you have a case where they have held some rule like that—I don't know, because I am not a lawyer, anyway—but we have a lot of cases where the court has always held this, that there must be a record, and then we have tried to substantiate that. Now, in order to confirm anything, there must be something to confirm. First, there must be a grant, granted by somebody with authority to grant to somebody who was eligible to receive it, and that must be shown to the commission or should have been shown to them. That brings up the point whether or not the commissioners at that time were guilty of absolute fraud. I hardly feel competent to go into the criminal side of it because I do not know anything about criminal law except to gather a little evidence. But you asked about cases and there is an interesting side to this thing. In this document No. 17 we find, on page 601, the following:

Don Pio Pico, the Mexican Governor of California, returned from Mexico in the early part of July, passing through lower California, the post of San Diego, and mission of San Gabriel, to that of San Fernando, the residence of his brother, Don Andreas Pico. He brought no passport, and failed to report him-

self to the commanding officers at San Diego and Las Angeles, until Colonel Stevenson very properly compelled him to come to Los Angeles and report in person.

However, that is not the part I want. I want the description of Pico. On page 600, in the report of J. D. Stevenson, from headquarters of the Tenth Military Department, we find this:

Don Pio Pico is about 5 feet 7 inches high, corpulent, very dark, with strongly marked African features; he is no doubt an amiable, kind-hearted man, who has never been the tool of knaves; he does not appear to possess more intelligence than the rancheros generally do; he can sign his name, but I am informed can not write a connected letter. Hence, as he informed me, he will be compelled to send for his former secretary before he could answer my order or communicate with you, which he advised me he intended doing.

And so forth.

Then I am going to submit to the committee at this time a picture of Pio Pico, on a postal card mailed to me from New Orleans, which shows a picture of Uncle Tom, just as a matter of giving you an idea of the man who to begin with and what started it, because as I understand it, Senator, we must go back to the beginning of this thing to find out the truth, inasmuch as this board of commissioners of 1851 and 1852 did not seem to settle it, and I am glad to help you in what little way I can.

In connection with that I want to give here the report of the commissioner of the General Land Office of 1887, on pages 35 and 36.

Senator DALE. Mr. Wheeler, what is the purpose of making this comparison?

Mr. WHEELER. In order to bring out the facts as to whether or not this was Government land.

Senator DALE. I mean a comparison of these pictures?

Mr. WHEELER. So that you can get an idea of the man who did it and the reasons back of it. There must be a reason for this thing to have been so bad and the reason I think you understand when you look at the pictures. That is my only purpose there, Senator. I would like to have it so that both the committee and the people present can understand the situation thoroughly. As a help toward that on pages 35 and 36 of the Land Office report in the third paragraph from the top I find this:

Of the patented and unpatented lands I have referred to, aggregating over 8,000,000 acres, I think it will be safe to assume that at least one half, namely, four million and some acres, have been illegally devoted to private uses under invalid grants or unauthorized surveys.

Senator BRATTON. From what are you reading, please?

Mr. WHEELER. United States Land Office report of 1887, Government Document 35. That is on page 36. [Reading:]

If to this sum I add the estimate before mentioned of about 4,000,000 acres unlawfully appropriated in cases pending before Congress, an approximate estimate will be reached covering from 8,000,000 to 9,000,000 acres of the public domain, which are now, and for many years past have been, in the grasp of men who have used and enjoyed the land for their own emolument, and whose earnest prayer is to be let alone in the possession of their ill-gotten gains.

But I have only partially exhibited the power of these grant claimants and the extent to which they have scoured this territory. They have not been content with their domination over surveyors general and their deputies. It would be an extravagance to assume that they have not exercised a shaping influence over the action of Congress touching their claims. It will not do to

lay all the blame upon surveyors general. The House Committee on Private Land Claims of the Thirty-sixth Congress, in their report recommending the confirmation of 14 of these claims, emphasized the incompetency of these surveyors general for the adjudication of such cases, and also frankly confessed the unfitness of Congress for the work; yet Congress, as I have shown, has approved 47 out of 49 cases already examined, with the startling results I have stated. That the claimants in these cases have prowled around the committees of Congress and utilized all the tactics of the lobby in furtherance of their purposes is at least probable.

But I will not further multiply these examples. It is sufficient to say that of the whole number of cases submitted by surveyors general for final adjudication, and passed upon by them in the reckless manner I have specified, Congress has rejected but two, and has thus criminally surrendered to monopolists not less than 5,000,000 acres which should have been reserved for the landless poor. I only add that the grant owners of New Mexico have not yet retired from their fruitful field of operations in Congress. They have their allies in both Houses.

Equally noteworthy is the power of these claimants over the general fortunes of this territory. They have brooded over it like a pestilence. For a quarter of a century prior to the inauguration of President Cleveland their ascendency over Federal and Territorial officials was practically unhindered. They have confounded political distinctions and subordinated everything to their impelling greed for land. To rob a man of his home is a crime second only to murder; and to rob the Nation of its public domain and thus to abridge the opportunity of landless men to acquire homes is not only a crime against society but a cruel mockery of the poor. But no such ideas as these seem to have disturbed the dreams of these men. Their triumph over their own conscience has been phenomenal. They are concerned only about the security of their possessions, and much of their time is devoted to howling about the unsettling of land titles in New Mexico by the action of the administration and its representatives. This howl not only finds abundant expression in the territory but is voiced by the agents and stipendiaries of these claimants, who itinerate the States and pour out the lamentations of their employers over the ruin of New Mexico by Federal officials. It never seems to occur to these claimants that the settlement of honest titles must necessarily begin with the unsettling of dishonest ones, and that the only way to make sure the title to stolen property is to restore it to its owner. The paramount need of New Mexico is a policy that will compel its public rogues to make restitution of their swag. The impudence of this clamor has almost a touch of genius in it, but I think it has had its day, and served its purpose. It is the old cry of "stop thief," and is quite as ridiculous as if a den of counterfeiters, suddenly taken into the clutches of the law, should insist that their consignment to the penitentiary and the confiscation of their tools would "unsettle" the currency.

That is just a little slant at the proposition at the date of the confirmation of these grants and the result of it. But to get back to the thing we have here, the San Fernando Valley, I do not see that there is very much for me to do except try to find out, or help to find out, whether this thing that they claim was a grant was a valid grant and whether the act of the commission in confirming it was final. I believe that has been settled by the courts in a number of cases, where they say that any act done without jurisdiction or in fraud is absolutely null and void, as Mr. Westervelt has stated. Then we must go back to the so-called grant of the San Fernando Valley and find out if that is valid. The Government of Mexico has given us a certificate. We asked them for a certified copy of their records down there showing whether the San Fernando Valley had been granted to anybody, and if so how many acres were in it, and on what date it was made, and Mexico gives us the certificate here, of which I will have the original for you to-morrow, in which

Mexico certifies that there is no record in the archives of Mexico showing that the United States or Mexico ever proved the cession of the land known as the Rancho San Fernando. If that is true, then this is true: If it wasn't a grant, then it was public land; and if it was public land on July 7, 1846, then it must be public land to-day, unless the United States has issued patent to it. The Supreme Court says that a patent is an instrument by which the United Staes conveys to persons entitled thereto the legal fee-simple title public land. This patent, or so-called patent, to the San Fernando Valley states on the face of it—I am told—and I would like to have it subpœnaed as I have it in the list of evidence—state that it is issued under the act of March 3, 1851, not a conveyance of title to the land but a convenience to the land department, showing that this commission found that there was a grant. In other words, it is really a piece of evidence showing that the commission had found in excess of its authority and jurisdiction to find. Then the act of Congress, under which we paid $15,000,000 for this territory, provides that this land must be taken and sold, if it is public domain, and if it is private—but if it was public domain when we took it, then it must be taken and sold and the money derived therefrom put into the Treasury and used to pay off the national debts for the benefit of all the citizens. We maintain, Senator, that that has not been done with regard to 121,000 acres of land in the San Fernando Valley.

In the first place, the Mexican law stipulates this: That no one grantee should receive more than 11 square leagues. It specifies that it must be of certain kinds of land, not more than one league of irrigable land, and this is all irrigable land, and consequently they have violated that law, which is interesting; but the law also stipulates that neither Pico nor any other governor could sell the Mission, and he attempted to sell that Mission, together with 121,618 or 19 acres, I believe it is, which is considerably more than 11 square leagues; 11 square leagues would be approximately 48,000 acres.

Now, as Mr. Westervelt said there, in the application of De Celis, the commission undertook the confirmation of a tract of land which he says contained 14 square leagues.

Senator BRATTON. Mr. Wheeler, the situation as to this particular so-called San Fernando Valley is this: That the issue is drawn between a certificate on the one hand, emanating from Mexico, to the effect that no grant was made after May 13, 1846, and on the other hand what is purported to be a grant which was submitted to the board of land commissioners, the grant confirmed and a patent issued?

Mr. WHEELER. Yes, sir; and I would like to ask that those things be subpœnaed into the evidence.

Senator BRATTON. And the committee is called upon to determine what the situation is on the issue formed by these documents?

Mr. WHEELER. I think that fairly well states or sets forth the purpose, so far as I understand it here.

Senator BRATTON. May I add just one thing and that is the Supreme Court has said in several cases, found on page 53 of this document, and I use it because it is quite a handy reference:

> And the mere possession of land which belongs to the Government, although open, excluded, and uninterrupted for the statutory period, creates no impediment to a recovery by the Government.

Then, in connection with this other so-called patent, the court says, on page 51 of the same document:

It is certain that the act of 1851 "for the settlement of land claims in the State of California" did not authorize this erroneous patent, and in a similar case the Supreme Court has so held. They cite Los Angeles Farming & Milling Co. v. Los Angeles (217 U. S. 217). It says: "And whatever the rule may be as to patents conveying title to the lands of the United States, it has been distinctly held in this court that neither the treaty of Guadalupe Hidalgo nor patents under the act of March 3, 1851, are original sources of private title, but are merely confirmation of rights under a former sovereignty."

Mr. WHEELER. That brings out that very point——

Senator BRATTON (continuing):

Hence, the erroneous patent is not even confirmatory of what was granted. The grant is the title.

Mr. WHEELER. I think, as a matter of fact, until some of those documents that you speak of there are produced, for instance, a certificate, the patents, and the so-called bill of sale, the original of those, it is pretty hard to determine whether or not this commission should have affirmed it. If those can be produced, and we can determine if the commission was bound by the act of Congress which created it, as we believe, I think we can get at whether or not their confirmation would have been binding. What is your opinion to that, Senator?

Senator BRATTON. I suggest that you proceed with your case in the way you have it in mind, and submit what you have, either documentary or orally.

The CHAIRMAN. Mr. Wheeler, how long will it take you to complete the presentation of your case?

Mr. WHEELER. Mr. Chairman, in my office down there I have had attorneys and title men and others, sometimes I have worked hours and sometimes an hour or two a day, and they come back for more. This is the kind of case that I do not believe either myself or any real lawyer could present in the course of one hour. I do not believe it can be done. The documentary evidence itself would take more than that length of time to go through. This case is so serious, both from the standpoint of the bankers and title companies on the side and from the standpoint of some 700 homesteaders on the other, that I do not believe I would be prepared to say at this time that I could not do it in an hour or two hours. I would say definitely that I could not.

The CHAIRMAN. The committee did not plan to convene this afternoon. We were rather in hopes that you would be able to get your case before the committee before the noon hour; but the situation being what it is, the committee will take a recess at this time and reconvene here at 2 o'clock, at which time we will go on from this point. The committee will now recess.

(Whereupon, at 12.05 o'clock p. m., the subcommittee recessed until 2 o'clock p. m.)

AFTER RECESS

The subcommittee reconvened at 2 o'clock p. m. pursuant to the recess.

The CHAIRMAN. The committee will be in order. Mr. Wheeler, will you please resume?

STATEMENT OF H. M. WHEELER, LOS ANGELES, CALIF.—Resumed

Mr. WHEELER. Mr. Chairman, during the recess I have looked up something with which to answer Senator Bratton's question. I have here a brief filed in re the San Fernando case with the Department of the Interior including three other cases, the Rancho Topango Malibu Sequit, the San Joaquin, and the Boca de Santa Monica. Since that is on file in the department I think that may be classed as a public document, too.

On page 16 it takes up the commission authorized under the act of March 3, 1851, and I notice in running through you will find something that will add to the Senator's idea there. On page 19 the brief says this:

> When the commission was organized and ready to function, it had the authority and clothed with the power of a court. It was called a commission. Court or commission, it was a subordinate body created for a specific purpose and was bound to act within the scope of the power creating it. As a guide for its deliberations and to control its decisions were the following:
>
> 1. Article VI, Clause 2 of the Constitution of the United States.
> 2. The Guadalupe Hidalgo Treaty of peace, friendship, limits, and settlement.
> 3. The decisions of the Supreme Court of the United States.
> 4. The laws of the Republic of Mexico and the rules and regulations under which the Mexican Government made grants of land to Mexican nationals.
> 5. The act creating the commission to ascertain and settle the private land claims in the State of California.

This brief is offered as Exhibit C.

The CHAIRMAN. It will be received and placed in the files of the committee.

Mr. WHEELER. Now, Senator Bratton, let me interrupt you long enough to maintain that when we get through with these five different pieces of evidence you will have conclusive proof that the commission did not validly confirm any grant that was made on that was dated after May 18, 1846. Now, to get at the Supreme Court decisions in regard to that, on page 41 of the same document, Exhibit C, we find a list giving the cases in the court. However, I would like to withdraw that, because I see it does not give the cases that I want, except this, that the burden of proving that there is a title or that there is a grant at any time, according to the court, rests on the party who claims under the grant, whether he endeavors to do so to-day, 10 years ago, or 50 years ago. If I am wrong, I want to be corrected, but that is the way I understand it. The list of cases is given on page 33 of this same document, and there are many cases. I think that is enough on that, if it covers it.

The CHAIRMAN. It is understood that that will be received as Exhibit C, the brief to which you refer.

Mr. WHEELER. Now I would like to ask a question, if I may. How much did this commission confirm in the San Fernando Valley as the grant? In line with that I have a map here, compiled from the official records, and I have Mr. C. C. Grove here, who, I think, can give a good deal of information and throw a good deal of light on the surveys in the San Fernando case, and I think it might be well at this point to have Mr. Grove identify these documents and answer whatever questions you care to ask.

The CHAIRMAN. Very well. Mr. Grove, will you please be sworn and take the stand.

TESTIMONY OF C. C. GROVE, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Mr. Grove, you have some documents you wish to identify?

Mr. GROVE. Yes.

The CHAIRMAN. Will you give the committee your residence here, please?

Mr. GROVE. The Nadan Hotel.

The CHAIRMAN. And your occupation?

Mr. GROVE. Searcher of records.

The CHAIRMAN. And you have been in that capacity how long?

Mr. GROVE. About 50 years.

The CHAIRMAN. Very well, Mr. Wheeler, you may proceed.

Mr. WHEELER. The document that I want Mr. Grove to identify is known as Exhibit A, including the application to the board of commissioners for confirmation of the grant, or the so-called grant, and also his affidavit.

The CHAIRMAN. Do you identify them as such, Mr. Grove?

Mr. GROVE. Yes, sir.

The CHAIRMAN. Do you know where the original affidavit is?

Mr. GROVE. I do not know where the original affidavit is. It was given to Gen. A. H. Garland or to Mr. Montgomery.

Senator BRATTON. What document is it that you are identifying?

Mr. GROVE. It is the application for patent before the land commission for the translation of a grant.

Senator BRATTON. Made by whom?

Mr. GROVE. Made by the surveyor general of San Francisco. That is where it was copied from.

Senator BRATTON. Who made the application to the board?

Mr. GROVE. N. Hubart, attorney for the claimant.

Senator BRATTON. Who was the claimant?

Mr. GROVE. Eulogio de Ciles.

Senator BRATTON. And it is that application to which you are now testifying?

Mr. GROVE. Yes, sir; it is a copy of the original.

Senator BRATTON. Did you ever see the original?

Mr. GROVE. I think I have. It is burnt up now, the original, but a certified copy is in the United States District Court at San Francisco, and another one in Washington.

Senator BRATTON. You say the original has been destroyed by fire?

Mr. GROVE. Yes. The San Francisco fire destroyed all those papers. The originals were all left with the surveyor general.

Senator BRATTON. Was it the original or a certified copy that you examined?

Mr. GROVE. I have examined both of them. The original was in existence at that time. That was before the fire.

Senator BRATTON. About when did you examine it?

Mr. GROVE. Away back in 1892 and 1893.

Senator BRATTON. Tell us the circumstances under which you examined it and at whose request you made the examination?

Mr. GROVE. Reeves, president of the Farmers' National Bank.

Senator BRATTON. What interest did he have in the matter?

Mr. GROVE. He sent me up there to get the papers in that case. They had half a dozen suits over that land at that time.

Senator BRATTON. He sent you to San Francisco to get a certified copy of the document?

Mr. GROVE. He did not ask for a certified copy. He asked me to make a copy. I had been working for his abstract company.

Senator BRATTON. And you went to San Francisco and made the copy?

Mr. GROVE. Yes, sir.

Senator BRATTON. When was that, Mr. Grove?

Mr. GROVE. That was about 1890.

Senator BRATTON. And that was the application to the board of land commissioners for confirmation of the grant that you examined in the Federal court in San Francisco?

Mr. GROVE. That was in the surveyor general's office. Afterwards I took it from the district court.

Senator BRATTON. Did you examine the record with reference to the confirmation of that grant?

Mr. GROVE. I did.

Senator BRATTON. Did you find that the board had confirmed the grant?

Mr. GROVE. I do not understand you.

Senator BRATTON. Did you find that the board of land commissioners had confirmed the grant?

Mr. GROVE. Yes, sir; they confirmed the grant. I guess there is a copy of the confirmation here. If it is not here, the confirmation recited that the petitioner could not foreclose that mortgage, so they confirmed the grant. The grant was not a grant but a mortgage made by Pico.

Senator BRATTON. I understood you to say that the petition you examined was a petition made by the holder of the grant to the board of land commissioners for confirmation of the grant.

Mr. GROVE. Yes, sir.

Senator BRATTON. Is that right?

Mr. GROVE. That is right. Then the board of land commissioners confirmed the grant as petitioned, reciting in it that it was a mortgage and that Celis had no power to foreclose it.

Senator BRATTON. Leaving foreclosure aside for the moment, did the board of land commissioners enter an order or decree confirming the grant as prayed?

Mr. GROVE. I don't remember any more. It has been years since I have seen it. I do not know whether it is here or not. I haven't got it. I did have an abstract of the whole thing at one time.

Senator BRATTON. Can you tell us from memory, based upon your examination of the records, whether the board of land commissioners confirmed the grant as prayed in the petition which you examined?

Mr. GROVE. I do not remember whether it says "as prayed," but he retained the property and they gave him a decree, confirming that grant, but stated in it that he did not have any power to foreclose the mortgage, so they gave him the property, 14 leagues.

Senator BRATTON. Let us leave aside the question of foreclosure or denial of foreclosure, because we are concerned now with confirmation. Do you recall distinctly, based upon your examination of the

records in 1890, that you found a record where the board had confirmed the grant?

Mr. GROVE. It had confirmed the grant to the extent of 14 leagues; yes.

Senator BRATTON. Fourteen leagues?

Mr. GROVE. Yes, sir.

Senator BRATTON. Do you recall whether an appeal was taken from that action to the Federal court?

Mr. GROVE. It went to the Federal court.

Senator BRATTON. It did go to the Federal court?

Mr. GROVE. Yes, sir.

Senator BRATTON. What action did the court take in the premises?

Mr. GROVE. It confirmed the grant.

Senator BRATTON. They confirmed it?

Mr. GROVE. They confirmed the decision of the commission.

Senator BRATTON. That is, the Federal court of California?

Mr. GROVE. The Federal Court of the Northern District, if I recollect rightly. I do not think it was the southern district.

Senator BRATTON. Was an appeal taken from that action?

Mr. GROVE. No, sir.

Senator BRATTON. I did not understand you, Mr. Grove.

Mr. GROVE. There was no appeal taken from that action.

Senator BRATTON. And that decree became official?

Mr. GROVE. Yes, sir.

Senator BRATTON. Who made the petition that you are telling us about; that is, who was the petitioner?

Mr. GROVE. The petitioner was Eulogio de Ciles, but it was signed by N. Hubart, as attorney for the claimant.

Senator BRATTON. But who was the claimant?

Mr. GROVE. Eulogio de Ciles.

Senator BRATTON. Who was the grantee in the original grant?

Mr. GROVE. Eulogio de Ciles.

Senator BRATTON. The same person?

Mr. GROVE. The same person.

Senator BRATTON. Now, you referred a while ago to foreclosure of a mortgage.

Mr. GROVE. Yes, sir.

Senator BRATTON. Who gave that mortgage and to whom was it given?

Mr. GROVE. It was given by Pico to Eulogio de Ciles for $14,000.

Senator BRATTON. How did the grantee happen to take a mortgage on the property that had been granted to him?

Mr. GROVE. That is too many for me, Senator; I do not know.

Senator BRATTON. Did I understand you correctly that De Ciles was the grantee?

Mr. GROVE. He was the fellow that got the patent.

Mr. LAWLER. The grant is set forth in One hundred and eightieth United States, including the application, and it gives specifically an answer to the question you have just asked, Senator.

Senator BRATTON. De Ciles was the grantee?

Mr. GROVE. Or you can call him the mortgagee; either one. He claimed the land.

Senator BRATTON. Did he get a patent to it?

Mr. GROVE. And he got a patent to it. He got a patent for 26 leagues of land and only asked for 14 leagues of land.

Senator BRATTON. Well, regardless of the quantity either asked or received, did he receive confirmation of that grant, and subsequently a patent followed?

Mr. GROVE. Yes. The surveyor was ordered to survey 14 leagues, according to the decree of the court and he surveyed 26 leagues and the United States patented it to him.

Senator BRATTON. You say the surveyor surveyed 26 leagues?

Mr. GROVE. Yes, sir.

Senator BRATTON. What is the basis of that statement, Mr. Grove; that is, how do you know it to be true?

Mr. GROVE. From his patent. They surveyed it a dozen times and they never could get two surveys alike. They never found but one stake or one tree on the whole ranch.

Senator BRATTON. Where is the patent of record?

Mr. GROVE. A copy of it is down here in the recorder's office.

Senator BRATTON. Have you examined it?

Mr. GROVE. I have taken it off the original.

Senator BRATTON. What does it recite as to the quantity of land conveyed?

Mr. GROVE. It recites, in the first place, 14 leagues, referring to the petition and the decree, and then gives field notes containing 116,000 acres.

Senator BRATTON. The court directed that a survey be made?

Mr. GROVE. The surveyor general had that done. That was his business.

Senator BRATTON. Did the decree of the Federal court direct him to make a survey?

Mr. GROVE. No; I think it was a matter of law at that time. The decree was handed over to him and he was ordered in some way or another to survey the land. He sends out a deputy and the deputy surveys anything he is a mind to. There were no boundaries given to the 14 leagues.

Senator BRATTON. Did the petition presented by Mr. de Ciles have attached to it, or copied in it, the original grant?

Mr. GROVE. You mean in the petition?

Senator BRATTON. Yes.

Mr. GROVE. I think so.

Senator BRATTON. And what did the grant say as to a description of metes and bounds of the physical boundaries?

Mr. GROVE. Nothing at all; just claimed 14 leagues without any boundaries whatever.

Senator BRATTON. Did it say where the land was situated?

Mr. GROVE. In Los Angeles County; yes.

Senator BRATTON. What is that?

Mr. GROVE. In Los Angeles County.

Senator BRATTON. It did not make reference to the location of the land with respect to any other objects?

Mr. GROVE. No, sir.

Senator BRATTON. What name was given to the grant, if any?

Mr. GROVE. Ex-mission, San Fernando.

Senator BRATTON. What was said in the order of confirmation made by the board of land commissioners with reference to the

quantity of land or its location with respect to other physical objects?

Mr. GROVE. It did not recite any other objects, but recited 14 leagues.

Senator BRATTON. Fourteen leagues?

Mr. GROVE. Yes.

Senator BRATTON. And called the San Fernando grant?

Mr. GROVE. Yes, sir.

Senator BRATTON. And what did the decree of the Federal court say in that respect?

Mr. GROVE. Just the same.

Senator BRATTON. Fourteen leagues?

Mr. GROVE. Yes, sir.

Senator BRATTON. And the acreage was specified for the first time in the survey?

Mr. GROVE. In the survey.

Senator BRATTON. Did it establish the exterior boundaries of the land with reference to physical objects, or how was that done?

Mr. GROVE. He surveyed 116 acres of land from one mountain top to the other.

Senator BRATTON. From one mountain top to the other?

Mr. GROVE. Yes; everything in the valley.

Senator BRATTON. When was that survey made?

Mr. GROVE. Well, I do not know when it was made. I have not seen and do not have his field notes, that is, the Hancock survey. I had them all; but as to that survey instructions were given on the 1st day of September, 1858, but the survey had been made long before that.

Senator BRATTON. Is it your view, Mr. Grove, that a grant was made and was confirmed and that the defect or inequity in the situation is an excess of land embraced within the survey?

Mr. GROVE. Yes, sir.

Senator BRATTON. But until the survey was made there was nothing about which to complain?

Mr. GROVE. No. There were 14 leagues, as I understand it. It was mortgaged, and the Supreme Court decided that he had no power to make the mortgage.

Senator BRATTON. The unusual thing or the irregularity that you see in the matter was the excess in acreage?

Mr. GROVE. That and the confirmation of this mortgage, two things. The excess was entirely above what was asked for, and the other certainly was not within the authority of Pico, or at least the Supreme Court so decided, decided that he had no right to make the mortgage on the property.

Senator BRATTON. But leaving the mortgage aside, the only other irregularity in the education is the excess of land as surveyed by the surveyor general?

Mr. GROVE. Yes; that and the fact that no monuments have ever been found except one on the whole exterior boundary; they never have found but one.

Senator BRATTON. You say you are a searcher of records?

Mr. GROVE. Yes, sir.

Senator BRATTON. Are you a surveyor?

Mr. GROVE. Yes, sir.

Senator BRATTON. A practical surveyor?

Mr. GROVE. Yes, sir.

Senator BRATTON. Of how many years experience?

Mr. GROVE. I was about 15 years old when I went to work in the surveying business for Mark Hanna.

Senator BRATTON. Have you personally made surveys of this land?

Mr. GROVE. Part of it I have. I had an order to make a survey and then the judge wouldn't let me go out and finish it.

Senator BRATTON. What judge?

Mr. GROVE. Judge Van Dyke.

Senator BRATTON. Who was he?

Mr. GROVE. The judge of the superior court here who tried this San Fernando case.

Senator BRATTON. When did you start the survey?

Mr. GROVE. It was about 1890 or 1891; that is, to survey the ranch?

Senator BRATTON. To survey the ranch; yes. In whose instance did you start that work?

Mr. GROVE. Why, there were about 8 or 10 suits, I think, brought by the Farming & Milling Co. against settlers that were out there. The settlers came to me and ordered me out there to survey it.

Senator BRATTON. That is, people who had made homestead filings on the same land involved?

Mr. GROVE. Yes, sir.

Senator BRATTON. And at their request you went on the premises and began a survey?

Mr. GROVE. Yes, sir.

Senator BRATTON. And was stopped by Judge Van Dyke?

Mr. GROVE. Yes, sir.

Senator BRATTON. Why were you stopped?

Mr. GROVE. I do not know. He gave me the order to go out there and do it in the first place, and then rescinded that order.

Senator BRATTON. Did Judge Van Dyke direct you to go out there on the premises and make a survey?

Mr. GROVE. Jack Montgomery got a permit from him for me to go out there and make the survey. That is a matter of record in the courts here.

Senator BRATTON. Were you making the survey in order to testify in the case?

Mr. GROVE. No, the judge hadn't tried the case. I was trying to find out where the boundaries were. Nobody knew.

Senator BRATTON. I say, were you surveying it with a view of testifying in the case when the trial came on?

Mr. GROVE. I presumed I would be called in.

Senator BRATTON. Judge Van Dyke authorized you to make the survey, and then later stopped you?

Mr. GROVE. Yes, sir.

Senator BRATTON. How far had you proceeded with the survey when you were stopped?

Mr. GROVE. Well, I had spent about three days on it. It would take about a month to make that survey.

Senator BRATTON. You were probably one-tenth through, had done one-tenth of the work?

Mr. GROVE. Yes, sir.

Senator BRATTON. What else have you had to do with making a survey of this land?

Mr. GROVE. I never had any chance to make it afterwards. I was forbidden to go on the land.

Senator BRATTON. Forbidden by Judge Van Dyke?

Mr. GROVE. By Judge Van Dyke.

Senator BRATTON. Now, leaving aside the surveys by the surveyor general, and confining yourself to the original grant, together with the confirmation by the board of land commissioner and the decree of the Federal court, could you have made an accurate survey from those documents?

Mr. GROVE. No way on earth to survey it except just describe it as 14 leagues. The only other survey was a deed made by Pico to the Catholic Church describing the 14 leagues, and that was away up north of the south boundary line, from the Puerto up to Tajunga, and due west to the San Susanna Pass, about 200 yards south of the Catholic Church, away up on the north side of the ranch.

Senator BRATTON. What document is that you are referring to now?

Mr. GROVE. The deed from Pico.

Senator BRATTON. From Pico to whom?

Mr. GROVE. To the Catholic Church.

Senator BRATTON. Did he undertake to convey the San Fernando grant?

Mr. GROVE. Yes, and that deed is of record down here.

Senator BRATTON. According to the description contained in that deed, where is the land located with reference to the land conveyed in the original grant to Celis?

Mr. GROVE. The original grant itself describes the 14 leagues. That deed shows the north boundary from the south boundary of the San Francisco Ranch, commencing at a lone oak tree on the Simi Range, 60 chains south to the southwest corner of the Rancho San Francisco; thence east along that line to the Puerto; thence to the Indian Ranche on the Santa Clara River; thence south to the Portezello of Tajunga; thence due west to the San Susanna Pass; thence north to the tree, the point of beginning.

Senator BRATTON. Waiving that deed aside, and keeping in mind only the grant made to Celis, and the petition made by him to the board of land commissioners for confirmation, the order of confirmation made by the board of land commissioners and the decree of the Federal court confirming the action of the board of land commissioners, could you have gone on the ground and identified the land with any degree of accuracy?

Mr. GROVE. No. The only description was that it was 14 leagues. You could take it up anywhere you were amind to. You get in the deed to the Catholic Church a description of the exmission San Fernando.

Senator BRATTON. What were you taking as your guide when you went out on the premises and began your survey under the authority of Judge Van Dyke?

Mr. GROVE. I tried to find out where the patent line was, and we never found that yet. It never has been found.

Senator BRATTON. What land marks were you considering and what documents did you have in mind in trying to find the patent line?

Mr. GROVE. The lines of the patent and the monuments described in the patent.

Senator BRATTON. What monuments were described in the patent?

Mr. GROVE. Trees, stones, mountains, peaks, and one thing and another.

Senator BRATTON. Did the description contained in the patent follow accurately the survey made by the surveyor general?

Mr. GROVE. No. He made 36 surveys in three months, 836 miles of exterior boundaries. Now, how did he do it? He couldn't do it on the ground, with the same people to help him. There is my affidavit to that effect that I took from the surveyor general's office.

Senator BRATTON. You say your affidavit that you took from the surveyor general's office?

Mr. GROVE. Yes; where he was given instructions to make the surveys and when they were returned and the names of the help he had.

Senator BRATTON. Did I understand you to say that the patent contained a different description from that contained in the survey made by the surveyor general?

Mr. GROVE. No; the patent and the description by the surveyor general, they were the same.

Senator BRATTON. I think perhaps you did not understand my question. The patent did follow the description given by the surveyor general in his survey of the premises?

Mr. GROVE. Yes, sir. That is the Hancock survey. We call it the Hancock survey. That was made on the ground. There was a partition suit and the thing was divided. Then a man by the name of Reynolds went out there and surveyed it and he made a difference there of half a mile; his line was half a mile farther east of where the patent called for.

Senator BRATTON. The surveyor general had nothing to guide him except the original grant and the orders of confirmation made by the board of land commissioners in the Federal court for the northern district of California?

Mr. GROVE. That is all. He never took any testimony as to where the line was or anything of that kind. The land commission did not. That was the district court——

Senator BRATTON. Can you tell us about when that survey was made?

Mr. GROVE. I can tell you that the instructions were given the 1st day of September, 1858, but the survey was made long before that from his field notes, in 1850. The surveyor general ordered 208 chains and 30 links in length, but September 1 they changed that to 210 chains 68 links in Hancock's notes. He simply ran a pencil through the 208, 30 and inserted 210, 68. He never went back on the ground. He could not have done it.

Senator BRATTON. The principal infirmative that you see in the whole grant situation is the excess in acreage?

Mr. GROVE. The excess in acreage and the fact that there never was an actual survey made on the ground.

Senator BRATTON. There was a report of a proper survey on which the department acted in granting a patent.

Mr. GROVE. Yes. I don't know how they did all that stuff in three or four months there. It could not have been done.

Mr. WESTERVELT. May I ask Mr. Grove one question, Mr. Chairman?

The CHAIRMAN. Certainly.

Mr. WESTERVELT. Mr. Grove, there has been talk of a mortgage and a grant from Pio Pico to De Celis. Do you understand there were two different instruments, one a grant from Pico to De Celis and the other a mortgage from Pico to De Celis, or were they one instrument?

Mr. GROVE. All one instrument. There it is, or a copy of it [indicating paper].

Mr. WESTERVELT. In other words, Pico attempted to give De Celis a mortgage on this ex-mission San Fernando for $14,000?

Mr. GROVE. Yes; on 14 leagues of land.

Senator DALE. Wasn't there any grant at all?

Mr. GROVE. None other than the mortgage, as I understand it. We have a copy of that document here [indicating].

STATEMENT OF OSCAR LAWLER, ATTORNEY, REPRESENTING THE LOS ANGELES CHAMBER OF COMMERCE

Mr. LAWLER. It may facilitate matters, as Mr. Grove, I am sure, is familiar with the situation, to call his attention to the cases that were involved in the matters regarding which he testified. Mr. Grove, the case you referred to in which Mr. Montgomery was counsel, and I believe Mr. Graves was another counsel, was that of the Los Angeles Farming & Milling Co. against Thompson and others, was it not?

Mr. GROVE. Yes. There were five or six cases, and some of them stand there yet.

Mr. LAWLER. And that is reported in 117 California, at page 594. It went to the Supreme Court of the United States is reported in One hundred and eightieth United States Reports, at page 72. In those cases, if the committee please, I think the grant and the application and the other documents referred to by Mr. Grove, as well as a discussion of the surveys to which he refers, are considered. The evidence that was taken in the case related to them particularly and the Supreme Court of California decision is quite fully discussed.

Senator BRATTON. What did the court hold that document to be, a grant or mortgage?

Mr. LAWLER. To be a grant. The terms of the grant is the De Celis case I think have been somewhat inaccurately stated. In the case of Thompson *v.* Los Angeles Farming & Milling Co., in which Mr. Justice McKenna delivered the opinion of the court, we find on page 74 the following:

> Claimant avers that the aforesaid deed or sale contains the condition that the Government of Mexico shall have the right to annul the contract by reimbursing to this claimant the aforesaid sum of $14,000, with the current rates of interest, and in case said sum is not reimbursed in said 8 months, said Mission of San Fernando shall be his in full property. And this claimant avers that said sum of $14,000 was never reimbursed to him by the Mexican Government, or by any person whatsoever.

The court had affirmed the survey made. A survey was made in 1858 by Henry Hancock. Then there was a survey by a man named Benson, and another one by a man named Reynolds. On those surveys there was some discussion and litigation as to whether or not they tied in with each other with meticulous accuracy, and the court said they did not; but nevertheless there was a partition proceeding antedating this particular case, in which the land was divided into two parts between the plaintiff here in this case and Mr. Porter, and this part involves the south half, so that in that partition proceeding there is a decree of the court of this county setting forth the boundaries and the division of the property between the respective parties, which was predicated upon the survey made on the grant, and the subsequent surveys made pursuant thereto.

FURTHER STATEMENT OF H. N. WHEELER, LOS ANGELES, CALIF.

Mr. WHEELER. May I read right here the rejection of each homesteader, who has filed a homestead, from the United States Land Office. A copy of this will be furnished. I have here the rejection of October 12, 1928, giving a list of the homesteaders and the ground they filed on, many sections of ground, and the rejection follows:

All the lands applied for are within the exterior limits of the Mexican grant known as the exmission San Fernando, which was patented to Eulogio de Celis January 8, 1873.

Now, I want to stop right there to say this: That if they rest the right of possession on their present title, if they rest on this Mexican grant, then according to the treaty with Mexico, they needed no patent, and by the expression "patent" I mean documents that conveyed title, and I will say right here there never was a patent issued to the San Fernando Valley to anybody that conveyed any title.

Then it goes on and it gives references where that patent may be looked up in the land office, volume 9, pages 140 to 163, inclusive. Then they say, therefore, none of the lands are subject to homestead entry. Then it says:

See the decisions of the Secretary of the Interior in cases of Ben McLendon (49 L. D. 548 and 49 L. D. 561).

And that seems to be what they rest on. That has reference to the Irvine Ranch known officially as the Lomas de Santiago grant. They also cite the case of John Adams et al., 51 L. D. 591, and the cases cited therein. It then says:

Accordingly, the applications are hereby held for rejection. Serve notice on applicants advising them of their joint or several rights to appeal to the Secretary of the Interior within 30 days from the receipt of notice to make report, with the evidence of service of notice.

Now, may I just there submit for your inspection one of the appeals in the San Fernando case.

The CHAIRMAN. You are offering that list of homestead applications held for rejection?

Mr. WHEELER. Yes, sir.

The CHAIRMAN. Let it be received as Exhibit D.

EXHIBIT D

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, November 20, 1928.

HOMESTEAD APPLICATIONS HELD FOR REJECTION

REGISTER, *Los Angeles, Calif.*

SIR: Reference is had to the following homestead applications for lands north and west San Bernardino meridian, California:

045986 of Minnie Abiah Bixby for W. ½ NE. ¼ sec. 24, T. 1, R. 15.
045990 of William Scholpp for SW. ¼ sec. 6, T. 1, R. 16.
045985 of Elisha Ping for NW. ¼ sec. 12, T. 1, R. 17.
045987 of Roy St. Elmo Earl for NW. ¼ sec. 22, T. 1, R. 15.
046003 of Sydney Hamilton Herbert for NW. ¼ sec. 16, T. 1, R. 16.
046004 of Ernest Archer Williams for SW. ¼ sec. 32, T. 2, R. 15.
046009 of John William Lipscomb for SE. ¼ sec. 32, T. 2, R. 15.
046012 of Geraldine Herritt for N. ½ SW. ¼ and N. ½ SE. ¼ sec. 23, T. 1, R. 15.
046017 of Bernard Power for NE. ¼ sec. 32, T. 2, R. 15.
046018 of John A. Williams for NW. ¼ sec. 32, T. 2, R. 15.
046028 of Robert James Patterson for NE. ¼ sec. 22, T. 2, R. 16.
046053 of Frank Doble Valiant for SW. ¼ sec. 30, T. 1, R. 14.
046058 of Marie Hulda Bergstrom for E. ½ NW. ¼ and W. ½ NE. ¼ sec. 7, T. 1, R. 14.
046079 of Margaret Ethel McCalpin for NE. ¼ sec. 8, T. 1, R. 15.
046090 of Eugene Carter Hamley for SW. ¼ sec. 1, T. 1, R. 16.
046091 of Eugene Crane Hamley, jr., for NW. ¼ sec. 22, T. 2, R. 16.
04_6095 of Henry Frederick Kammann for NW. ¼ sec. 10, T. 1, R. 16.
046099 of Conradina Christine Miller for SE. ¼ sec. 7, T. 1, R. 14.
046100 of Clyde Hamilton Cook for SW. ¼ sec. 9, T. 1, R. 15.
046101 of Ragnhild Edith Miller for SW. ¼ sec. 15, T. 1, R. 16.
046105 of Iva May Gladys Owings for N. ½ N. ½ sec. 9, T. 2, R. 15.
046109 of Laura Grace Cashman for N. ½ NE. ¼ sec. 30 and N. ½ NW. ¼ sec. 29, T. 1, R. 14.
046114 of William Gilman Ford for W. ½ NW. ¼ sec. 21, and W. ½ SW. ¼ sec. 16, T. 1, R. 14.
046115 of Alden Carl Miller for SE. ¼ sec. 17, T. 1, R. 14.
046120 of Clifford Barry Oakley for SW. ¼ sec. 6, T. 1, R. 14.
046126 of Izorah Crouch Bingham for E. ½ sec. 6, T. 1, R. 16.
046127 of Arnold Luther Ekblad for SE. ¼ sec. 18, T. 1, R. 16.
046134 of Henry Leopold Herold for NE. ¼ sec. 14, T. 1, R. 17.
046135 of Frank Vail for SE. ¼ sec. 14, T. 1, R. 17.
046208 of Edmund Ingersoll Hamlin for NW. ¼ sec. 28, T. 2, R. 15.
046214 of Joe Taulli for NE. ¼ Sec. 6, T. 1, R. 16.
046215 of Henry Theodore Lewis Hillman for NW. ¼ sec. 6, T. 1, R. 16.
046216 of Orville Ransom Randall for SE. ¼ sec. 13, T. 1, R. 15.
046231 of Loftus Madison Rogers for NE. ¼ sec. 13, T. 1, R. 15.
046235 of Robert French Hoop for SE. ¼ sec. 28, T. 2, R. 15.
046240 of Samuel Horning Haldeman for NE. ¼ sec. 7, T. 1, R. 15.
046247 of Donald W. Spooner for SE. ¼ sec. 12, T. 1, R. 17.
046248 of William J. Burns for SW. ¼ sec. 13, T. 1, R. 17.
046250 of Wilma D. Lockwood for SW. ¼ sec. 7, T. 1, R. 16.
046251 of Marie Goudey for NE. ¼ sec. 12, T. 1, R. 17.
046252 of William Patrick Donegan for NW. ¼ sec. 14, T. 1, R. 17.
046253 of Edward Campbell Wiseman for NW. ¼ sec. 7, T. 1, R. 16.
046255 of Olive Utt Hill for NE. ¼ sec. 32, T. 2, R. 15.
046257 of Raymond H. Hardin for SW. ¼ sec. 14, T. 1, R. 17.
046263 of Halda A. Irish for SW. ¼ sec. 14, T. 1, R. 16.
046264 of Terrel D. Joiner for SE. ¼ sec. 14, T. 1, R. 16.
046280 of James Harris Mann for NW. ¼ sec. 30, T. 2, R. 14.
046281 of Worley Scott Bunch for NE. ¼ sec. 32, T. 2, R. 16.
046290 of Anna Wilmore for SE. ¼ sec. 8, T. 1, R. 14.
046291 of Blanche Winslow La Garde for NE. ¼ sec. 17, T. 1, R. 14.

046293 of Herbert James Fisher for SE. ¼ sec. 12, T. 1, R. 15.
046294 of Daisy Mary Moody for SW. ¼ sec. 7, T. 1, R. 14.
046296 of Joseph Bernard for NE. ¼ sec. 5, T. 1, R. 16.
046297 of Pierre Moynier for NE. ¼ sec. 23, T. 1, R. 16.
046299 of Hal Loder Brink for E. ½, NE. ¼, and E. ½, SE. ¼ sec. 16, T. 1, R. 16.
046300 of Ray E. Richmond for NW. ¼ 149 acres of sec. 23, T. 1, R. 16.
046302 of William Charles Ring for NE. ¼ sec. 14, T. 1, R. 16.
046305 of William James Melville for SW. ¼ sec. 28, T. 2, R. 15.
046318 of Glenn Ellsworth Gretta for NW. ¼ sec. 5, T. 1, R. 16.
046321 of Frank Ralph Mitchell for NW. ¼ sec. 1, T. 1, R. 16.
046322 of Emily Minerva Christman for NE. ¼ sec. 2, T. 1, R. 16.
046323 of Joseph Franklin Anderson for SE. ¼ sec. 11, T. 1, R. 17.
046324 of Helen Kirkelie for NW. ¼ sec. 23, T. 1, R. 17.
046330 of Henry Ingram Moody for SE. ¼ sec. 33, T. 2, R. 15.
046331 of Standiford Ingram Moody for NE. ¼ sec. 33, T. 2, R. 15.
046335 of James Paul Kirk for NW. ¼ sec. 33, T. 2, R. 15.
046337 of William Asaph Hill for NW. ¼ sec. 5, T. 1, R. 15.

All the lands applied for are within the exterior limits of the Mexican grant known as the "Ex-mission of San Fernando," which was patented to Eulogio de Celis, January 8, 1873 (vol. 9, pp. 140 to 163, inclusive). Therefore, none of the lands are subject to homestead entry. See the decisions of the Secretary of the Interior in the cases of Ben McLendon (49 L. D. 548 and 49 L. D. 561), and John Adams, et al. (51 L. D. 591), and the cases cited therein.

Accordingly, the applications are hereby held for rejection.

Serve notice on applicants advising them of their joint or several rights of appeal to the Secretary of the Interior within 30 days from receipt of notice and make report with evidence of service of notice.

Very respectfully,

WILLIAM SPRY, *Commissioner.*

Mr. WHEELER. I would like to have one of these appeals offered into evidence here because the appeal sets forth the fact that there was never any grant that conveyed any title, there was never any patent that conveyed any title, and that it is a matter of fact that title to this land has never been moved out of the United States Government. The appeal is rather long, and I will read just the first paragraph of it.

The first paragraph of the appeal says:

That the said homestead entry is not, as alleged, within the boundaries of any lawful grant made by the Republic of Mexico or the Kingdom of Spain, and is, and has been since July 7, 1846, a part of the public domain of the United States.

So far the Department of the Interior and the Land Office at Washington have never been able to successfully disprove that statement.

The CHAIRMAN. You offer that for the record?

Mr. WHEELER. Yes.

The CHAIRMAN. That may be received as Exhibit E.

EXHIBIT E

In the Department of the Interior, Washington, D. C. In the matter of the Application for Homestead by L. A., Serial No. —. Appeal from the decision of the Commissioner of the General Land Office.

To the SECRETARY OF THE INTERIOR,
Washington, D. C.

In reference to the homestead application filed by appellant ——, serial No. —— for ——, situated in the county of Los Angeles, State of California, the rejection of said application by the Commissioner of the General Land Office located at Washington, D. C., having been made because "all the lands applied

for are within the exterior limits of the Mexican grant known as the ex-mission of San Fernando which was patented to Eulogio de Celis, January 8, 1878."

Appellant begs leave to appeal from said decision of the Commissioner of the General Land Office to the honorable Secretary of the Interior at Washington, D. C., upon the following grounds:

First. That the said homestead entry is not, as alleged, within the boundaries of any lawful grant made by the Republic of Mexico or the Kingdom of Spain, and is, and has been since July 7, 1846, a part of the public domain of the United States.

Second. That the said land applied for as a homestead by appellant has never been withdrawn from entry by any act of Congress or by any other qualified agency of the Government of the United States.

Third. That being a part of the public domain of the United States, and never having been withdrawn from public entry by an act of Congress, the said land has been at all times since July 7, 1846, subject to homestead entry, under the laws of the United States, by duly qualified persons.

Fourth. Appellant maintains that there was no valid Mexican grant or Spanish grant made by any authorized authority, known and designated as rancho ex-mission San Fernando, and that the metes and bounds of any such grant can not be verified by any lawful original survey or by any correct, authenticated, original map, executed and delivered to any original grantee by the Mexican Government or the Spanish Government, and as no other evidence of title would be accepted in any court of Mexico or Spain, any substitution therefor, or alleged copy thereof, would under the law be incompetent before any United States tribunal.

Fifth. Appellant maintains that the Mexican law, at all times subsequent to the year 1828, has provided:

"1. That no grants of land made by the governors of California after the 21st day of November, 1828, are valid without the approval of the Territorial legislature or of the Supreme Government of Mexico.

"2. That the Governor and Legislature of California could, without the approval of the Supreme Government, make no grant whatever of land within ten leagues of the seacoast nor within twenty leagues of the boundaries of any foreign power, nor could they anywhere grant to any one person more than one league square of five thousand varas of irrigable land, four superficial ones of land dependent on the seasons, and six superficial ones for rearing cattle."

Sixth. Appellant maintains that the records show that the rancho ex-mission San Fernando was fabricated by Pio Pico and antedated to June 17, 1846, in violation of the treaty between Mexico and the United States, which stipulated May 13, 1846 as the date after which no valid grant could be made; that the land undertaken to be granted by Pico was for 14 square leagues; that the said grant lies within 10 leagues of the seacoast—for which reasons the grant was in violation of the Mexican law; that the grant is supported by no legal authority and no official record, and is therefore null and void, and has not now, and never has had, any lawful existence.

Appellant maintains that the above violations of the treaty and the Mexican law were so apparent that when, during the year 1852, the said grant was submitted to the commission for confirmation, it was declared to be void on its face.

Seventh. Appellant maintains that the commission of 1851 had judicial knowledge of the Mexican law, which prohibited the execution of any grant of any Mexican territory by any governor of any Mexican State, or by any official of the Republic, without the prior consent of the supreme government of Mexico, and had judicial knowledge of the Guadalupe Hidalgo treaty which provided that no valid grant could be made after May 13, 1846; and as said commission was required "to be governed by the treaty, the law of nations, the laws, usages and customs of the government from which the claim was derived, the principles of equity, and the decisions of the Supreme Court of the United States, so far as they are applicable," said commission could not legally confirm any grant not made in strict compliance with the spirit and letter of the law of the granting nation and the supreme law of both nations as indicated in the treaty of Guadalupe Hidalgo, and if, through fraud, inadvertence, ignorance of the treaty obligations, or otherwise in violation of the law, said commission undertook to confirm the said grant which, appellant believes was fabricated and antedated by Pio Pico and was therefore

invalid and fraudulent, such confirmation by said commission could convey no title to said land and could not remove said land from the public domain of the United States.

Eighth. Appellant maintains that there exists no record of any valid grant in any place where such documents are required to be recorded, and further maintains that as the Supreme Court has held "the record is the grant, and the grant is the title," there being no record, no title to any such alleged grant as ex-mission San Fernando exists or is, or has ever been, vested in the present claimants of the same, but the said alleged grant is, and has been, public domain of the United States since July 7, 1846; and in substantiation of the above, appellant is prepared to present, and will present, at a proper hearing of this appeal before the Secretary of Interior, an official certificate made and executed by duly qualified executive and legislative authorities of the Republic of Mexico, which certificate is under the great seal of the Republic of Mexico and duly certified by competent officials of the Government of the United States, showing that the Republic of Mexico never authorized or issued any such alleged grant as ex-mission San Fernando; that no governor of California was legally qualified to make or execute any such grant; that no such grant stands of record in any of the archives of the Republic of Mexico, and therefore has no legal existence now, nor has it ever had any legal existence.

Ninth. Appellant maintains that the United States Government has given no power to its executive, legislative or judicial departments, to execute or deliver to any grantee of a foreign grant, any evidence of title, or patent, in lieu of the original grant issued by the past sovereign to its citizens or subjects; that such evidence of title, or substitute therefor, is without warrant of law, is incompetent as evidence, and is therefore null and void.

Wherefore appellant, for the reasons hereinbefore set forth, files this appeal from the decision of the Commissioner of the General Land Office, and submits this cause of action to the consideration of the honorable Secretary of the Interior with the prayer that the honorable Secretary will take such action as will approve the application for homestead upon the property described herein, and that appellant have the same recognized and approved; and to this end appellant will ever pray.

STATE OF CALIFORNIA,
County of Los Angeles, ss:

I, ——— of ———, being first duly sworn, according to law, do say on oath: That I am the same person who on the ——— day of ———, 192—, made application for homestead entry as described in the forgoing appeal; that I have read the forgoing appeal from the rejection of said application and know the contents thereof to be true, except as to those matters stated on information and belief, and as to those I believe them to be true.

———.

Subscribed and sworn to before me this ——— day of ———, 192—.

———,
Notary Public in and for the County of Los Angeles, State of California.

Mr. WHEELER. I have two or three other little things and then, as far as I am concerned to-day, I think I am through. I do not want to monopolize the situation, but I want to give these gentlemen a chance to bring up their case and work this thing out from both sides.

Mr. Grove brought up a number of points. One was the question of how much did this commission confirm. The Supreme Court, according to several decisions, has the power to apply the law, but it does not grant any commission or court the power to make the law. I will furnish those decisions. Then, if this commission of 1851 had no authority under the act of 1851 to make a grant or to validate and confirm something that did not exist, then from what source, or under what act of Congress did anybody ever convey legally the title to these lands? I will just leave that as a question, because I am sure I do not know.

Now, it says in the act that the committee shall be governed by the Supreme Court decisions in so far as they are applicable. When the Supreme Court says that a grant must be of record, and has said it in many, many cases, and will not be considered valid until then, it seems to me that that decision, or several of them there, would apply to the case.

Now, Mr. Grove tells me that there is a letter down here in the county records from Eulogio de Celis to his son, in which he suggests to his son in selling this land, if he sells any of it, to be sure not to guarantee the title to it.

The CHAIRMAN. It is a letter from whom?

Mr. WHEELER. From Don Eulogio de Celis to his son, of the same name. I would like to ask the right at this time, if I may, that the chamber of commerce submit the statement which was read here this morning in order that it may be made a part of this record.

The CHAIRMAN. That already is a part of the record.

Mr. WHEELER. I would like to request that Mr. Verduga have a right to be heard before the investigation closes.

The CHAIRMAN. Is he available at any time?

Mr. WHEELER. He is present and said that he will be here for the next few days.

Mr. VERDUGA. Yes, sir.

Mr. WHEELER. Now, with reference to the decree by Mr. Justice McKenna, which was mentioned a moment ago, it seems that the other eight judges refused to sign the decree. There may be some interesting reason why. In addition, Mr. Grove suggests something here that I did not know, and that was that the statute of limitations was inserted, it seems by mistake or erroneously, in the homestead act, or amendment to the act, and that is something that I want to look up, and I think we will submit here.

Now, Mr. Chairman, if Mexico made a grant to this land in the first place, that would have been done by a Mexican patent. In other words, the grant that Mexico made would be a document that conveyed the title, if any was ever conveyed to anybody; but Mexico certifies that she did not make any such grant. Mexican law would have prohibited the making of it, of course, but if Mexico did not make any such grant as the Rancho San Fernando, and we base our title to the grant on the action of the commission attempting to confirm that as a grant when, in fact, none existed, then my statement is that they were certainly acting beyond their jurisdiction and not in line with the Supreme Court decisions. If that is true, then the next conclusion is—and this is not my conclusion, personally, but the conclusion of the court—I will just read the Supreme Court decision in the case of Freeman judgment, fourth edition, section 117, it says, and this is given in page 16 of a brief which I will submit here. This happens to be not, however, a brief which is on file with the Department of the Interior; it is one which we did not file as yet, but the facts contained here are clear and I would like to submit them if you do not mind.

The CHAIRMAN. Very well. That will be received as Exhibit F, and placed in the files of the committee.

The committee desires to recess at 3.30 o'clock this afternoon, but in order that we may have a more clarified picture

of the situation, will you relate just what your connection is with this case?

Mr. WHEELER. My connection with this fight?

The CHAIRMAN. With the controversy that is before us at the present time.

Mr. WHEELER. On December 18, 1925, I filed a homestead on the Palos Verdes Estates, known as the Palos Verdes Rancho. From that time to this, I might say—at first I was very much interested in acquiring a homestead, and I donated my time toward that fight free of any charge. I had no official connection except just to help the fight in any way I could in acquiring that homestead. I then began to see that there was more to this fight than what it first appeared. After studying it for some two or three months I began to realize that this was rather a serious situation; something that, if one was really an American citizen and had any real patriotism in him, would realize was something that should be cleaned up. I took the attitude from that time to this, as I still do, that this was a patriotic fight and that it must be done; that the longer it goes on the worse it gets. Since there is no statute of limitations that will operate against the United States as a sovereign, then at any time in the future when these titles become more valuable and are distributed among more people, it is going to be more difficult to settle, and should be cleared up and settled now, and in connection with that the fact that once I start a fight I never quit it until it is done and done right—I think that explains by connections with the fight. I think I have gathered some evidence. I have helped homesteaders to file; I have a lot of my friends in here as homesteaders, and I have yet to have anybody, any attorney, that has been in my office or anybody else, produce one single bit of evidence or law or anything to show me why I should not go through with this fight, and until they do I am in it. I think that makes my position clear, Mr. Chairman.

The CHAIRMAN. What is your official connection with it?

Mr. WHEELER. Trustee for the homesteaders and a sort of representative and special agent for Mr. Summers.

The CHAIRMAN. Does that organization have a name?

Mr. WHEELER. Until quite recently they have had no name, as such that would cover the whole case.

The CHAIRMAN. You are not an incorporation?

Mr. WHEELER. No, sir. Just recently we have organized a committee of 100 picked from several hundred homesteaders. I do not know the exact amount without checking up. In that committee of 100 we have an executive committee with a chairman; we have a legal committee with a chairman and we have a finance committee with a chairman, and it is their duty to handle their different departments of the work. My work from now on, I do not know just exactly what it will be, except wherever I could be of the most use.

The CHAIRMAN. You spoke of yourself as a trustee for a certain number of homesteaders. Will you tell the committee how many homesteaders?

Mr. WHEELER. I do not have my record book here, but I noticed in the paper the other day that Mr. Smith of the land office gave the number of some 800 homesteaders. I would say there were, anyway,

800, but my impression is that we have more than that at the present time. How many I do not know. At the present time there are some 426 or 427 homesteaders in the San Fernando Valley alone. My duty there as trustee is to keep the records, to help them make out their papers, and to direct them to where I believe there is still a piece of ground open to entry, to accept their money, and sign the contracts for the attorney in the case, Mr. Summers; to give them what information and documents they might wish, to procure for them copies of law or anything that they want and that I can give them.

The CHAIRMAN. Your whole source of income from carrying on this fight is through fees collected from the homesteaders?

Mr. WHEELER. The whole source of income to Mr. Summers, the attorney in this fight, is from fees from the homesteaders, except that Mr. Summers has donated, in addition to what he has acquired from the homesteaders, several thousand dollars of his personal money to help out the fight. I have donated some of my own money, and I know several others that have, just from the spirit of wanting to help out.

The CHAIRMAN. Any homesteader who may feel that he has a case, do you lend him your assistance with or without a fee paid by him?

Mr. WHEELER. No homesteader has ever paid me any fee, not a nickel, not even a cigar. I do not even smoke.

The CHAIRMAN. Does Mr. Summers employ you, then?

Mr. WHEELER. Not in the sense of an employment, because there is no employment. There is no salary. The only thing in the world that you might construe as being beneficial to me—and so far it has what you might term been in the red—is that I am allowed a certain amount of the money that comes in to run things in the office; raise money that goes back East for transportation, for investigators and for additional attorneys, for printing documents, and all the necessary things to carry on the cases.

The CHAIRMAN. Now, in your conduct of these actions, what has been your relationship with the Interior Department, or any part or branch of the Interior Department?

Mr. WHEELER. My only contact has been with the United States Land Office in Los Angeles. Also it has fallen to my lot in times past to go to the land office with various people who wish to file homesteads, and in doing so I do not feel that it is my duty to say just exactly the reason for it—but in doing so I have met with a great deal of opposition from the various clerks in the land office, including Mr. Smith, the registrar and receiver. Some of that opposition is interesting and on some of it I am ready to produce witnesses who were present, which I will do when you want to go into that a little later, or I can produce them any time you wish.

In one particular case I happened to be present at a hearing arranged by Mr. A. A. Wilhelm, and inspector for the Department of the Interior arranged at Mr. Wilhelm's invitation over in Pasadena. At that meeting Mr. Wilhelm had a great deal to say about me personally, about Judge Summers, and others connected with this fight. I will give you the deposition, signed by four witnesses who were present. He seemed to be inclined at that little hearing to try to find somebody who would swear to some kind of charge against me to stop the work that I was doing. In fact, he did not seem to

be particular about what they would swear, except that they would swear to anything. The crowd that was present that day, I do not know whether any of them are here or not, although they may be, but of the crowd that was present one of them was employed in a Pasadena bank at the time. That man should be an investigator. As a banker his talents are lost because he certainly knew how to ask Mr. Wilhelm the questions which brought out his attitude, not as an investigator of the United States, but as a man, it seemed, sent out to spread propaganda. That's the document I will present and turn over to you as evidence. I want to read from it just one or two little things. First of all, however, I want to read a letter from Mr. Wilhelm to one of the homesteaders. It is headed, "Department of the Interior, General Land Office, 508 Federal Building, Los Angeles, Calif. November 25, 1927." It is addressed to Mr. Pirley E. Claybrook, 34 West Glenarm Street, Pasadena, Calif. If you will notice, the bottom of that letter is marked "Confidential, not for public inspection." The hearing with Mr. Wilhelm is given in several pages here in this deposition.

Senator BRATTON. Is that the original letter?

Mr. WHEELER. This is a copy of the original letter, since the original letter was sent to Mr. Samuel W. McNab, United States attorney for this district, December 5, 1927. A copy was sent to President Coolidge, a copy to Secretary of the Interior Hubert Work, and it sets forth what happened, the law governing the cases and Mr. Wilhelm's statement. If I may, I want to read just a part of the statement and then I want to submit the rest of it. While this little meeting was going on I was in the next room, with the door half open. Why Mr. Wilhelm, as an investigator, did not look in the other room, I do not see. If he worked for me I would fire him for not looking. When he got nearly through, or about half way, or over half way through with the answers to the questions I opened the door and walked into the room, having taken it all down. In order for me to take it down I had these boys coached so that they would ask him a question and make him repeat it several times to give me plenty of time to be sure I had the statements down accurately. When I came out in the room where Mr. Wilhelm was I asked him to look at the so-called grant of the San Fernando Valley, the Supreme Court decision; to look at the Senate document; the copy of the hearings before the Senate Committee of Public Lands and Surveys, and all the documents that were made up by our office, and when I got through I said, "What do you think about the San Fernando grant now?" Mr. Wilhelm's reply was, "Even though it is a fraud, you never can get anywhere with it because the land department won't let you. It has you blocked and the Senate will not investigate it."

Here is a deposition, giving the names of those who were present, and I would like to introduce it for the record.

The CHAIRMAN. That may be received as Exhibit G.

EXHIBIT G

DEPOSITION AND LETTER

LOS ANGELES, CALIF., *November 25, 1927.*

Mr. PIRLEY E. CLAYBROOK,
Pasadena, Calif.

DEAR SIR: I desire to see you at an early date regarding the homestead filing you offered for a portion of a patented land grant.

Please use the inclosed envelope without postage and advise me when you can call, room 508, Federal Building, Los Angeles.

If you can not come in to see me, kindly state when and where I may see you at your home or place of business.

An early reply will be appreciated.

Very respectfully,

A. A. WILHELM,
Inspector, Department of the Interior.

LOS ANGELES, CALIF., *December 5, 1927.*

Hon. SAMUEL W. MCNABB,
United States Attorney, Southern District of California,
Los Angeles, Calif.

MY DEAR MCNABB: Please note the following:

A meeting was held at No. 38 West Green Street, Pasadena, Calif., on the afternoon of November 26, 1927. There were present at the meeting, A. A. Wilhelm, R. E. Ross, H. H. Jones, E. R. Walton, and R. E. Miller.

This meeting was arranged by Wilhelm. He represented that he is an inspector for the Interior Department and exhibited authority No. 86 as evidence of his right to embarrass and intimidate, if possible, others who were present.

Wilhelm emphatically stated that he is now working under special orders from the Commissioner of the General Land Office.

An inspector is one who inspects. He does not spread information; he gathers it. He does not put out bald statements; he collects naked facts. He makes inquiries and then reports. An inspector never allows his desire for results to suppress the truth. He makes no findings. He makes reports. He reaches no conclusions. That is for others to do. He represents facts and not persons. When the inspector obtains the facts he submits them to his superior officer in the interests of justice.

That you may be advised, there is inclosed herewith a photostat of the proceedings at the Pasadena meeting. You will note Wilhelm states he has been an inspector for 27 years. It is fortunate he gave this information. The proceedings do not indicate 27 years of experience. 27 years is a long time—ample time in which to learn, if ever, that he is the servant of the people in a very limited capacity. It would appear his long stay in his present position has been on account of an oversight on the part of his superiors rather than efficiency on his part.

My opinion is, no man with a genius for slander and whose mouth is a spillway for slime should be able to boast the Government has fed him from the people's money for 27 years.

Pardon me if I give you an illustration that occurs to me at this time. If a prostitute were to boast she has carried on her vocation in a community for 27 years, would you consider that an indorsement of prostitution, or would you deem it a reflection on the people of the community. As well, would you conclude by reason of the element of time she has acquired a prescriptive right to live in that community indefinitely.

Now, you will recall some time ago I met you with Hon. Charles W. Fricke, then assistant district attorney, Hon. John H. Pratt, then and now Assistant Attorney General of the United States and Mr. L. C. Wheeler, then in charge of the Bureau of Investigation on the Pacific Coast for the Department of Justice. At that time and in the presence of these men, I gave you both my office and residence address and stated it would be my pleasure to meet you at any time and place you would designate and to answer without reservation any question you would put to me relative to my connection with certain cases before the Land Department that involve the titles to certain lands. That still holds good.

I have submitted to those in possession of the lands in controversy, to the Commissioner of the General Land Office, to the Secretary of the Interior, to the President and I now submit to you, that the law puts upon the parties who

claim under a grant the burden of producing the grant. If those who are in possession of the lands have title to the lands, then they can show title. The lands are either public lands and therefore belong to the people, or they are the property of private ownership. If title is vested in the Government as trustee for the people, then the homesteaders are right. If the title is vested in private interests, then the homesteaders are wrong. If the homesteaders are wrong, they want to know it. If they are wrong, they will prepare, execute and deliver relinquishments of every acre of land involved. But if they are right, they insist upon their rights and they will persist in their efforts.

The case that seems to interest Wilhelm particularly is the San Fernando Mission. It was argued on its merits before the Board of Land Appeals in Washington on November 15, at which time questions were raised relative to certain points and counsel were asked to supplement the briefs that were filed. This to be done as early as possible. It is now being done and in the very near future the supplements will be submitted and an added argument will be made.

The Land Department is a tribunal. This man Wilhelm may be acting under instructions as he says at this particular time. Of course we have no way of knowing, but if he is under special orders, then someone in the Land Department has little consideration for the ethics of the situation.

In this connection, let me say, San Fernando was a mission. It was occupied by an old priest who was ministering to the spiritual welfare and the physical needs of Mexicans and Indians who were in possession of and were tilling the soil and whose cattle and horses were grazing the lands adjacent to the buildings.

On June 17, 1846, the territorial governor of the Mexican territory known as California, attempted to mortgage this mission.

Nine days prior to June 17, 1846, the same governor, in a capacity identical with that in which he acted when he attempted to encumber the mission of San Fernando, undertook to dispose of the San Gabriel Mission.

Twenty-one days before the attempt was made to alienate the San Gabriel Mission, the same governor made an effort to alienate the mission of San Luis Rey.

The Supreme Court has repeatedly held the laws of the prior sovereign determine the validity of titles emanating therefrom; that the validity of a grant of land made in California before it was ceded to the United States by Mexico must be determined by Mexican law.

Mexico and the United States agree the only law under which the Governor of California could grant land was the law of August 18, 1824. This law limited the governor's granting power to vacant public lands. They agree that public establishments of the department could not be granted.

But in violation of law, in defiance of authority, the governor attempted to dispose of the missions of California.

The attempt to sell the San Luis Rey Mission was submitted to the Supreme Court of the United States. This high authority said:

"The Governor of California had no power, on the 18th May, 1846, either under the colonization law of August 18, 1824, and the regulations of November 21, 1828, nor yet under the despatch of March 10, 1846, from Tornel, Minister of War, nor under the proclamation of Mariano Paredes y Arillaga, President ad interim of the Mexican Republic, dated March 13, 1846—these two last made in anticipation of the invasion of California by the forces of the United States—nor under any other authority, to make a valid sale and grant of the mission of San Luis Rey." (United States v. Jones, 1 Wall. 766.)

The San Gabriel Mission, like the San Luis Rey, an attempt to sell the San Gabriel Mission was made. This attempt was submitted to the Supreme Court. All of the facts and the law were before the court. They were considered at great length and the conclusion of the court was that:

"The Governor of California had no power, on the 8th June, 1846, either under the colonization law of August 18, 1824, and the regulations of November 21, 1828, nor yet under the despatch of March 10, 1846, from Tornel, Minister of War, nor under the proclamation of Mariano Paredes y Arrilaga, President, ad interim, of the Mexican Republic, dated March 13, 1846—these two last made in anticipation of the invasion of California by the forces of the United States—nor under any other authority, to make a valid sale and grant of the mission of San Gabriel in California." (United States v. Workman et al., 1 Wall. 745.)

Now as to the San Fernando. If the governor had no authority to make a sale of the mission of San Luis Rey on May 18, 1846—if the pretended sale of the mission of San Gabriel on June 8, 1846, was void for want of authority,

then the effort made nine days later by the same governor to make a conditional sale just like it of the San Fernando mission *was a nullity*.

But a nullity has no force, no validity, no existence. It binds no one. It conveys nothing. It supports no right. It confers no authority. It affords no protection. It can not be ratified. It can not be confirmed. By it no rights are divested. From it no rights can be obtained. Being worthless in itself, all proceedings founded upon it are equally worthless. It neither binds nor bars anyone. All acts done under it—all claims made by reason of it—are absolutely null.

Article VI, clause 2, of the Constitution says:

"This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

Payne's Constitution of the United States, at page 523, says:

"The Constitution, treaties, and general laws made by the General Government on the rights, duties and subjects specially enumerated and confided to their jurisdiction, are exclusive and supreme."

Again:

"A treaty is a solemn agreement between nations. It binds the nation in the aggregate and all its subordinate judges and authorities, State as well as Federal."

Again:

"When duly ratified, a treaty becomes the supreme law of the land. A treaty is in the nature of a contract, but in the United States it is something more. It is like an act of Congress, of which the courts must take judicial notice, and it constitutes a rule of decision in all courts. The courts are empowered to administer a treaty according to its terms, but they can not annul or disregard any of those terms."

As the engagements of a treaty impose on the one hand a perfect obligation, they produce on the other a perfect right. The breach of a treaty is a violation of the right of the party with whom it is made. The nation that has made a promise to another nation has conferred upon that nation a right to require the thing promised.

The security of society depends on justice, on the obligation of paying due regard to the rights of others. The respect which others pay to our rights of domain and property is the security of our possessions. The faith of promises is the security for things that can not be delivered or executed immediately. There would be no longer any security if we were not obliged to keep faith with each other and to perform agreements made. This obligation is necessary between nations. Nations and those who conduct the affairs of nations are bound to observe inviolably treaty engagements. This great truth is acknowledged by all nations. The reproach of violating a treaty engagement is regarded by sovereigns as a most atrocious affront. The nation that does not observe a treaty obligation violates faith. As well, nothing adds to the glory of a nation as the reputation of an inviolable fidelity in the performance of its engagements.

When a treaty is ratified, the sovereign is bound. No contract can be entered into to the contrary. The things with respect to which a sovereign has obligated itself are no longer at its disposal.

Mexico declared that no grant whatever of land had been made in the Territory of California since May 13, 1846. The Guadalupe Hidalgo treaty contracted that no grant had been made by Mexico to lands in the Territory of California after May 13, 1846.

Again, the Guadalupe Hidalgo treaty contracted that grants of land in the Territory of California made by Mexico shall preserve their legal value and that grantees could cause their legitimate titles to be acknowledged before an American tribunal.

Again, the Guadalupe Hidalgo treaty declared that legitimate titles were titles to lands granted in California under the Mexican law prior to May 13, 1846.

The act of March 3, 1851, was enacted by Congress to settle the private land claims in the State of California. This act was the supreme law of the land. The Guadalupe Hidalgo treaty and the act of March 3, 1851, were coordinate. They were of the same rank. They both stood as the supreme law.

The act of Congress created a commission—the American tribunal—to pass upon claims made for lands granted by Mexico prior to May 13, 1846.

Section 8 of the act says that each and every person claiming lands in California by virtue of any right or title from the Spanish or Mexican Government shall present the same to the commission when sitting as a board, together with such evidence and testimony of witnesses as the claimant relies upon in support of the claim.

Section 11 of the act says the commission, in deciding on the validity of any claim brought before it under the provisions of this act shall be governed by the treaty of Guadalupe Hidalgo, the law of nations, the laws of Mexico and the decisions of the Supreme Court of the United States.

The commission created by the act of Congress March 3, 1851, was a special tribunal. It was given special and limited jurisdiction. Its purpose was specific. Its powers could not be enlarged. Its authority could not be extended. It was bound by the act creating it. Its duties were specially enumerated by the act, and the act was supreme.

The treaty was a solemn agreement between nations. It bound the Nation in the aggregate and bound all its subordinate authorities and judges, State as well as Federal, that is to say, the treaty bound the commission.

The treaty was like an act of Congress, of which the courts were bound to take judicial notice, and it constituted a rule of decision, but the treaty and the act of Congress were of equal rank, and there was no conflict. The one was enacted to carry out the engagements of the other. The first requirement of the act was that the commission shall be governed by the treaty.

Refer again to section 8 of the act. The commission had jurisdiction, power, authority to hear a claim for lands in California by virtue of a right or a title derived from the Mexican Government—nothing more; this is all.

The subject matter of jurisdiction is found in allegations and not outside of them. If the petition filed presented a case entitling the claimant to the action of the commission, then there was a subject matter, and the commission had the power to entertain it. With this in mind, it is plain that the jurisdiction of the commission over a claim presented by a claimant depended on the question as to whether or not the petition, taking its allegations to be true, presented "a right or title derived from the Spanish or Medixan Government."

If the petition itself disclosed that the claimant had no such title, or if the petition failed to show affirmatively that the claimant had such title, then it is clear that the petition presented a case over which the commission had no jurisdiction, since its jurisdiction was limited to that class of cases named in the act and could not be extended to any other class of cases. (Beard *v.* Federy, 3 Wall. 479.)

Clearly then, according to the decisions of the Supreme Court, in order to give the commission jurisdiction, it was necessary that the allegations in the petition should be sufficient to show that lands were claimed "by virtue of a right or title derived from the Spanish or Mexican Government."

The claim for the vast tract of land under the name San Fernando not only failed to show any right or title derived from the Spanish or Mexican Government, but instead it showed conclusively that there was no right or title whatever derived from either the Spanish or Mexican Government. The petition showed that the claim was based on a direct violation of law. It presented an instrument that was utterly void. It asked for the confirmation of a nullity. Instead of a claim that a grant had been made in pursuance of the law of Mexico to vacant public land, it alleged a sale in violation of law of a mission and lands adjacent to the mission, over which the Territorial governor had no authority, no power, no jurisdiction.

In United States *v.* Vallejo, the Supreme Court, in passing on an attempted sale of land by the Territorial governor made about the same time and for the same alleged purpose, said: "The main objection to this grant is the want of power in the governor to make it." And after fully considering the question, the court held that there was no such power and on that ground held that Vallejo had not title whatever. (United States *v.* Vallejo, 1 Black, 541.)

If the attempted sale by the Territorial governor was absolutely void, then when the claimant presented his petition to the Commission, setting out the facts that made his claim void, the claim presented did not come within the class of claims over which the act gave the Commission jurisdiction, that is to say, the petition did not show the claimant was a "person claiming lands in California by virtue of a right or title derived from the Spanish or Mexican Government. On the contrary the petition did show the claimant was a person claiming lands in California by virtue of no right or title derived from the

Spanish or Mexican Government. In other words, under the allegations of the petition, the Commission had no jurisdiction. It follows the action of the Commission was a nullity.

Here we have a treaty adopted July 4, 1848—the supreme law of the land—an act of Congress enacted March 3, 1851—the supreme law of the land, and section 11 of the act of Congress that specifically provides the Commission created by the act to ascertain and settle the claims to which reference is made in the treaty, shall be governed by the treaty.

If Mexico declared it had made no grant after May 13, 1846; if Mexico and the United States agreed that no grant had been made by Mexico after May 13, 1846; if Congress created a commission to pass on the validity of grants made prior to May 13, 1846, and in the act creating the Commission declared the Commission shall be governed by the treaty, then the commission had no jurisdiction to entertain and no power to confirm a claim of date June 17, 1846.

War was declared against Mexico by resolution of Congress on May 13, 1846. The two nations were at war from that date until July 7, 1846. It follows they were at war on June 17, 1846. Under the law of nations, nothing is better settled than that Mexico could not make a grant of land in the territory of California during the period the State of war prevailed. Any grant made after May 13, 1846, by Mexico to a Mexican national in the territory of California was void. In other words, it was a nullity. It did not move the title.

The act of March 3, 1851, declared the commission created by the act shall be governed by the laws of the prior sovereign, that is in this case, by the laws of Mexico. This was in keeping with the laws of all civilized nations. It was a command of Congress to the commission to apply the Mexican law to the claims of Mexican nationals for grants of land alleged to have been made in California when it was Mexican territory. What was the law? The law by which the commission had to be governed was the supreme law of Mexico, the law of August 18, 1824.

This was the supreme law of Mexico on granting lands in California territory. The commission had no discretion. It had no judgment, except the law. Congress said, Apply the Mexican law to the claim of a Mexican national. The commission was compelled to leave the Mexican claimant in possession of all lands granted to him by Mexico. The commission had nothing to give. There was nothing it could take. All it could do was to find out what had been given by the prior sovereign. It could not pass title. It could only ascertain if title had passed. If it made a mistake, if it exceeded its jurisdiction, if it acted without power—whether in good faith or bad fath—it did not pass the title. The fact is the commission, under the act creating it, could not pass title. It had to be governed under the act of March 3, 1851, by the law of Mexico of August 18, 1824.

But the law of Mexico limited the power of the Territorial Governor to the granting of vacant public lands, limited the acreage to one league irrigable, four leagues watered by the seasons, six leagues of grazing land, required the prior consent of the supreme executive officers or the subsequent approval of the departmental assembly, and made it mandatory that a record be made and kept in a book prepared for that purpose; that the record contain the petition, the grant and the map of the lands granted; that the record be reported to the supreme executive officers of the nation within 90 days and be deposited in the archives of the supreme government.

The act of March 3, 1851, provides the commission created by the act shall be governed by the decisions of the Supreme Court of the United States. The Supreme Court says the validity of a grant made by the Mexican Government to a Mexican national shall be determined by the Mexican law.

The Supreme Court says the system established by the Mexican Republic for the granting and disposition of its public lands shows a deliberation and care over the subject that is in striking contrast to the system of granting public lands by the United States and furnishes the highest evidence of the extreme interest the Mexican Government had in guarding against impositions and fraud by or upon the Mexican officials.

The Supreme Court says the Governor of Mexico had no authority to grant lands outside of the law of August 8, 1824, and the regulations thereunder of November 21, 1828; that no other law or regulations have ever been produced or discovered by any of the public officials or agents of the United States whose duty it was to make particular inquiry into the subject.

The Supreme Court says that in order to support the title to land in California under a Mexican grant, the written evidence of the grant, in the form required by the Mexican law, must be found in the public archives and records where they were required by the Mexican law and regulations under that law to be deposited and recorded.

The court has many times held there can be no presumption as to Mexican titles since the Mexican law of August 18, 1824. The same supreme authority has said the validity of a grant made in California before it was ceded to the United States must be determined by Mexican law. As well, the Supreme Court has said repeatedly that the record is the grant, the grant is the title; that if there is no record there is no grant; that if there is no grant there is no title. It follows there can be no grant unless there is a record. It is necessary to produce the record to establish the grant. Without the record the title was never divested. In order to divest the title, the record had to be made in conformity with Mexican law. The unexplained absence of record evidence is fatal to the title. (Peralta *v.* United States, 3 Wall. 434-439; United States *v.* Vallejo, 1 Black. 541; United States *v.* Ortiz, 176 U. S. 427; Hayes *v.* United States, 175 U. S. 258; Romero *v.* United States, 1 Wall. 745; Whitney *v.* United States, 181 U. S. 110; United States *v.* Cambuston, 20 How. 29; Fuentes *v.* United States, 22 How. 443; United States *v.* Teschmaker, 22 How. 392; Luco *v.* United States, 23 How. 515; Palmer *v.* United States, 24 How. 126; United States *v.* Castro, 24 How. 346; United States *v.* Galbraith, 2 Black. 394; United States *v.* Bolton, 23 How. 341; United States *v.* Elder, 177 U. S. 114; Roland *v.* United States, 7 Wall. 747; United States *v.* Pico, 22 How. 406.)

The question of a record is settled. If a grant known as San Fernando was made by Mexico to de Celis, it was recorded. It had to be. There was no other way. It remains now the duty of someone to produce the record. Upon whose shoulders does the burden fall. The Supreme Court says the burden is on those who claim title by a valid grant or claim title under a valid grant to produce a valid grant. The claimant must pull the laboring oar. It is up to him to show title by grant, duly made and recorded.

"The statute authorizes no presumption in favor of the genuineness of a title from the mere fact that the claimant, for confirmation, presents a paper which is asserted to be a grant from a Mexican official. The command of the Statute is not that the United States, when an alleged Mexican title is presented for confirmation, shall be put to the burden of showing that the title in question is not genuine, but that the evidence presented in favor of the asserted title shall be of such persuasive and preponderating force as to convince the court that the title is real and besides possesses the legal attributes which the statute requires as essential to confirmation." (United States *v.* Ortiz, 176 U. S. 422.)

Numerous cases of the same import can be quoted to show that the man who claims title under an alleged Mexican grant must produce the grant or abandon the claim.

From the United States *v.* Cambuston (20 How. 64), announced in 1857, to the ruling in Berryesa *v.* United States (154 U. S. 623), handed down in 1876, and from that opinion to the present date, the Supreme Court has always held that the burden of proof to sustain a grant rests upon the party who claims under the grant and, the failure to show that the official archives contain evidence that a grant had been made defeats the grant. The burden of producing the grant, the court says, is put upon the grantee or those claiming under him, as the sole means of avoiding the danger of the United States being imposed upon by forged and fabricated grants.

But when you ask those who contend there is a valid grant to produce the grant, they will not do it—they can not do it. They can not produce that which never was made. They can not show that which never had an existence. They can not produce something from nothing.

For your information, you will find attached hereto Exhibit B, conclusive evidence that there never was a San Fernando grant; that under the laws of Mexico, no such grant could have been made.

Let me here add that the journal for California during the year 1846, in the archives of the Mexican Government, shows that the last session of the assembly was held July 24, 1846; that several sessions were held between May 13, 1846 and July 24, 1846; that these sessions were held May 15, June 3, June 10, June 15, July 1, July 3, July 6, July 7, July 8, and July 24; that no report was ever made or filed for approval by the governor of California, or any other person, of lands granted in California of date later than May 2, 1846.

It is a settled fact beyond any controversy that Mexico never made a San Fernando grant. But Mexico was the only power that could make it. If Mexico

did not make it, then it was not made. If there was no grant, then on July 7, 1846, the title to the lands passed to the United States under the treaty. These lands became a part of the public domain on that date and have been held at all times since then by the Government as trustee for the people, unless they have been disposed of under an act of Congress.

But the inspector quotes the commissioner and says that the Commissioner of the General Land Office issued a patent to these lands January 6, 1873.

"A patent is an instrument by which the United States conveys to persons entitled thereto, the legal fee simple title to the public lands."

The instrument to which reference is made recites that it is issued under the Act of March 3, 1851. Under this act the Commissioner of the General Land Office cannot pass title. What is called a patent is not a conveyance. It is a convenience for the Land Department.

A patent to land with jurisdiction is a judgment and the conveyance of the legal title to lands. A patent to land without jurisdiction is a nullity.

Land reserved from sale and disposition—land for the disposition of which Congress has made no provision—land not entrusted to the disposition of the Commissioner—these are lands not within the jurisdiction of the Commissioner, and patents for such lands are void. King *v.* McAndrews (111 Fed. 868); St. Louis Smelt. & Ref. Co. *v.* Kemp (104 U. S. 636); Doolan *v.* Carr (125 U. S. 618).

Congress never made provision for the disposition of San Fernando—never entrusted its disposition to the commissioner—never gave the commissioner power to convey the title. Congress never passed an act that gave the commissioner power to pass title to 121,619.24 acres of public lands to a Mexican national.

But the commissioner says the patent operated to strip him of jurisdiction. He has in mind a genuine instrument having a legal existence. If the commissioner had jurisdiction to hear evidence and determine facts and thereafter to issue a patent, then the patent would take jurisdiction out of his office. But his contention fails utterly when applied to an instrument that is issued without authority in law. With greater force does it apply to an instrument put out under an act of Congress that specifically provides it does not pass title. The commissioner can not be heard to say, because he issued an instrument without jurisdiction that he thereby lost jurisdiction. Congress said his patent was not intended to convey. How can he say he did what Congress said he could not do.

If the Mexican Government did not make a grant—and it did not—then the lands became public lands of the United States on July 7, 1846.

If the commission, the American tribunal, had no power to make a grant—and did not—then any act of the commissioner did not disturb the title to the lands.

If the act of March 3, 1851, did not give the commissioner power to pass title—and it did not—then the instrument put out January 8, 1873, did not disturb the title.

If Congress made no provision for the disposition of these lands, then regardless of seeming regularity, any instrument executed by the commissioner left the title undisturbed in the United States, as trustee for the people.

But the Supreme Court has repeatedly said that so long as the Government holds the title the Land Department has jurisdiction; that the power of the Land Department to inquire into the extent and the validity of rights does not cease until the legal title to the lands has passed from the Government; that so long as the legal title remains in the Government, all questions of right to the lands must be settled by the Land Department and not by the court.

The Interior Department is the domestic branch of the Government. It is the people's manager and guardian over public lands.

Suppose a corporation is handling enormous properties for the benefit of stockholders. At a meeting of its directors, the manager submits report. In this report he says great landed estates have passed to the possession of trespassers; that this possession was secured by fraud and corruption; that by mismanagement he has lost control of the properties and can now exercise no control over them; that in so far as these properties are concerned, even though they represent vast values and are of great importance, the corporation can not function. How long would it take the board of directors to remove the manager from office, appoint a successor who would take possession of the properties and manage them as a part of the corporate assets.

The inspector, quoting the commissioner, says a patent was issued and that's the end of it. This can not be true, for the reason that no legal patent can be issued by the United States to lands the United States does not own. If the United States did not own the land then no patent could issue. If it was private property under a grant, the United States could add nothing to it by a patent. If the United States did own the land, then the commissioner could not issue a patent and pass title, except by authority of Congress. In the act of March 3, 1851, Congress did not give the commission power to pass title.

"It is an undoubted proposition that if a patent be issued without authority of law it is utterly void. Not being an act done in a court of record, there is no difficulty in the way of treating it as merely void. Indeed, it is impossible to regard it in any other light without a contradiction of terms.

"I come to this conclusion with great satisfaction because it is in conformity with strict right and justice that the error should be corrected where it rose, without sending the party suffering by it to seek his redress by vexatious and expensive litigation."

OPINIONS OF THE ATTORNEY GENERAL

(Vol. 5, p. 7)

"The performance of an act which is merely void is not an exhaustion of power legally conferred. In such case the officer has not exercised his power. An act which is void can not have an efficient operation by extinguishing a power which is valid.

"A patent issued without authority of law or against law is not merely voidable, it is void and is therefore a nullity as though it did not exist. It leaves a duty unimpaired to convey title to the rightful owner.

"A nullity is nothing done. It can not be set up for anything and can never be interposed as an impediment to anyone in the prosecution or defense of any right, however small, or in whatever mode it may be presented. The patent, so called, never for a moment separated the lands embraced in it from the mass of the public domain. It was void in its inception and could confer no right, nor interpose any obstacle to anyone claiming any right adverse to it. Being a nullity upon its inception, the land pretended to be conveyed by it was still subject to location."

The inspector and the commissioner seem to think the issuing of the so-called patent bound the Government. This is not true. The commissioner could not bind the Government beyond the scope of his authority.

"Public officers are but the servants of the law and if they depart from its requirements, the Government is not bound. There would be a wild license to crime if their acts, in disregard of the law, were to be upheld to protect third parties as though performed in compliance with it." (Moffatt *v.* United States, 112 U. S. 24.)

Encyclopedia of the United States Supreme Court Reports, volume 10, page 413.

Officers can not bind the Government except within the law (p. 432).

Government is not liable for illegal acts of officers.

But we are told all this took place a long time ago. The subject has grown old. To this we answer, when the people's money was taken from the National Treasury and used to buy these lands from Mexico, the United States assumed the responsibility of trustee for the people and at all times since then the lands have been held in trust. Is there any private citizen or public servant who has the nerve to say the United States will not do its duty as trustee because the trust agreement is stale.

Quite recently, the commissioner made the suggestion that parties who represent the homesteaders, in his opinion, should be prosecuted under the act of February 23, 1917. The inspector says he was acting under special orders from the commissioner. He therefore is presumed to speak the commissioner's sentiments and to express his desires. It is proper to assume that the inspector, at the meeting, Exhibit A, in his own language, gave expression to the commissioner's idea.

The homesteaders and those who represent them court the most searching inquiry into their motives and their conduct, under the act designated by the commissioner. This before any inspector with honest purpose or any tribunal with jurisdiction. Will the commissioner and the inspector cooperate to the end that the scope of the inquiry may be extended to section 19, section 37, section 39, section 215 of the penal laws, as set forth in volume 7, Federal Statutes

Annotated. This in order that all gross violations of the law, if any, as set forth in those sections, or any of them, may be uncovered. Will the commissioner attend the inquiry and will he require the attendance of the inspector.

As well will the commissioner and the inspector, in the spirit of fairness and in good faith, join the homesteaders and present the facts in their possession and under their control; and if the facts show the lands in question are public lands; that as such the title is held by the Government as trustee for the people; that the Government by reason of corrupt and continuing conspiracies has failed in its duty as trustee; and if the facts show deliberate and determined efforts in violation of law to defeat the constitutional rights of individual citizens of the United States in particular, and the people of the United States in general, will the commissioner and the inspector do all in their power to secure convictions of all the guilty parties.

In conclusion, let me refer again to Exhibit A. Wilhelm presents credentials from the highest officer of the great domestic branch of the Government as his authority to call men together and hurl epithets at individuals he does not know and to creat a prejudice in reckless disregard of facts, records, and laws.

Johnson has resided in California for almost, if not quite 40 years. Wheeler is a native son. Character is what you are. Reputation is what people say you are. The effect of what Wilhelm said and is saying of these men is of course not known. It is certain though slander may put a cloud on a reputation, it can not dissolve a character.

However, let me add, my friendship for the dead, my consideration for the living, prompts me to resent what Wilhelm has said and is saying about McLendon. Well does he know that McLendon counseled against making applications to homestead any land until all of the facts were submitted to the officers of the General Land Office, their views were ascertained and their consent was given. McLendon went to Washington, gave the officials in the General Land Office his confidence, asked their advice and acted as advised. He was given the description of certain lands, was informed they were public lands; that as such they were open to entry under the homestead laws. He was assured that if he and his friends would apply to homstead the lands described, the applications would be received and the homsteads would be allowed. Under these representations the applications were made and filed.

Thereafter, those who had no color of title, but were in illegal possession of the lands, declared they would secure control and later boasted they had secured control of those who were responsible for the applications being made. They then declared that dire punishment would be inflicted upon McLendon; that the publicity that would be given to him and to the penalty he would be made to pay would put terror in the hearts of others and would end the filing of homesteads.

It was an open secret that the purpose was to make the punishment so severe and the publicity so notorious that no other persons would question the right of those in possession and who were then and are now exploiting the lands. These facts were well known to all who were even to a limited extent conversant with the situation.

The task of bringing this about was in part assigned to and was accepted by Wilhelm, and persistently, cunningly, and knowingly, for the benefit of corrupt private interests, he carried on. The results to which he contributed are of record. No assassins' deadly weapons, no murderers' poisonous potions were ever more effective in taking the life of a victim than was the inhuman treatment of McLendon.

Well does Wilhelm know of McLendon's death; that the prime cause was the cruel humiliation, the merciless publicity of the criminal charges in the courts of his country—charges as infamous in their conception as they were brutal in their execution. Notwithstanding this, to-day in the community where McLendon lived and was loved, where his widow and daughter reside and hold sacred the memory of a devoted husband and a fond father, Wilhelm, pretending to represent the Government—Wilhelm, heedless of the importance of being honest, with no respect for the dead, with no feeling for family or friends, with no thought of shame, locates the resting place of his victim of slander and libel, digs down into and opens up the grave and vomits his slime over the casket.

Under another cover I hand you a copy of the brief filed with the Board of Land Appeals in the matter of the appeal from the decision of the honorable Commissioner of the General Land Office, wherein the rejection by the United

States land office of Los Angeles, Calif., of the applications to homestead certain tracts of land, parts of an alleged Mexican land grant called the ex-Mission of San Fernando, was affirmed.

Be advised that a copy of the supplement to this brief will be put in your hands in a few days.

It affords me pleasure to express an abiding confidence in your personal, professional, and official integrity.

Respectfully,

WILLIAMSON S. SUMMERS.

On November 25, 1927, Mr. A. A. Wilhelm, as inspector of the Department of the Interior, mailed a letter to Mr. R. E. Miller, 2075 Galbreth, Pasadena, Calif. The letter was as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Los Angeles, Calif., November 25, 1927.

Mr. R. E. MILLER,
Pasadena, Calif.

DEAR SIR: I desire to see you at an early date regarding the homestead filing you offered for a portion of a patented land grant.

Please use the inclosed envelope without postage and advise me when you can call—room 508 Federal Building, Los Angeles.

If you can not come in to see me, kindly state when and where I may see you at your home or place of business.

An early reply will be appreciated.

Very respectfully,

A. A. WILHELM,
Inspector, Department of the Interior.

Similar letters were sent out to quite a number of other people.

On November 26, 1927, 3.30 p. m., at 33 West Green Street, Pasadena, Calif., Mr. Wilhelm met R. E. Ross, of 325 South Greenwood Avenue, Pasadena, Calif.; H. H. Jones, of 2372 Sierra Madre Street, Pasadena, Calif.; E. R. Walton, of 1769 Whitfield Road, Pasadena, Calif., and R. E. Miller.

"At that time and place Mr. Wilhelm said that he wanted to see and talk with the homesteaders and get their statements; that he was doing this under the direction of the Commissioner of the General Land Office. Thereafter Wilhelm volunteered to say, and in answer to questions said, that:

"These swindlers, McLendon, Johnson, and Price, in 1923 located about 200 people, charged about anything they could get—any old price—and promised those poor people they would get their homesteads in five or six months. McLendon, Johnson, and Price were just a bunch of smooth swindlers.

"Then Johnson and Summers said that Summers was the attorney for the homesteaders. That was all a lie; all of it was just a big swindle.

"The Government is getting tired of this. So much work it causes the Land Office. We want to stop this locating. We want to throw Summers, Wheeler, and Johnson in jail now and stop this swindle.

"Who solicited you boys? What did Wheeler say? Did he tell you the San Fernando was public land? Did he say it belonged to the Government now? Well, it's a lie, he wouldn't say that to me. He knows better. Yes; I know they use Government books for their gag. Years ago they did the same thing. Wheeler, Johnson, and Summers are I. W. W.'s, that's what they are.

"Well, perhaps the land was obtained by fraud. We don't know whether it was or not. I can show you proof positively you will never get it—never get any homestead on Irvine's ranch, and the San Fernando is the same thing. Never a chance in a million. We can satisfy you that their proof is no good. Wheeler will tell you anything. He is just a liar—a smooth swindler.

"It doesn't make any difference whether the patents were any good or not. The Government approved it. There doesn't have to be any record of a grant. A record does not make any difference at all. These grants were all made before California was admitted into the Union and they are all good. The Government said the grants were valid; all confirmed, some accepted and some rejected. They did not need any patent but they decided to give them patents. Spanish and Mexican grants are just the same.

"Land that is occupied five years by the purchasers is valid anyway. The Land Office will not put them off. The Government will never do it. These

liars say the Government will do it. They convinced you—you believe the Government will do it. Well, if you feel that way about it, you can't do us any good. You can't help us stop these swindlers if you believe them.

"You haven't got a chance in a million to get any of that land. They say it is homesteads. It's a lie—it isn't. These papers you handed in at the Land Office are no good. You won't get it on them; not a chance. You can't homestead that way.

"The Government wants me to go into this. This is part of my official work. These fellows are just smooth confidence men. Summers was at one time a bright fellow, but he is just an old radical now, like McLendon was before he died. He is no good now, just a degenerate. I will say anything to them I do to you. If you will make statements that will help us, we can stop them on a charge of obtaining money under false pretense. We can't do anything to them unless you help. Wheeler won't say anything to incriminate himself. We want to prosecute them under the act of Congress. We can still reach them through the grand jury for taking people's money and making the Government the goat. Wheeler will tell you anything.

"Now who was it solicited you? There is Johnson and Wheeler and Summers. Now there is a fourth man. Who is he? Who was it came into the Land Office with you. Was it Wheeler? Let me know.

"Yes, I have done this work for the Government for 27 years. Fifteen years ago I was sent out to examine some filing for a Mrs. Shirley, who now lives in Monrovia, and I helped her to save her money. The other day she asked us to find out about this.

"My headquarters is in San Francisco and I am going up there this next week. Now, what are the names of your men present there? (Mr. Ross told of a visit he made with Johnson to talk to Mr. Smith, register and receiver of the Land Office, and Smith denied everything he had an hour or two before said to him.) You didn't talk to Smith. Wheeler or Johnson maybe said it was Smith.

"Now what did Wheeler say to you? Did he say it belonged to the Government now? I know. I know they satisfy you, but they are just swindlers, that's all.

"Mr. Innes came up to the Land Office and made statements against Wheeler and this is not public land and Wheeler is guilty of a conspiracy against the Government. The State courts are the ones who have jurisdiction over these cases. They can never get anywhere by going through the Land Department. We have them blocked there. The United States Senate will not do anything on this. The Senate will not question these titles now. They will have to get the district courts to set aside the patent if it can be canceled. Why don't they take it to court?

"These people who live there will get the preference right anyway, or soldiers of the World War, well, they get second right ahead of you, under an act of Congress which says those who occupy it will get it if they believe they have a title.

"Grant deed and warranty deed are the same thing. Just the same, the title companies won't pay those people back. Well, they will have a hell of a time collecting any money from them. The title companies don't have to make good. The Department of the Interior says these who occupy land may purchase it at $1.25 per acre. And this is true, no doubt about it. This means anybody who occupies it.

"I don't like to see you swindled. Come over to the Los Angeles Land Office and all will be proven to you. Come over Monday. I'll be there Monday or Tuesday. I'll show you the decision of the Secretary of the Interior on the Irvine case, and the statutes providing how these cases must be handled.

"Now on the case of that woman in Pomona a year ago. She applied for some land and there was a rock crusher on it taking rock out for road work, as he had occupied about 20 acres. It was not public land and she couldn't get it. It was not public land, not subject to location. Always held so.

"Wheeler is just a highbinder, a liar, a swindler. He won't tell me what he told you. You won't get anywhere if you won't make any statements to help us. I want to know what you will say before the grand jury. I want to indict these crooks and I want you to help me.

"This never was before the Senate. They will not recognize it. There is no such document. They had those things printed themselves. They are not anything authentic, no good. I don't know how they talk, because no one

but Mr. Miller will tell me what they say. There isn't a chance in a million. That's why the Government wants to stop it. It is closed forever. They never will take it up again. They made three attempts to get the Attorney General to start suit to cancel patents. It has all been settled now and the settlers have the first right anyway. It is not surveyed and when it is surveyed, then the settlers will have the first right to file on a certain day on all unclaimed land open to entry, subject to existing rights. This is unsurveyed. Was only surveyed as a grant around the outside of it; not sectionized or surveyed in quarters. The date of opening has to be set and it is subject to valid existing rights, and soldiers get second choice.

"What you filed in the Los Angeles Land Office are just papers. They are not homestead applications, not valid. You let these confidence men convince you. Our government is not infallible. Sometimes a crooked man get in office, who is not honest. I know he says it was 6 acres, but that's not true. We have got to get positive testimony on them to do anything. We want you to help us make statements that will indict them. No; I never read this book. It is the same as their other books (referring to document of Hearings No. 333).

"It is all a skin game. These fellows are in a skin game. The Land Office wants you to help us stop it. These crooks won't come to the Land Office and say anything, or make any statements to me like they made to you. Wheeler won't come to the Land Office. His books don't mean anything. The Government didn't print them—had nothing to do with the books. Now, if they were honest, why don't they put your $500 in escrow until they get your homestead for you? But they are not fighting this case for you. Just a swindle. This swindler attorney is not fighting the case at all. They are just using the Government Land Office for a battering ram. When we ask Wheeler anything, he scornfully and disdainfully answers. They are all confidence men; just rotten. The patents were all confirmed and that settled it, whether they were frauds or not. That makes no difference. They can not be opened up now. Just like a murder case; once settled, it can not be reopened. I don't know whether grants are valid or not. It makes no difference now. The titles were confirmed and that settles it. The 6-year statute holds against a sovereign anyway. Yes, sir; the Government can not open it up now. I can prove it to you. Come over to the Land Office and look over all my books. All my books are there; well, that is, in Washington. I haven't got them here, but I can tell you about them.

"Who of you talked to Summers? I want to know. We want to get him. We want him indicted. McLendon was a wild-eyed old man but this man Summers is not square. He just says things are so, but they are not so. Who has talked to him

"The Doheny lease case wasn't subject to statute of limitations. They didn't take away leases from him anyway. Well, that is a different kind of case.

"The Palos Verdes case, oh, I didn't run that down. Pico made a grant in 1846. No difference whether valid or not, it was confirmed. That settles it. It makes no difference when it was made. Six years gives them a title anyway.

"No, the Lankershim man can not lose his land. All this agitation may stop the title company issuing titles. Some grants may be no good because of judgments against them, or some title thing like that. They were patented and the Senate will not open it up. Never. Oh, that was just some wild speech Ralph Cameron made; doesn't mean anything. No, I don't want to read it. That report is no good anyway. They just copied it from their own old books or something. I want to prosecute them, but I want you to help me. I can't do it without your help. I know this game. I know Wheeler showed you books and Government documents, but that won't stop us if you will help prosecute him. He thinks we can't do it. They all think there is no way the Land Office can prosecute them, but we will show them. They have nothing to base their claims on. They are not going to pay your money back if you don't get the homestead. Your money is gone. You can have anybody arrested for that. He didn't dare say it was Government land. Wheeler won't say it is public land to me. He knows better."

At this point, H. N. Wheeler, who is the Wheeler referred to by Wilhelm in his talk as a crook, a liar, a swindler and confidence man, walked into the room, confronted Wilhelm and said to him:

"It is public land, Mr. Wilhelm, and I'll prove it to you."

Thereupon Mr. Wheeler submitted to Mr. Wilhelm the Guadalupe Hidalgo treaty, then the act of March 3, 1851, then the so-called grant—but in fact

the bill of sale made by Pico to de Celis on June 17, 1846—then the laws of Mexico relative to granting land, then the declaration of the Mexican Government that it never made the so-called San Fernando grant; that under the law no such grant could have been made.

Following this, Wheeler asked Wilhelm to read the decisions of the Supreme Court of the United States, showing a grant had to be recorded and that if no record of it had been made, then it was no grant and could not be confirmed; that the person who claimed land by reason of a grant was compelled to produce the grant. Failing to do this, he could not sustain his claim. These decisions Wilhelm refused to read.

Mr. Wheeler than gave Mr. Wilhelm a copy of the hearings before the Senate Committee on Public Lands and Surveys, the second session of the Sixty-ninth Congress. This Wilhelm said he never had seen. Thereupon Wilhelm stated that he had heard all he wanted to hear and was going home. In answer to this statement, Wheeler asked:

"What do you think about the San Fernando grant now?"

Wilhelm replied, saying:

"Even though it is a fraud, you never can get anywhere with it because the Land Department won't let you. It has you blocked and the Senate will not investigate it."

We, the undersigned, R. E. Ross, H. H. Jones, E. R. Walton, R. E. Miller, and H. N. Wheeler, do each for himself certify that the foregoing pages, 1 to 7, inclusive, contain a correct statement of what took place and the substance of what was said by Mr. A. A. Wilhelm to us, in our hearing and in our presence, at 33 West Green Street, Pasadena, Calif., between the hours of 8.30 p. m., and 6 p. m., on November 26, 1927.

R. E. Ross,
R. E. Miller.
E. R. Walton.
H. H. Jones.
H. N. Wheeler.

The Chairman. What did you say was Mr. Wilhelm's official capacity?

Mr. Wheeler. Mr. Wilhelm claimed to be an investigator for the Department of the Interior. I believe he showed a badge No. 86 issued by the Department of the Interior at Washington. Now, there have been many other little unpleasant things that have come up in the land office, part of which I do not exactly blame them for because if they were instructed to carry out a program preventing us from filing homesteads, then I will say that they certainly followed out their instructions to the latter. Hardly ever has anybody ever filed there without being told that they never would get it. They used to tell them sometimes that these attorneys who were accepting these fees were all crooks; that it was a confidence game; in fact, they had very much to say about this personal stuff and I would rather not give it. I think that is enough of it, unless you want more.

The Chairman. You spoke of instructions under which Mr. Wilhelm might be operating for the local land office. Where did you refer to those instructions as coming from?

Mr. Wheeler. I would refer directly to the Commissioner of the General Land Office at Washington, who was Mr. William Spry, and in that connection I might introduce right here a letter, or a photostat of a letter from Mr. Spry in which he said he thought that every opportunity he had he should broadcast the status and discourage the thing, and so forth. If I may read a part of the letter it will clear that up. This photostat is really not a letter, but it says: "Memorandum for the Secretary," and is as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington.

Memorandum for the Secretary.

On September 14, 1927, Mr. Williamson S. Summers, 571-6 I. W. Hellman Building, Los Angeles, Calif., addressed a letter to the President inclosing a copy of a letter addressed to me under date of September 13, 1927.

The Rancho Lomas de Santiago, sometimes known as the Irvine ranch, was duly confirmed by the court of private land claims appointed and acting under the act of March 3, 1851 (9 Stat. 631), and patented to Teodocio Yorba February 1, 1868. (Patent record vol. 6, pp. 479 to 587, inclusive.)

The lands so patented, as well as other lands covered by patented Mexican grants, are not subject to general homestead entry for the following main reasons:

(1) The issuance of patents deprives the United States of the legal title to and removes from this office all jurisdiction over the lands affected.

(2) The lands have never been surveyed as public lands.

Either one of the above mentioned reasons standing alone would make certain the duty of this office to reject homestead applications for such lands.

A large number of applications were filed for lands in the Rancho de Los Palos Verdes. A prospectus entitled "The Palos Verdes of To-day—1926," filed in this office with Los Angeles 041401, John Adams, shows the rancho to be covered by beautiful houses, a golf course, paved roadways, hotels, and other evidence of a highly improved community. Can it be assumed that any one is acting in good faith when he causes the filing of a homestead application for lands so improved and occupied?

This office does not have any record of any case where a homestead application has ever been allowed and patent issued for lands within the exterior limits of patented Mexican grants.

Furthermore, according to the records, no one applying for such lands appears to have gained anything thereby. On the contrary, it appears that parties applying for such lands have lost many thousands of dollars in the way of fees to unscrupulous persons who have misrepresented the true status of the lands for their own personal gain.

It may fairly be assumed that there are owners of lands under the Mexican grant patents who have also lost money because of the unwarranted attacks on the titles to the lands.

In connection with the investigation of applications by Ben McLendon and others, for lands in the rancho Lomas de Santiago, it was reported that $100,000 has been collected from the misinformed people.

McLendon, with others, was indicted in the District Court of Southern California. The case was dismissed on the recommendation of the district attorney that, in his opinion, the case would result in a question of title, but I believe evidence could be secured showing fraudulent intention if enough time was expended in the investigation.

Therefore, because the filing of applications for lands in patented Mexican grants only brings loss and trouble to the land owners, and even to the parties who file the applications, I feel it my duty at every opportunity offered me to broadcast to interested parties the true status of the lands in question.

All past efforts to obtain convictions for violations of the provisions of the act of February 23, 1917 (39 Stat. 936), in connection with the applications under discussion have so far failed, but I am of the opinion that renewed efforts should be made in this direction.

WILLIAM SPRY, *Commissioner.*

He did broadcast that over the radio out here. Mr. Wilhelm was apparently working along that line, because Wilhelm at that hearing quoted the act of February 23, 1917, referred to in the last paragraph of the letter, and asked questions leading me to believe that that was what he was after.

The CHAIRMAN. Do you feel, Mr. Wheeler, that there is any other influence at work aside from that being made manifest by the Interior Department itself?

Mr. WHEELER. Yes, sir.

The CHAIRMAN. Upon the local division of the land office?

Mr. WHEELER. Yes; I do believe that, and I think that possibly we have witnesses in the room who can substantiate that.

The CHAIRMAN. Well, substantiate what?

Mr. WHEELER. That other outside interests spent considerable money, at least he went so far as to tell me they had a hundred million dollars and they would use every dollar of it to buy every single person who touched these grants, from Los Angeles to Washington, if it became necessary, before the homesteader would secure a foot of the land.

The CHAIRMAN. You speak of "them"?

Mr. WHEELER. I have reference, when I say "them", to the crowd that has been under investigation by our office, and they were some banks, Los Angeles title companies, some so-called grant holders, Mr. Irvine, of Orange County; Mr. J. Lawyer, of Palos Verdes; Harry Chandler, of the Los Angeles Times; J. F. Saylor, of the Security Bank; Henry W. Robertson, of the First National Bank, and others, more properly known here in Los Angeles as "The powers that be."

Senator DALE. Who made that statement?

Mr. WHEELER. Mr. C. R. Harris is the party who was present when that was made and Mr. Harris, I believe, would be the proper person to tell you who made that statement.

Senator DALE. Do you know who made it yourself?

Mr. WHEELER. How is that?

Senator DALE. I am not asking you to state, but do you know yourself who did make it.

Mr. WHEELER. Who did?

Senator DALE. Yes. I am not asking you to state who made it, but I am asking you if you know yourself who did make it?

Mr. WHEELER. Senator, I do not know who did make it because I do not know unless I heard it. I have been told, but in this case I want to be sure. I will say that I do not know for certain who made the statement.

The CHAIRMAN. Do you have knowledge of the indictment brought years ago against individuals who sought information relative to available lands for homestead entry?

Mr. WHEELER. Yes; I have part of that knowledge. There are other witnesses in the room at the present time who were indicted, and I my knowledge of it would go particularly to their telling me what happened. In other words, it is just hearsay. I would much rather have them testify to what they know to be the facts.

The CHAIRMAN. Who are they; those that are available?

Mr. WHEELER. I see one, Mr. Clinton Johnson, sitting right over there. Another one is Mr. Clarke. If some of the others are in the room I would like for them to let me know, because I do not know whether they are here.

The CHAIRMAN. You say Mr. Johnson and Mr. Clarke were among those indicted?

Mr. WHEELER. I believe that is correct.

Mr. JOHNSON. That is correct.

The CHAIRMAN. What information did you receive from the Land Office at that time that led the homesteaders to believe that they had rights in there?

Mr. WHEELER. That information is given in Senate Document 333, beginning on page 1 and running over pages 2, 3, and 4, and Mr. Summers's statement, where it says: "The commissioner was William Spry and the assistant commissioner was George R. Wickham," who I understand is here to-day.

The CHAIRMAN. Commissioner Spry?

Mr. WHEELER. Commissioner Spry and Mr. George R. Wickham who, I understand, was the assistant commissioner.

The CHAIRMAN. And you say Mr. Wickham is here?

Mr. WHEELER. Mr. Wickham was here this morning.

Mr. Summers says:

Those men assured the committee of one whose name was Ben McLendon, that they knew it was public domain; that it was open to homestead entry; that it had been stolen from the Government and had been held all these years by a lot of land thieves.

Then he goes on about the letter which is signed by Mr. Wickham, and so forth. In connection with that I have a photostat of the two pages of the Public Land Commissioner's report of 1887 and there are one or two little things in there that are very illuminating reading. Pages 28 and 29 of the commissioner's report of 1887, an official document, says this:

It may be admitted here, however, that many titled papers were fabricated after July 7, 1846.

Now, I purposely refrained from giving that in connection with the San Fernando case this morning because I wanted somebody to bring that point out and I wanted to be, if I may put it in that way, forced to produce that evidence, because the San Fernando Valley grant was made after July 1, 1846, and dated back to June 17, 1846. My opinion is the only reason they didn't date it back before May 13, 1846, was because they did not know at that time that May 13 would be the date dated in the treaty, because it was a year or so later that the treaty was made. This is the official report of the Commissioner of the General Land Office, and it goes on to say:

The above being a notorious fact—

The fact that they were dated after July 7—

The above being a notorious fact, the Government seems to be powerless in the matter, and can not regain what it has lost by prior decrees and decisions, rendered by the duly constituted authorities of the country, which the higher courts have held to be res judicata.

Then further down in the same report it says:

The following is a partial list of other patented ranchos in which irregular proceedings have been had, and an immense quantity of public land has wrongfully been embraced within the patented lines of the same: Lomas de Santiago, granted for 4 square leagues but patented for 47,236.61 acres.

That is marked with a little check mark which I am told here to-day was put on this book by Mr. George R. Wickham and handed to Mr. McLendon, as the necessary proof, together with a list of the grants open to entry, proof of the fact that this land was really subject to homestead entry and they could so homestead it. I am informed they were told that if they would file homesteads on there that the papers would go through to Washington, that they would be granted in Washington, and then, at a time when some parties in-

terested were in Washington, D. C., and understood that this thing was to be done, they received a telegram from Los Angeles stating that two weeks prior to that their homestead applications had been rejected by the local land office in Los Angeles. They then had to hop a train and come to Los Angeles in order to perfect their appeals and send them in, and I am informed that they were indicted for using United States mails to defraud on the theory that mailing these appeals from Los Angeles to Washington constituted a violation of the statute with respect to using the mails.

The CHAIRMAN. It is your understand that that was the whole ground for that indictment?

Mr. WHEELER. My understanding is that was their whole ground, and none other; and when Mr. Summers stepped into the case in the defense of the parties indicted at that time it was a criminal case, and he later ascertained that the ground they had filed on, and other ground, was in the public domain; and from there it just grew and grew, it will grow until this thing is cleaned up. At that time Mr. Summers insisted that these parties have a hearing, after he had been representing them for several months, and when he insisted that they have a hearing I am informed that the case was dismissed on order from the Attorney General's office without giving them a hearing, and they never had a hearing.

Senator DALE. When was that?

Mr. WHEELER. The date of the dismissal?

Senator DALE. Yes.

Mr. WHEELER. I do not have that in my head.

Senator DALE. Approximately when was it; what year was it?

Mr. WHEELER. It was along in 1925, I believe, around October or November. That is my recollection of it. Some of the parties present here can give you the exact date.

I have here what seems to be a certified copy of the order dismissing the case, known as No. 585-J-Crim.—that means criminal, I suppose—and the date seems to be the 1st day of October, 1925, and it is signed by the Hon. William P. James, district judge.

Senator BRATTON. Can you tell us when the indictment was returned?

Mr. WESTERVELT. That is printed in Senate Document No. 333, "Mexican Land Grant Frauds," the previous hearing of the larger committee, beginning at page 31. The record seems to contain copies of the original document.

Mr. WHEELER. There is one other thing along the line of your question of a moment ago, Senator Bratton, as to my personal connection with the office, and with reference to any friction that might have had, or whatever you might term it, and that is a letter addressed to me personally, under date of February 23, 1926, from San Francisco, Calif., on the letterhead of the Department of the Interior, General Land Office, addressed to me, in reference to my own homestead application, and says this:

The records of the United States land office at Los Angeles, Calif., show that on December 18, 1925, you filed homestead application 041,203 for the southeast quarter, section 25, township 4, south, range 15 west, which was rejected because the land is embraced in the exterior boundaries of a patented private land claim known as the Ranchos Los Palos Verdes. Briefly the history of this grant is as follows—

The Palos Verdes people, by the way, in their booklet claim that they are the sixth in succession of ownership from the King of Spain. Then the land office goes on to say:

Grant made June 3, 1846, by Governor Pio Pico.

Who was a Mexican governor, of course.

Petition for confirmation filed November 1, 1852. Decree of confirmation rendered December 20, 1853, by board of commissioners. United States district court affirmed decree of the board in December, 1857. Grant surveyed and survey of proof September 18, 1859. After much litigation grant as confirmed and as surveyed was approved and patent issued June 22, 1880.

In the case of Ben McLendon et al., involving the Ranchos Lomas de Santiago, in which the material facts are similar to those in the case of the Ranchos Los Palos Verdes, United States Attorney General declined to institute suit to reform the patents for the following reasons:

1. Action is barred by the acts of March 2, 1891.

That is called the statute of limitations. They cite 26 Statutes, 1099.

2. The issues are res judicata.

3. Sound public policy does not require new litigation to disturb the rule of property established in California in the case of United States *v.* Flint (4 Sawyer, 42) in the absence of new facts or a showing that the former executive officials were clearly wrong in their action.

If I may stop right here I would like to say that public policy should certainly be the interest of protecting the people who purchased land and seeing to it that they do have valid title, the protection of the public domain by the Government, as trustee for the people, because this certainly is public land; and public policy, to my mind, would indicate that those things should be protected, cleaned up, and straightened out, just as we are trying to do here. But the Land Office says that "sound public policy does not require new litigation to disturb the rule of property," and so forth. They do not say "titles"; they say "rule of property established in California in the case of United States *v.* Flint (4 Sawyer, 42), in the absence of new facts of showing that the former executive officials were clearly wrong in their action."

I think we have rather clearly shown that they were very much wrong in their action, inasmuch as there was no grant for them to confirm. Then it goes on to say:

This office has no desire to interfere with the right of any applicant for land to have his application considered by any office or court lawfully constituted for that purpose; but the total absence of any merit in your application and the fact that fees are collected from prospective homesteaders by certain promoters who are locating them on the grant suggest that you may be the victim of a carefully devised scheme to defraud you of money paid by you to others in the guise of location fees or attorney's fees.

If you feel that such is the case, you are invited to write this office, giving further details of the transaction and stating where you may be interviewed with the idea of taking action to protect your interests as well as those of the United States.

That letter was answered, and I ask that the answer, together with the letter, be inserted in the record.

The CHAIRMAN. They will be received as Exhibit H, and placed in the record at this point.

EXHIBIT H

SAN FRANCISCO, CALIF., *February 23, 1926.*

Mr. HAL N. WHEELER,
Pasadena, Calif.

DEAR SIR: The records of the United States Land Office at Los Angeles, Calif., show that on December 18, 1925, you filed homestead application 041293 for the SE. ¼ sec. 25, T. 4 S., R. 15 W., which was rejected because the land is embraced in the exterior boundaries of a patented private land claim known as the Ranchos Los Palos Verdes. Briefly the history of this grant is as follows:

Grant made June 3, 1846, by Governor Pio Pico.

Petition for confirmation filed November 1, 1852.

Decree of confirmation rendered December 20, 1853, by board of commissioners.

United States district court affirmed decree of board in December, 1857.

Grant surveyed and survey approved September 18, 1859.

After much litigation the grant as confirmed and as surveyed was approved and patent issued June 22, 1880.

In the case of Ben McLendon et al., involving the Ranchos Lomas de Santiago, in which the material facts are similar to those in the case of the Ranchos Los Palos Verdes, the United States Attorney General declined to institute suit to reform the patent for the following reasons:

1. Action is barred by the act of March 2, 1891 (26 Stat. 1099).
2. The issues are res adjudicata.
3. Sound public policy does not require new litigation to disturb the rule of property established in California in the case of United States *v.* Flint (4 Sawyer, 42) in the absence of new facts or a showing that the former executive officials were clearly wrong in their action.

This office has no desire to interfere with the right of any applicant for land to have his application considered by any office or court lawfully constituted for that purpose; but the total absence of any merit in your application, and the fact that fees are collected from prospective homesteaders by certain promoters for locating them on the grant, suggest that you may be the victim of a carefully devised scheme to defraud you of money paid by you to others in the guise of location fees or attorney fees.

If you feel that such is the case, you are invited to write this office, giving further details of the transaction and stating where you may be interviewed with the idea of taking action to protect your interests as well as those of the United States.

Very truly yours,

J. H. FAVORITE,
Division Inspector, Department of the Interior.

LOS ANGELES, CALIF., *March 3, 1926.*

Mr. J. H. FAVORITE,
Division Inspector, Department of the Interior,
San Francisco, Calif.

SIR: Before me there are several letters, alike in form and identical in expression, over your signature, in re the alleged Rancho Palos Verdes. You conclude the letters by saying that—

"You are invited to write this office, giving further details of the transaction and stating where you may be interviewed with the idea of taking action to protect your interests, as well as those of the United States."

Your letters were mailed to and were received by my clients, and in their behalf and at their request, I now write you "with the idea of taking action to protect" their "interests, as well as those of the United States."

On January 20 quite a number of the homesteaders requested me to represent them and to protect their rights. The responsibility of doing this was by me on that day assumed. The first important step taken in behalf of my clients was on January 25. On that date a letter was prepared and delivered to the general manager of the alleged Rancho Palos Verdes property. This was intended to be fair and was submitted in good faith. While the proposition has not been accepted, it has not been withdrawn. That you may know its contents, a true and compared copy is hereto attached and herewith delivered to you.

The Department of the Interior is a part of the executive branch of the Government. The Secretary is the trustee for the people. He is their guardian over the public lands. Under his oath he is obliged to see that not an acre of land is wasted or taken by any party not entitled to it. You are the agent of the Interior Department, and, under your oath as such, it is incumbent upon you to protect public rights against wrongs imposed by private interests.

My office is No. 571–6 I. W. Hellman Building, Los Angeles. Under my obligation to my clients, I will be indeed glad to confer with you. You may depend upon me to aid you in every way consistent with plain, old-fashioned common honesty. This for two reasons:

(*a*) The rights of all the people are prior and superior to the rights of any individual. This land in controversy, if public land, is in the hands of private interests who have been and are engaged in exploiting it for gain, and they should be compelled to restore it to the public domain.

(*b*) If the title to this land is vested in private interests, then my clients are wrong. If the title is vested in the Government, as trustee for the people, then my clients are right. If an investigation shows that they have no right to the lands, they will cheerfully accept the fact. But we must show them. If the investigation shows that they have rights, then they will not yield from their position.

So again be advised, in every way possible, consistent with my duty as a citizen and my obligation as counsel for the homesteaders, I will give you my time and will aid in protecting the rights of the United States.

You are a busy man, and I can not afford to consume unnecessary time; so let us aid each other as much as possible.

In your letter you state the application for homestead "was rejected because the land is embraced in the exterior boundaries of a patented private land claim known as Rancho Los Palos Verdes."

Now, the so-called patented land claim is for a certain number of acres. The limit of the patent is the outside boundary. The boundary is the outside limit. The exterior is that which is outside of the boundary of the patented claim. It is that which is beyond the limit of the patented land. In other words, the land for which application to patent was made is land outside of the limits or boundary of the patented land. But the application to homestead was rejected. The reason given for this is evidence of stupidity or duplicity.

You say "the history of the grant is as follows." The word "history" stands for much. You represent the United States. I represent the homesteaders. We are both interested in the history of the grant, if there is a grant. But let us find this out. The Supreme Court says, "The record is the grant." If there is a grant, then there must be a record. Where was it made. The Supreme Court says, "The grant is the title." If so, where is the grant. If it is, then it is somewhere. The burden is on those who claim under it to produce it. If this can not be done, what argument can be put forth to justify asking us to admit that which we do not know. When the tide ebbs and flows the waters of the ocean wash the boundaries of the alleged Palos Verdes grant, but the Supreme Law of Mexico says, that "Those territories comprised within 20 leagues of the boundaries of any nation or within 10 leagues of the seacoast can not be colonized without the previous approval of the supreme general executive power. The foundation of the grant would be the application for and the approval of the supreme general executive power. The "history" must disclose that an application was made to and the approval was given by the supreme general executive power; otherwise, there is no valid grant. Working together we can ascertain if this is the fact.

The alleged Palos Verdes grant may find its origin in the statement made by the Commissioner of the General Land Office in his report to the Department of the Interior, 1887. At the top of page 28, the statement is as follows: "It may be admitted here, however, that many title papers were fabricated after July 7, 1846." The time to find this out is now.

The act of Congress, March 3, 1851, making provision for a commission to settle land claims in California was and is repugnant to sections 1 and 2 of article III of the Constitution. It would embarrass any lawyer to ask the Supreme Court to put the seal of approval on this act. We will have little difficulty in disposing of the confirmation of a grant, if it did not exist, by a commission that could not function under the Constitution.

From the record, it would appear, you have been misinformed. The description of the property in controversy as set forth in a certain indenture in re Palos Verdes project, wherein the Title Insurance Co., of Los Angles, is a party, will be found to be as follows:

"That part of lot H, Rancho Palos Verdes, allotted to Jotham Bixby by decree in partition in the action of Bixby et al. *v.* Bent et al., case 2373, District Court, Seventeenth Judicial District, which decree is recorded in book 4, page 57, of Judgments of the Superior Court in and for the County of Los Angeles, Calif."

A short time thereafter, the private interests exploiting the Palos Verdes lands widely advertised, and the public was led to believe thereby that—

"Palos Verdes, the new city at the southwest corner of the Los Angeles metropolitan area, lies on a peninsula of rolling hills, jutting out into the ocean toward Catalina and the channel islands, with more than 12 miles of seacoast, bays, inlets, and stretches of glorious scenery. Sixteen thousand and four acres, or 25 square miles, is the extent of the property which the original Vanderlip Syndicate acquired in 1913, thus becoming the sixth owner in succession from the original grant of the King of Spain, more than 100 years ago."

LOMAS DE SANTIAGO

You say the material facts in the alleged Palos Verdes grant are similar to the material facts in the alleged Lomas de Santiago case. Frankly, you are mistaken. This communication to you, however, is not intended to prejudge the Palos Verdes investigation. We are about to inquire as to the facts that surround, and the law that governs in this case.

As to the Lomas de Santiago, the qualified citizens who made application to homestead certain tracts of land made no reference to nor did they strike at any grant. Their contention is their applications to homestead are filed on Government land open to entry; that the land is included in a fraudulent survey and is under a patent issued without authority of law; that the survey was made and the patent was issued as a part of a conspiracy to defraud the Government.

Be advised the Lomas de Santiago case is not closed. It has only just fairly started. Up to the present time it has been behind closed doors. It is now out in the open where the fighting is good and it is growing in interest every day.

For your information it is here stated: That on December 4, 1924, the Interior Department placed before the Attorney General findings, conclusions, and a map showing the land in the McLendon et al. case is public domain, was included in a survey unwarranted and covered by a patent illegal; that on May 20, 1925, the Attorney General found the alleged survey was a premeditated fraud; the alleged patent was without authority of law; the statutes of limitations did not apply; the doctrine of res judicata could not be invoked; the courts would not consider public policy, and the Interior Department was requested to cause a survey as a step preliminary and necessary to a suit for the abrogation of the patent; that on July 23 the survey was ordered; that on August 20, 1925, for reasons not known to the general public, the survey was counterordered; that on November 16, 1925, the Attorney General admitted the survey was fraudulent; the patent was illegal; the statute of limitations does not apply; res judicata can not be invoked; public policy is for the legislative and not the judicial branch of the Government; and that there is no case to embarrass a suit to set aside the patent.

You quote from a communication, issued early in the morning and sent out by special delivery on November 11, 1925.

The stability of the Attorney General and the value of his opinion will be the subject of consideration at a later day.

You know that the Department of Justice is an executive branch of the Government. The Attorney General is the head of the department. He is an adjunct to the Executive power of the Government. He is an aid to the President. He is not native to the Constitution. He is not permitted to give an official opinion on a question that is for judicial and not for executive determination. It is not within his jurisdiction to give an opinion on questions that are judicial in character and which must be decided by the courts. He can not excuse his neglect of public duty, nor can he justify his aid to private interests by the unlawful assumption of judicial power.

CONCLUSION

The management of the Palos Verdes property advertises that the title originates in a Spanish grant. You state Pio Pico, the provisional Mexican governor, made the grant. If the Spanish Crown made no grant, and for this

reason it can not be produced, and if Pico could not, and therefore did not, make a Mexican grant, then on July 7, 1846, these lands were public domain of the United States, and if Congress has not disposed of them, will you not agree with me that the investigation of the facts and the law applicable to the facts should be concluded before the merits of the applications to homestead be given adverse criticism.

Herewith I hand you a copy of the appeal filed in the cases that occasion your communication to my clients and my letter to you. Please be informed I have transmitted a copy to the Land Department.

May it be your pleasure to let me hear from you at an early date.

Respectfully,

Mr. WHEELER. He suggested that we have such a meeting. In fact, he made it rather imperative that we have a meeting to go into the Palos Verdes Homes Association, January 25, 1926, in which Mr. Williamson S. Summers. A copy of the letter was inclosed to the manager of the Palos Verdes Estates, with a copy of the appeal from the decision of the Los Angeles land office. I think you have that.

Then follows here a letter to Mr. Jay Lawyer, general manager of the Palos Verdes Homes Association, January 25, 1926, in which Mr Summers sets forth the facts of the case and suggests that if the Palos Verdes Association or Estates could show that they had a title or that they had a valid grant or valid title of any kind, that the homesteaders would immediately file relinquishments and indorse their projects, stating that there would be no further homesteading or no further agitation of the fact regarding the title. The last paragraph of that letter is very interesting. It says:

In the spirit of fairness, can we not agree that no question is ever settled until it is settled right, and with the understanding that money and men respect each other, can we not meet and together search the title to this property and satisfy our clients where and under what conditions the fee title is vested. This to the end that all interested in particular and all interested generally may be influenced and controversy be set at rest.

There never was any answer to this letter.

I offer it for the record.

The CHAIRMAN. It may be received as Exhibit I, and will also be placed in the record at this point.

EXHIBIT I

LOS ANGELES, CALIF., *January 25, 1926.*

Mr. JAY LAWYER,
General Manager Palos Verdes Homes Association,
Los Angeles, Calif.

DEAR SIR: Recently a number of men and women made application to homestead certain lands that formed a part of what is known as Rancho Palos Verdes, in Los Angeles County. The underlying reason for doing this was predicated on evidence so convincing to them that it crystallized into a fact in their minds that the lands were public domain and as such were open to homestead entry. The impelling motive on their part was that if this tract of land is yet a part of the public domain and as such is open to homestead entry, they desired as qualified citizens, under the law, to benefit by it. The property is beautiful, the location is desirable, and a homestead, if allowed to a part of it, would be valuable. So let us not condemn those who have filed the applications. All indications point to good faith on their part.

On the 20th instant the applicants, homesteaders, made me a proposition to represent them. This I was constrained to accept. Since then I have conferred with a goodly number of them as to how best to avoid expensive and vexatious litigation. As a result this letter is written.

Please let me state, several years ago in connection with professional engagements, it was my duty to examine with no little care a goodly number of titles to valuable properties for insurance companies, surety companies, guaranty companies, and the Government. For this reason, while I realize the grave responsibility incident to the present employment, the situation is not entirely strange to me.

Again, let me assure you, in my opinion the relation this tract of land sustains to the city of Los Angeles and to southern California makes it of vital importance that all questions as to title be set at rest.

In the past I have been ordinarily successful in prevailing upon clients to adopt conclusions reached in their behalf.

There is no indication that the men and women, the applicants to homestead this property, have any desire to get something for nothing or to take from others anything they have by right acquired.

The property on which they filed either belongs to the public domain, and therefore to the people of the United States, or it is the property of private ownership. If the title is vested in the Government, as trustee for the people, then the homesteaders are right. If it is vested in private interests, then the homesteaders are wrong.

I assume all you want to do is what is right. I trust you will assume I do not want to do anything wrong. Let us agree, neither one of us desires to embarrass private interests, hinder public improvements, or delay development of this property.

Facts are brutal things when it comes to titles to property, but before titles to property can be settled we must face the facts. The cold fact is the title to the Rancho Palos Verdes is now up for settlement. It can not be lulled to sleep. It will not take a sleeping potion. It must be settled permanently. So this is a fact to face. Let us make a deliberate, thorough, searching examination into the title. If you can show me the homesteaders have no right to these lands, I will promptly so advise and feel confident they will cheerfully govern themselves accordingly. If the investigation shows the homesteaders are within their rights, you, of course, will so advise, and your clients will be governed thereby.

The problem is not impossible of solution. The Supreme Court of the United States has frequently said, "The record is the grant, and the grant is the title."

A large number of people have been led to believe this property is an old Spanish grant. If this be true, then the people should know where, when, by whom, and to whom and under what law it was made, where it is deposited for safe-keeping, where it is of record. These questions are not impertinent. Let us not, however, get the impression that a grazing right over the surface sustains any relation to a grant of the fee title.

Again, it has been frequently stated this property is a Mexican grant; and the number is not small who think this is true. If it is true, then the same questions are pertinent. If it is a Mexican grant, it was granted by some one to some one. There must be authority to give and to take. If there is a Mexican grant, when was it made, by whom was it made, to whom was it made, under what authority was it made, and where is it of record? Unless a valid grant has been made by competent authority to someone qualified to receive it prior to July 7, 1846, then on that day this land became public domain of the United States. If this be true, what, if any, disposition has been made of it since? If the Land Department has issued any instrument that has to do with the title, then it must be either one of conveyance or one of convenience. These facts are pertinent and it seems can be ascertained. All questions should be taken up and it would appear can be settled.

I assure you I have no wish to engage in unnecessary litigation. As well, I have no desire to interrupt legitimate activities, public or private, large or small.

In the spirit of fairness, can we not agree that no question is ever settled until it is settled right; and with the understanding that money and men respect each other, can we not meet and together search the title to this property and satisfy our clients where and under what condition the fee title is vested? This to the end that all interested in particular and all interested generally may be informed and controversy be set at rest.

Respectfully,

WILLIAMSON S. SUMMERS.

Senator DALE. Is it your contention that the present claimants have done anything more than what they naturally would do to defend their claims in this matter?

Mr. WHEELER. Do I understand, Senator, that you mean by that they have committed any criminal act?

Senator DALE. I did not state that. Have they done anything more than they would naturally do to protect their claims?

Mr. WHEELER. Well, if I were in their place, and faced with the same situation—if I got into it with a guilty knowledge, that would be one thing; but if I just woke up some day and found I was in that situation and that there was no title to the land, I do not know what I would do. I would try to see if I could not straighten it out in some way. I do not know any way except through acts of Congress to do it. As a matter of fact, I really believe that both sides in this controversy should have endeavored to have this committee come here and straighten this thing out. That is the way I look at it. The situation is such that it has to be done, but the situation is such, too, that you can not do it in a minute. It is going to take time to present the evidence and call the witnesses.

Senator DALE. Yes; but you get away from my question. Have they done anything; is it your contention that they have done anything more than they would naturally do? Have they used any influence?

Mr. WHEELER. You mean have they done something they should not do, is that it?

Senator DALE. Well, yes; if you prefer that form of question. Have they done anything that you contend is improper and was improper for them to do?

Mr. WHEELER. Yes; I would say they have not in just one instance, but many, which can be shown here by documentary evidence and by witnesses.

Senator DALE. Is it your contention that any employee or official of the Government has cooperated with them?

Mr. WHEELER. I believe that is very easy to show.

Senator DALE. You contend that this cooperation has existed?

Mr. WHEELER. Yes.

Senator DALE. And does exist?

Mr. WHEELER. Yes, sir; and it will exist until it is cleaned up.

The CHAIRMAN. To what extent could you be able to show that to-morrow morning?

Mr. WHEELER. Do you mean who the officials are?

The CHAIRMAN. Well, as to any improper relation or improper act which you say can be corroborated and proven.

Mr. WHEELER. That would depend somewhat on how many of these witnesses can be reached. I understand that Mr. Irvine, sr., whom we would want, is not available, having found it convenient to have business elsewhere. Some of them can be produced.

Senator BRATTON. Where is Mr. Irvine, according to your information?

Mr. WHEELER. I am informed that he is either in Europe or on his way to Europe.

Senator BRATTON. How long has he been gone?

Mr. WHEELER. In the neighborhood of two weeks, I think it is.

The CHAIRMAN. How many people are in this family?

Mr. WHEELER. The Irvine family?

The CHAIRMAN. Yes.

Mr. WHEELER. I believe father and son are the only two that are interested in what is called the Irvine Ranch. There is a corporation there. I think the father and son and another party constitute the corporation.

Senator BRATTON. There are only the father and one son who are interested?

Mr. WHEELER. I believe that is right. The son, James Irvine, jr., is here and, I think, would be willing to testify to whatever he knows.

Senator BRATTON. When the committee was on its way down here it had occasion to stop for a few hours in San Francisco, and I met there at that time a man by the name of James Irvine who is interested in these matters here. I did not have any lengthy conversation with him at all, but I assumed that there was a third member of that family.

Mr. WHEELER. If there is, I do not know it.

Senator DALE. What object would there be in Mr. Irvine going to Europe?

Mr. WHEELER. Well, I do not know that. It is really not my place to say that, but if I were to say I would indicate, by what knowledge I do have, that he did not want to be present at this hearing.

Senator DALE. Well, that is what I mean by the question. Why would he not want to be present at the hearing?

Mr. WHEELER. Well, the natural inference would be that he did not want to be forced to testify as to the validity of his title to that land.

Senator DALE. But I can not see how he could injure the title to his land by any oral testimony that he might give.

Mr. WHEELER. If he had title, he could not.

Senator DALE. I can not see how his oral testimony here would affect his title.

Mr. WHEELER. If he had one, it would not. I would like very much to have some one call Mr. Irvine up and arrange for him to be here when we take up this Irvine case. I think it is no more than right that he should be here.

Senator DALE. For what purpose?

Mr. WHEELER. So that he might show to the committee what his title consists of.

The CHAIRMAN. Perhaps his counsel, if he has counsel, could answer that for him.

Mr. WHEELER. His attorney, Mr. Clarke, of San Francisco, I have listed here as one of the witnesses that I would like to have testify here. He is his counsel, I believe, and would know a great deal of it; but Mr. Irvine knows a lot of it personally that I do not believe his counsel would be able to testify to, and to which his counsel, I do not think, could or should testify to.

Senator DALE. I am only seeking information, Mr. Wheeler.

Mr. WHEELER. That is right, sir.

Senator DALE. Because I know very little about this subject; but I can not see where the testimony of any individual here as to how he

obtained his title could have any influence. What he said about the way he obtained his title, of course, would carry no weight. His title is a matter of record.

Mr. WHEELER. Well, is there any reason why they should not testify? I would like to have them here, because when they testify we can bring up the record on their testimony, we can produce the records of their title, or they can. It is their duty to do it anyway. The Supreme Court has ruled that it is their duty to produce the title. The burden is really on them.

Senator DALE. I am interested in the reason why Mr. Irvine went to Europe.

Mr. WHEELER. Well, I am interested in that myself, but I can not answer it. If he did not go to Europe and is available, I would like to have him here.

Senator DALE. Is it one of the reasons you have in mind for his going to Europe, that he did it to avoid testifying as to his record title?

Mr. WHEELER. That is my idea of it.

Senator BRATTON. It must be obvious to all of us that if a record exists it can be established without Mr. Irvine.

Mr. WHEELER. That is true, too.

Senator BRATTON. If it does not exist that fact can be established without Mr. Irvine.

Mr. WHEELER. That is true.

Senator BRATTON. The records speak for themselves, either affirmatively or negatively.

Mr. WHEELER. Yes.

Senator BRATTON. Now, in view of that why do you make the assertion or intimation that Mr. Irvine would flee in order not to tell the committee whether he has a record title or not?

Mr. WHEELER. Because in the telling of the story would come out, would be brought out, if I may be excused for saying so, the criminal side of it.

Senator BRATTON. That is what Senator Dale has been interrogating you about. I understood you told him, in response to his question, that all Mr. Irvine would testify to would be whether he did or did not have the record title.

Mr. WHEELER. Well then, my statement was wrong.

Senator BRATTON. Obviously no sane person would flee to avoid coming here and saying whether or not he had a record title.

Mr. WHEELER. What I really meant by that was this, that if he were compelled to testify to the fact that he had any title, that opens up the door to the rest of the story and I rather felt that he would rather not do that.

Senator DALE. Do you not think it is the duty of this committee, Mr. Wheeler, when intimations are made, similar to the one you have just made yourself, that if certain testimony was brought out here the criminal side of it would appear, and statements similar to that made in the formal hearings of this committee, don't you think in view of those statements that it is the duty of this committee to get at the substance of them and, if there is something criminal in this, find it, and if there is not anything criminal in this, find

evidence enough so that they can definitely state that there is not, and clear the situation up?

Mr. WHEELER. I do, and I think you would be neglecting your duty if you did not do it.

Senator DALE. Well, without the slightest intention of in any way reflecting upon your attitude, I just got the impression that you were holding back something along that line.

Mr. WHEELER. Only for this reason: The hearing is supposed to be closed in a few moments; it takes time to bring witnesses and evidence here. Some of them are present here. Now, if you wish to continue I know they will be glad to testify and to prove not only lack of title, but the other side of the case. They are anxious to testify.

Senator BRATTON. You refer to the lack of Mr. Irvine's title and his disinclination to testify about lack of possession of title. What is the link in that title that you contend is missing?

Mr. WHEELER. The whole title.

Senator BRATTON. The whole title?

Mr. WHEELER. Yes; because here is a document from Mexico in which they say there never was any such grant as the Rancho Lomas de Santiago.

Senator BRATTON. Dated when?

Mr. WHEELER. This is dated in Mexico, November 25, 1924.

Senator BRATTON. We are wandering afield and I think we ought to confine ourselves to these grants. I believe that orderly procedure would indicate that inasmuch as you have opened the San Fernando grant that we should dispose of that before we proceed to the others.

Mr. WHEELER. I believe so, but some of the evidence connects up with all of them, Senator.

Senator BRATTON. Inasmuch as you are discussing the Irvine grant, you rely on a certificate made by some official in behalf of the Republic of Mexico that no grant issued to the Irvine Ranch?

Mr. WHEELER. I think that certificate can be relied on all the way through.

Senator BRATTON. But you are relying on that?

Mr. WHEELER. That is one thing we rely on.

Senator BRATTON. Has the Irvine title been confirmed by the board of land commissioners in a similar manner to the San Fernando grant?

Mr. WHEELER. Yes, sir. They had many, many court decisions, partitions, and surveys. We have two certificates here, both certified by the United States Government and both purporting to show what constitutes the Lomas de Santiago Rancho. One shows 4 square leagues of land; the map of the other shows the granting of some 11 square leagues. They can not both be right.

Senator BRATTON. Let us not wander into immaterial matters. As to the Irvine title you rely upon a certificate emanating from Mexico that no grant to that Irvine land was given?

Mr. WHEELER. Yes; we rely on that certificate.

The CHAIRMAN. Is that certificate the one contained in the record of the Senate hearings, opposite page 31?

Mr. WHEELER. Yes; it is.

Senator BRATTON. The legal situation is very much the same as regards the Irvine grant?

Mr. WHEELER. It is the same on all of them. The only thing that is different in the legal situation is the legal status of the valid pueblos, granted by Spain in this territory, but that is a different story.

Senator BRATTON. It seems to me then, Mr. Wheeler, that so far as the particular question is concerned, it is whether your certificate, stating the absence of any grant, is to prevail over a decree rendered by the board of land commissioners, confirmed by the court and upheld through the channels of litigation; and in view of that statement of the situation I do not understand why you intimated that Mr. Irvine would be disinclined to come here and testify orally as to whether or not he had a title.

Mr. WHEELER. My reason for intimating that was the certain knowledge we have, certain witnesses that we have and certain evidence which can, I think, and should be, produced to show the reasons why.

Senator BRATTON. I think we should have that instead of intimations and insinuations.

Mr. WHEELER. I had to mention that first in order to bring in the evidence which is available here.

Senator BRATTON. The committee has discussed the question of procedure. As I understand it there are probably five or six grants involved in the hearing; is that correct?

Mr. WHEELER. There are six different alleged grants involved in this.

Senator BRATTON. Will you name the grants that are involved in it?

Mr. WHEELER. The ex-mission San Fernando, the Lomas de Santiago, the San Joaquin Rancho, which is the one near Balboa, the Palos Verdes, or the Rancho Palos Verdes, the Malibu Rancho, the Boca de Santa Monica, and the Canada de los Celisos.

Senator BRATTON. The committee feels that we should take up these grants one at a time, in the interest of orderly procedure; as to those who are attacking the grants, we will refer to them as the homesteaders, and we feel that they should present their case. When those who are assailing the titles, and we refer to them as homesteaders, for convenience, have made their case in each instance, we then will give those who hold under the grants opportunity to present their side of the case in an effort to substantiate and uphold the grants. Then the homesteaders will be permitted to reply or rebutt. We think we should treat each grant as a separate entity and that the proof should take that order. The homesteaders opening, completing their case in chief, then those holding under the grants be given opportunity to substantiate them, and the homesteaders be given opportunity to reply. I assume, therefore, that to-morrow morning we will proceed with the San Fernando grant in that order and then we will take up the others in the order stated by Mr. Wheeler.

Mr. LAWLER. Mr. Chairman, I am not here representing anybody personally, but I would like to suggest this: That with regard to the San Fernando Valley, there are quite a number of property owners, some of the area involved, as I understand it, in these home-

stead applications, is very heavily improved, populated with a large number of people. Now, I would not pretend to tell anyone that I represent all of those people.

Senator BRATTON. But you are interested in sustaining what we will call the grant title?

Mr. LAWLER. Yes; and I believe that can be very briefly presented, because as I understand it it is all a matter of record and is more or less readily available.

Senator BRATTON. You or anyone else representing the persons who are interested in sustaining the titles under the grant will be given opportunity to proceed when the homesteaders have finished their case.

Mr. LAWLER. Yes, sir.

Senator BRATTON. That is what I intended to convey.

The CHAIRMAN. We are going to depend upon you to muster here for service to-morrow morning as many of the witnesses on the San Fernando matters as are available, Mr. Wheeler. If you find it impossible to locate the witnesses and to bring the witnesses here whom you feel are vital or who have vital information for the committee, and the committee is convinced that there is a case for it, the proper subpœnas will be issued.

Mr. WHEELER. In line with that suggestion might it not be proper for me to read the list of witnesses that I have?

Senator BRATTON. Before you do that, may I make this suggestion: When Mr. Wheeler has finished the attorneys representing the homestead interests will be permitted to submit their case before counsel, and others upholding the grant title shall proceed. There are two or three attorneys here representing the homestead interests. Is that order of procedure satisfactory, Mr. Westervelt?

Mr. WESTERVELT. I think so, sir.

Senator BRATTON. And to other attorneys representing the homestead-entry men?

Mr. WHEELER. There are some other attorneys here who would be classed as representing the homesteaders. I do not see them here at the present time, but I think it would be perfectly agreeable.

Senator BRATTON. Is it satisfactory to those of you who represent the other side?

Mr. LAWLER. Yes, sir.

The CHAIRMAN. You have a list of witnesses there?

Mr. WHEELER. On the San Fernando case.

The CHAIRMAN. Very well; read them.

Mr. WHEELER. William H. Allen, jr., Harry Chandler, Henry M. Robertson (and several other names which were submitted to the clerk). I think that covers the list of witnesses. There may be some others who will come in and want to testify.

The CHAIRMAN. Very well, then, the committee will at this time stand in recess until 10 o'clock to-morrow morning, unless otherwise called by the chair.

(Whereupon, at 4.10 o'clock p. m., the committee recessed until Wednesday, April 3, 1929, at 10 o'clock a. m.)

MEXICAN LAND GRANTS IN CALIFORNIA

WEDNESDAY, APRIL 3, 1929

UNITED STATES SENATE,
SUBCOMMITTEE OF COMMITTEE ON PUBLIC LANDS AND SURVEYS,
Los Angeles, Calif.

The subcommittee met, pursuant to the recess, at 10 o'clock a. m., in department 5, superior court, county of Los Angeles, Los Angeles, Calif., Senator Gerald P. Nye presiding.

Present: Senators Nye (chairman), Dale, and Bratton.

Present also: The various representatives of the parties appearing before the committee.

The CHAIRMAN. The committee will be in order.

Mr. BURKE. Mr. Chairman, I was United States attorney at the time of the indictment returned against Price McLendon and others. I came up yesterday from the Imperial Valley to testify, but as this has to do with the Irvine case, I would request that I be excused until 2 o'clock Friday afternoon, at which time I will be glad to attend.

The CHAIRMAN. Mr. Wheeler, did you have any idea of calling Mr. Burke this morning in connection with the matter that is before us at this time?

Mr. WHEELER. I do not believe we will need him until we get to the Irvine case, Mr. Chairman.

The CHAIRMAN. Very well, Mr. Burke, you may return Friday.

Now, Mr. Wheeler, are you ready to proceed in your case this morning and bring before the committee these points and the evidence in connection with the points raised on yesterday?

FURTHER STATEMENT OF H. N. WHEELER, LOS ANGELES, CALIF.—Continued

Mr. WHEELER. I am, but I think the first thing I would like to do is to list some of the evidence with the reporter so that I may get them in properly as exhibits. On yesterday I submitted a great deal of evidence which I understand has not been listed properly.

The CHAIRMAN. Very well.

Mr. WHEELER. With regard to page 85 of this brief, which is the brief covering the four cases before the Department of the Interior, the last brief filed in Washington, is given a Supreme Court decision (U. S. *v.* Vallejo, 1 Black, 541; U. S. *v.* Jones, 1 Wall, 766; U. S. *v.* Workman, 68 U. S. 745). In the last case the court ruled this, that the Governor of California had no power on the 8th day of June, 1846, or authority to make a sale or a grant of mission lands, referring to the mission of San Gabriel in California, and if he could

not make a valid sale of the mission of San Gabriel on the 8th day of June, 1846, how could he make a valid sale of the mission San Fernando nine days later under the same conditions?

Mr. LAWLER. Was not that a proceeding on appeal from the decision of the lower court involving the original proceedings on the grant?

Mr. WHEELER. That may be. All I know is the statement of the court where they rule that it was absolutely invalid.

That brief has already been included in the record as Exhibit C.

Then in document 17, already in the record as Exhibit A, at page 118, is taken up the question of spurious titles, we find a report on the laws and regulations relative to grants or sales of public land in California, as follows:

General, I have the honor to transmit herewith a report of brevet Capt. H. W. Halleck, acting Secretary of State, on the laws relating to lands and mission property in California.

I would call the attention of the Government particularly to the representations made in this report respecting the claims of individuals to lands required for Government purposes, and the spurious titles to lands which evidently belong to the public domain. Much of the land thus held by titles at least very doubtful, if not entirely fraudulent, has been divided up and sold to speculators, who will endeavor to dispose of it to the new settlers at exorbitant profits. And as disputes are daily arising between the different claimants, I deem it exceedingly important to the peace and prosperity of California that measures be immediately taken for the speedy and final settlement of these titles upon principles of equity and justice.

Then in this same document 17, Exhibit A, at page 599 and page 600, it shows the arrest of Pio Pico for acting as governor, and, running along through the page, speaking of Pio Pico, it says this:

Immediately after his arrival, rumors reached me of a conversation had by him in which he stated that he had returned with full powers to resume his gubernatorial functions—

The CHAIRMAN. Mr. Wheeler, that document is already offered as an exhibit in the record. Merely recite what it is, without reading any portion of it. It is already before us in that form.

Mr. WHEELER. When you read it it is dynamite.

On page 596 of Exhibit A it says that these sales are absolutely null and void.

On page 668 of Exhibit A it says, with reference to the Pico grants, that the parties who have secured these alleged grants will try to have Pico certify that these grants were made by him at a date when he had the right to make them and that they were recorded in the proper book. It goes on to say that they should get in touch with Pico immediately upon his arrival here and try to head that off so as not to confound the records of those dates.

On page 180 of the same exhibit is a list of annotated grants, known as Appendix No. 31.

In Department D at Washington, D. C., is a transcript of the San Ferando records and 813 other cases, which we need for this sort of thing. Mr. Grove gave me that information.

Then I want listed a copy of the Los Angeles Times of March 3, 1907, in which it sums up like this: In December, 1845, Governor Pico leased property to his brother, one Manuel and, finally, on June 17, 1846, he sold the mission to Eulogio de Celis for $14,000, stipulating that de Celis should support the missionary and give the Indians the

use of the lands they occupy during their lifetime. There was some doubt as to the legal right of the governor to sell the mission, but the sale was subsequently confirmed by the land commission, as shown here.

I have here a certified copy by the Department of the Interior of the Surveys of the San Ferando Valley, and a copy of the county records in relation to the same survey. They really belong together and should be marked together, if that is permissible.

The CHAIRMAN. They may be marked "Exhibits J-1 and J-2."

Mr. LAWLER. From what records are those papers?

Mr. WHEELER. I will have to ask Mr. Grove to give the detail of that.

Mr. LAWLER. Perhaps, if I may look at it, I will be able to tell. This, gentlemen, seems to be a survey with field notes of a resurvey of the exterior boundaries [illegible] be an official record of anything. The other [illegible] es certified by the United States Surv[illegible]

Senator BRAT[illegible] placed in [illegible]ttee's files for what they are [illegible] here [illegible] grave [illegible] mind as to whether a gr[illegible] of this [illegible]mony [illegible] but in the interest of ex[illegible] let it be [illegible] will c[illegible] for what it is worth.

Mr. WHE[illegible] evidence [illegible]at.

Senator B[illegible] the Sa[illegible]do case?

Mr. WH[illegible] You [illegible] ocument, the Mexica[illegible]ent, cer[illegible] rant.

Senator B[illegible] Yes.

Mr. WHE[illegible] Mr. John[illegible] at to you[illegible]

The CHAI[illegible] Then [illegible] e sworn.

Mr. HARTK[illegible] pl[illegible] strik[illegible] it might be well if the wit[illegible] take the [illegible]ess [illegible] the regular way.

The CHAIRMAN. [illegible] taken and the witnesses will take the wit[illegible]

TESTIMONY OF CLINTON JOHNSON, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. State your full name.

Mr. JOHNSON. Clinton Johnson.

The CHAIRMAN. Your occupation?

Mr. JOHNSON. Research work.

The CHAIRMAN. Here in Los Angeles?

Mr. JOHNSON. Yes; and at other places over the country.

The CHAIRMAN. You were going to testify with relation to what, Mr. Johnson?

Mr. JOHNSON. In relation to certain documents that I secured from Mexico City.

The CHAIRMAN. Yes; proceed.

Mr. JOHNSON. Relative to these land titles. In November, 1924, I sent a prominent attorney to the city of Mexico for the purpose of investigating titles to these so-called grants. Ben McLendon held that certain grants here were fraudulent and fabricated. I believe

he claimed there might be certain court decisions that would tend to show that the Mexican Government had power to make grants up to, I believe, July 7th, or somewhere along there, 1846. This lawyer was instructed to find out whether any grants had been made.

Senator BRATTON. Who was the lawyer?

Mr. JOHNSON. C. A. McGee, an attorney from San Francisco.

Senator BRATTON. Is he still living?

Mr. JOHNSON. Yes; and practicing law at the present time.

Senator DALE. Who instructed him to do this?

Mr. JOHNSON. To go to Mexico City?

Senator DALE. Yes.

Mr. JOHNSON. Ben McLendon.

Senator DALE. And who is he?

Mr. JOHNSON. He was the man who started this movement to file on the Rancho Lomas de Santiago.

Senator DALE. He had no authority to instruct him to go there, I presume, did he?

Mr. JOHNSON. Well, it was a personal matter with him. Now, then, Mr. McGee procured at that time a certificate from the Mexican Government. I have a copy of it here, a photostatic copy and a literal translation of that copy.

The CHAIRMAN. Has not that already been made a part of the record before this committee?

Senator DALE. It is in this hearing in 1927.

Mr. JOHNSON. Yes; I presume it is.

Mr. WHEELER. One of them, Senator, the document with reference to the San Fernando Valley has never been made a part of the record, except as relating to the law only.

Senator DALE. I show you this copy of the hearings that were held in 1927, and is not this the document that you have the same as follows page 30 of that hearing?

Mr. JOHNSON. Relating to the law; yes. That is, with reference to the Lomas de Santiago grant but the San Fernando grant is not there. I have a copy of the San Fernando document here, if you want it submitted as evidence.

The CHAIRMAN. You have more than one?

Mr. JOHNSON. I think there are four, but they do not relate to the San Fernando grant.

The CHAIRMAN. They will be received as Exhibit K, and placed in the files of the committee.

Senator BRATTON. From whom did you get the original documents, Mr. Johnson?

Mr. JOHNSON. They were obtained in the city of Mexico.

Senator BRATTON. It is obviously hearsay with you, is it not?

Mr. JOHNSON. They were gotten by C. A. A. McGee.

Senator BRATTON. Were you there?

Mr. JOHNSON. No; I was not there.

Senator BRATTON. Then it is obviously hearsay with you. My question was from whom did you get the document?

Mr. JOHNSON. C. A. A. McGee.

Senator BRATTON. When?

Mr. JOHNSON. Along about the 20th of November, 1924, referring to the Lomas de Santiago, and later I obtained the one for the San

Fernando grant from the Mexican Government, sent to me thorugh the mails.

Senator BRATTON. From the Mexican Government?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. When was that?

Mr. JOHNSON. That was along in May of 1925, or along about the 1st of June, 1925.

Senator BRATTON. Mr. Johnson, tell us what the interest you have in this controversy.

Mr. JOHNSON. I filed a homestead on the Irvine Ranch.

Senator BRATTON. You have no interest in the San Fernando grant?

Mr. JOHNSON. None whatever.

Senator BRATTON. Tell us about the organization that the homesteaders have perfected in order to carry forward the controversy.

Mr. JOHNSON. Now, as a matter of fact, I know nothing of the organization.

Senator BRATTON. You are not a party to it?

Mr. JOHNSON. I am not a party to it and have not been identified with this movement for the past year.

The CHAIRMAN. Were you previously identified with it?

Mr. JOHNSON. I was to some degree, yes; I was undertaking to finance it and see that the thing was carried through to a final conclusion, to a successful issue.

Senator BRATTON. Based upon whatever connection you have had with it in the past, tell us what you know about it.

Mr. JOHNSON. Well, in 1922 some people met here in Los Angeles and then McLendon claimed that there was certain fictitious and fraudulent grants in California that were the subject of homestead entry. He claimed that they were the public domain of the United States; that they never had been withdrawn from entry and they had always been open to homestead filing. He said that he did not want anyone to file until he first went to Washington to determine the attitude of the Land Department. Now, we raised a fund and sent him back there.

Senator BRATTON. When was that?

Mr. JOHNSON. Along in August, I think, of 1922.

Senator BRATTON. How much did you raise at that time?

Mr. JOHNSON. $3,000.

Senator BRATTON. Did he go alone or with some one?

Mr. JOHNSON. He went alone.

Senator BRATTON. How long was he gone?

Mr. JOHNSON. I should say about two or three weeks.

Senator BRATTON. When did you file, before or after that time?

Mr. JOHNSON. After that time, on the 23d of October, 1922, when I filed my homestead application. McLendon came back here and reported that he had interviewed Commissioner Spry and Assistant Commissioner George R. Wickham; he said that the Land Department told him that this was public domain and that they knew it better than he did and, as he expressed it, they said everything from the cellar to the garret was available to him to prove his case.

Then McLendon exhibited to me certain documents and notations made by George Wickham. One was a list of the filings that had been made there some years previously and the other little notations

were signed by Wickham, showing that he had cited to him certain books, papers and documents, and he did this to affirm his statements that the Land Department favored these filings. He got back here and he said he did not think there was any question but what the homestead applications would be allowed and it would be a very short time before the people would be given the land.

Senator DALE. May I ask whether I understand this correctly, that he said he was told by some one in the Land Department——

Mr. JOHNSON (interrupting). Absolutely.

Senator DALE (continuing). That anything from the cellar to the garret was there available?

Mr. JOHNSON. Yes, sir; that is what he told me. I wasn't present when this was said to him. I am telling what Ben McLendon said to me when he returned.

Senator DALE. That is what I understood.

Mr. JOHNSON. Yes; that is true.

Senator DALE. I wanted to be sure about it.

Mr. JOHNSON. Yes, sir.

Senator BRATTON. Mr. Johnson, leave out the hearsay and just tell us what you did in the way of perfecting an organization to carry forward the claims of these homesteaders?

Mr. JOHNSON. At that time they had no organization. I told certain friends of mine about the situation. I told them it was going to take a certain amount of money to carry the expenses. McLendon told what he thought it would take, and the people who went into the thing put up various sums of money.

Senator BRATTON. How much was raised?

Mr. JOHNSON. Well, there was an organization out here known as the School of Practical Psychology, I believe, headed by Doctor Price. I do not know how much money Doctor Price raised, but he turned over to McLendon about $15,000 with which to handle these cases.

Senator BRATTON. When?

Mr. JOHNSON. I can not give you the exact date.

Senator BRATTON. Well, approximately?

Mr. JOHNSON. I should say it was along about the 20th of October, 1922.

Senator BRATTON. 1922?

Mr. JOHNSON. I should say so; yes, sir.

Senator BRATTON. Was the $15,000 raised in addition to the $3,000?

Mr. JOHNSON. The $3,000 was returned to the doctor.

Senator BRATTON. And that organization was called the School of Practical Psychology?

Mr. JOHNSON. Yes; but that had nothing to do with the homesteading beyond the fact that Price raised the money through his organization. It had nothing to do with the homesteaders whatever. They filed homesteads but they did not know anything about the organization.

Senator BRATTON. Were all the homesteaders then members of that society?

Mr. JOHNSON. No; they were not.

Senator BRATTON. Then why do you relate the two, the homesteaders and the School of Practical Psychology?

Mr. JOHNSON. I am merely referring to the school to show where the $15,000 came from.

Senator BRATTON. Can you explain to the committee why that organization would interest itself and raise $15,000 for that purpose?

Mr. JOHNSON. Price interested members of the organization on the theory that they could file homesteads down there, and he charged a certain fee, as I understand it, to be applied on the carrying charges.

Senator BRATTON. What were Mr. Price's fees?

Mr. JOHNSON. Well, that is a matter I don't know.

Senator BRATTON. But you could give us your understanding.

Mr. JOHNSON. My understanding is it was about $400 or something like that.

Senator BRATTON. $400 each?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. And what did that cover?

Mr. JOHNSON. Well, the sum covered the money necessary to carry on the fight.

Senator BRATTON. I mean for what services did that pay?

Mr. JOHNSON. Well, it was turned over to carry the expenses incident to this fight to secure this land.

Senator BRATTON. And $15,000 was raised in 1922?

Mr. JOHNSON. I believe so; yes, sir.

Senator BRATTON. How much money has been raised since then?

Mr. JOHNSON. Well, I don't know. I have got some idea, probably, that is, up to a certain point. I suppose up to 1926 I stuck in there about $30,000 myself.

Senator BRATTON. Yourself?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. Obviously, then, you were rather active and well informed as to what was taking place in connection with the controversy?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. Now tell us how much money was raised by others?

Mr. JOHNSON. Well, that is a matter that I do not konw. There are certain books that will show that, I imagine, in the office of the company or the office of Mr. Summers.

Senator BRATTON. In the office of Mr. Summers?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. Will you give us your estimate of it?

Mr. JOHNSON. Well, there is probably thirty to thirty-five thousand dollars in addition raised up to 1928.

Senator BRATTON. And you raised about half of the total sum?

Mr. JOHNSON. I should say so. Yes.

Senator BRATTON. Who raised the other half?

Mr. JOHNSON. Well, that was by persons who filed and who paid in certain fees, under contract, as retainers.

Senator BRATTON. What was the scale of fees for 1922 when Mr. Price raised the $15,000?

Mr. JOHNSON. There were no fees for quite a while there. There was a time when there was nothing filed on the Lomas de Santiago, because the Lomas de Santiago had been covered with homesteads.

I think in 1926 they were started on the Palos Verdes, and that was when the fees started and the retainers.

Senator BRATTON. All right. How much were the fees or retainers?

Mr. JOHNSON. I believe they started in with a hundred dollars and that was to cover the expense of carrying the fight.

Senator BRATTON. Did they increase the figures afterwards?

Mr. JOHNSON. They increased later.

Senator BRATTON. To what figures?

Mr. JOHNSON. My understanding is that the fees paid were as high as $500, that is, retainer fee, with contracts calling for a contingent fee after acquiring the land.

Senator BRATTON. What were the terms of the contingent agreement?

Mr. JOHNSON. Those would best be shown by copy of the contract.

Senator BRATTON. Have you a copy of it?

Mr. JOHNSON. I have not.

Senator BRATTON. Is there one in the courtroom?

Mr. JOHNSON. Probably Mr. Wheeler has one.

Mr. WHEELER. I will be glad to send down to the office to get copies of the various contracts that you wish.

The CHAIRMAN. It would be well if you would do that, Mr. Wheeler.

Mr. WHEELER. Yes. Had I known they were going to be called for I would have furnished them.

Senator BRATTON. Mr. Johnson, tell us briefly what was done with the sixty or seventy thousand dollars raised about 1926, that is, the disposition made of it; how was it used and what was done?

Mr. JOHNSON. Well, it was used in defraying the expenses of carrying this fight, paying office expenses, and in taking care of Summers' expenses while he was carrying on the fight.

Senator BRATTON. Have you offices?

Mr. JOHNSON. We had offices at 571 I. W. Hellman Building.

Senator BRATTON. How long have those offices been maintained?

Mr. JOHNSON. We started in in 1923 at 585, 586, and 587, and then moved over to 571 shortly thereafter.

Senator BRATTON. And you still maintain offices?

Mr. JOHNSON. The institution does; yes.

Senator BRATTON. Are you a member of the institution?

Mr. JOHNSON. No, sir.

Senator BRATTON. Well, do the services rendered by the organization relate to this San Fernando grant as well as to the others?

Mr. JOHNSON. Pardon me, I did not quite catch that.

Senator BRATTON. Do the services rendered by the organization, through its officers, relate to the San Fernando grant as well as the other grants in question?

Mr. JOHNSON. That is my understanding.

Senator BRATTON. Very well. Describe the offices to us, as to the number of rooms and the organization that is maintained there.

Mr. JOHNSON. There are five rooms in the office there at 571. There is a nominal rent there of $135 a month, stenographer hire.

Senator BRATTON. Is that all?

Mr. JOHNSON. That is all that I know about.

Senator BRATTON. No other salaries paid?

Mr. JOHNSON. I never knew of any salaries being paid. I never received any.

Senator BRATTON. And you do not know of anybody else receiving any?

Mr. JOHNSON. No, sir.

Senator BRATTON. What is the necessity for a suite of five rooms to carry on this controversy?

Mr. JOHNSON. Well, it seems that they needed about that much room, generally speaking. Besides Mr. Wheeler and Mr. Summers there were two or three others in there at times, and the business was devoted to carrying on this fight.

Senator BRATTON. Who were the other two or three persons?

Mr. JOHNSON. Well, I was in there for a time, and Mr. Wheeler, Mr. Summers, and Mr. Morris.

Senator BRATTON. What did you do when you were there?

Mr. JOHNSON. I was simply acting as trustee there for a time in taking care of the funds raised, the money, and putting in my own money.

Senator BRATTON. When was that?

Mr. JOHNSON. Well, from the time I first went there into the office up to 1928.

Senator BRATTON. How much money did you take in?

Mr. JOHNSON. I think a little over $30,000 while I was in there.

Senator BRATTON. Did you disburse it?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. Have you books showing your receipts and disbursements?

Mr. JOHNSON. I have a personal record where I kept money that I received and which was paid out.

Senator BRATTON. And also how it was paid?

Mr. JOHNSON. Yes.

Senator BRATTON. Could you make that record available to the committee?

Mr. JOHNSON. I will be glad to show the record to the committee. I would rather like to keep it because it is the only thing I have.

Senator BRATTON. I mean make it available to be copied into the record. Who else has been handling money in connection with offering to make homestead entries upon the San Fernando grant and the other grants in question?

Mr. JOHNSON. My understanding is that Mr. Wheeler has had entire charge of that.

Senator BRATTON. Since when?

Mr. JOHNSON. Since 1928, I believe.

Senator BRATTON. Did he succeed you as trustee?

Mr. JOHNSON. Well, as a matter of fact, I never was appointed trustee. I acted in that capacity because I simply stepped in and took charge of things. As a matter of fact I was in this when Ben McLendon started it and before Mr. Summers or Mr. Wheeler ever heard anything about it. We carried it on for a matter of two years before they came in.

Senator BRATTON. In 1928 you ceased to act as trustee?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. And ceased handling the money in connection with it?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. And about that time Mr. Wheeler began to act as trustee?

Mr. JOHNSON. That is my understanding of it.

Senator BRATTON. And has acted so ever since?

Mr. JOHNSON. That is my understanding of it.

Senator BRATTON. Now, what did Mr. Morris do at the headquarters?

Mr. JOHNSON. Well, I don't know that he did anything in particular except that he was—he acquired a good deal of information and I think raised a little money, and occasionally put up some himself.

Senator BRATTON. Is he still in those offices?

Mr. JOHNSON. I think he is. I have not seen him there. I have not been in the office but once or twice in about six months.

Senator BRATTON. How long has he been there?

Mr. JOHNSON. Ever since the deal started.

Senator BRATTON. In 1922?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. If he has been kept there continuously for nearly seven years, tell us what he has done?

Mr. JOHNSON. Now, I think it would be better if Mr. Morris told you what he has done. Do you not think so, because I really do not know? I have kept track of my department.

Senator BRATTON. What did you observe him doing?

Mr. JOHNSON. I know of cases where he has given some money to McLendon when things were running along; he raised certain funds. I don't know of anything else.

Senator BRATTON. Do you know how much money he raised?

Mr. JOHNSON. No; I do not.

Senator BRATTON. Did he keep records?

Mr. JOHNSON. I do not know.

Senator BRATTON. At any rate, he is here available?

Mr. JOHNSON. I think he is.

Senator BRATTON. Who else has raised and disbursed funds in connection with this subject matter besides you, Morris, and Wheeler?

Mr. JOHNSON. I do not know of anybody.

Senator BRATTON. Mr. McLendon did not do anything of that along that line?

Mr. JOHNSON. No; he did not.

Senator BRATTON. Judge Summers has done nothing along that line?

Mr. JOHNSON. Not to speak of; I think not. In some cases Judge Summers has probably accepted fees directly in these homestead cases. I think there was one instance where he did. Of course, I do not know how many others.

Senator BRATTON. You say he accepted a fee directly in one case. Do you know of cases where he has received fees indirectly?

Mr. JOHNSON. Well, except through this avenue, I don't know.

Senator BRATTON. Through the organization?

Mr. JOHNSON. Through the organization and the work we were doing there.

Senator BRATTON. How much has he been paid in that manner, and now was it paid?

Mr. JOHNSON. You mean Mr. Summers?

Senator BRATTON. Yes.

Mr. JOHNSON. I would have to get the record. I can not tell.

Senator BRATTON. Do you know what fees he charged?

Mr. JOHNSON. The retainer fee in some instances was $100. I think they obtained that fee up till 1927 or along in there, or 1928.

Senator BRATTON. Do you mean that the fee of $100 per filing——

Mr. JOHNSON (interrupting). Yes.

Senator BRATTON (continuing). Obtained from 1922 until 1927?

Mr. JOHNSON. No, you are speaking of Summers. Summers was not identified with it until 1923. There were no fees at all along in 1926.

Senator BRATTON. Very well then, during 1926 and 1927, he was paid fees at the rate of $100 per filing?

Mr. JOHNSON. Yes, sir. I believe that is the case. I could give you the exact record of that.

Senator BRATTON. Did you make those payments?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. And about how many filings were there that were paid for at that rate?

Mr. JOHNSON. Well, that would be a mere matter of guess unless I had the record.

Senator BRATTON. Give us your estimate, and then you may corroborate it or correct it from your records.

Mr. JOHNSON. I should say there were approximately 150.

Senator BRATTON. 150?

Mr. JOHNSON. Yes.

Senator BRATTON. Then you paid Judge Summers about $15,000 during those two years?

Mr. JOHNSON. Well, he did not receive this money. This money was taken in to cover expenses. Summers received portions of it at different times and some of it was devoted to paying expenses of running the office.

Senator BRATTON. Well, if you had 150 filings during 1926 and 1927 and paid Judge Summers at the rate of $100 per filing, you must have paid him $15,000?

Mr. JOHNSON. The money was not taken in. It was understood by the homesteaders that came in there that this money while it was signed up for as retainers, that it was to cover the general expenses of carrying the fight, so that it was not necessarily paid to Summers.

Senator BRATTON. Did you pay Mr. Summers personally at the rate of $100 per filing?

Mr. JOHNSON. No, sir.

Senator BRATTON. I understood you to say a while ago that you did.

Mr. JOHNSON. Oh, no. It was taken in as a retainer but it was understood that it was to cover the expenses of carrying the fight. Judge Summers did not receive $100 personally, of the money that came in.

Senator BRATTON. Well, how much was paid him?

Mr. JOHNSON. Varying amounts, as he called for money. That money was held as a fund to be called on for the purpose of carrying on the fight. If Summers wanted a couple of thousand dollars for a specific purpose he got it. Frequently he would wire for money from Washington and we would send it to him by wire. It just depended on what he wanted. It was not turned over as received.

Senator BRATTON. Now, I understood you to say that after 1927 the scale of charges increased?

Mr. JOHNSON. Yes, I believe they put the fee up to $500, finally.

Senator BRATTON. You had about 150 homestead entries made in 1926 and 1927?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. About how many had been made since?

Mr. JOHNSON. Since 1927?

Senator BRATTON. Yes.

Mr. JOHNSON. That would be just a matter of guess. I would have to see the records in order to tell you. I never have really figured it up. I would be very glad to produce the record if you want it.

Now, do you want to compare this with the original documents (referring to Exhibit K)?

The CHAIRMAN. Where are the original documents?

Mr. JOHNSON. Two originals we have here, the original Mexican documents.

The CHAIRMAN. How do you happen to have them in your possession?

Mr. JOHNSON. Because I sent for them. I sent McGee down there to get them.

The CHAIRMAN. And McGee got the original documents from the Mexican Government files?

Mr. JOHNSON. He did, certified by the attorney general of Mexico and by the United States consul down there.

The CHAIRMAN. What would cause the Mexican Government to part with those documents?

Mr. JOHNSON. These were documents issued to show certificates to us that they had never made any grants subsequent to May 13, 1846, and that they made no grants known as the Rancho Lomas de Santiago or the San Fernando or the San Joaquin or the Palos Verdes. They certified that they made such grants.

The CHAIRMAN. Then, what you have before you are photostats of the originals?

Mr. JOHNSON. Photostats of these original documents. I would be glad to have them compared.

Senator BRATTON. The originals are merely certificates made by officials of the Mexican Government setting up the negative fact, to wit, that certain purported grants were not issued?

Mr. JOHNSON. That is the idea.

The CHAIRMAN. And the San Fernando grant is one of those?

Mr. JOHNSON. The San Fernando grant is one of them. This one is the San Fernando grant (handing paper to the chairman).

Senator DALE. I was interested in your statement that they paid a nominal rent of $135.

Mr. JOHNSON. Yes; that is very nominal for the space that they occupied there, it is very nominal for that space.

Senator DALE. I thought so.

Mr. JOHNSON. It became necessary frequently to have more space than we had there and then we—that is to say, we should have had more space.

Senator DALE. Was there any particular reason why they had these rooms at a nominal rent?

Mr. JOHNSON. No; only we selected a building where we could get such rents. We did not try to branch out or to show any ostentation or anything of that sort.

Here is a document, Mr. Chairman, that has to do with the law of Mexico, and which is certified properly.

The CHAIRMAN. You have photostats of each of these that you are offering in evidence at this time?

Mr. WHEELER. Those will be listed and numbered in our exhibits.

Mr. JOHNSON. Do you want all of these or just the one with reference to the San Fernando grant and to the law?

The CHAIRMAN. Let us have that. That will be Exhibit L, and will be placed in the files of the committee.

Senator BRATTON. Mr. Johnson, for the purpose of the record, tell us whether Mr. McLendon is living or dead.

Mr. JOHNSON. He is dead.

Senator BRATTON. About when did he die?

Mr. JOHNSON. In July of 1926.

Senator BRATTON. Was Mr. McLendon associated at all with this school of psychology of which you have spoken?

Mr. JOHNSON. No; he was not, or I never heard of it. He told me he met Doctor Price.

Mr. HARTKE. Mr. Chairman, I wonder if I might ask a few questions.

The CHAIRMAN. Certainly.

Mr. HARTKE. With Mr. Johnson's consent.

Mr. JOHNSON. Yes.

Mr. HARTKE. Mr. Johnson, how long have you been associated with this movement?

Mr. JOHNSON. Since 1922.

Mr. HARTKE. How did you first become affiliated with it, in what capacity?

Mr. JOHNSON. Well, simply in the capacity of a homesteader.

Mr. HARTKE. For how long were you so associated with it, or affiliated with it?

Mr. JOHNSON. I was affiliated with it right along up to 1928.

Mr. HARTKE. Did you assume more duties than that or were you just one of the homesteaders, shortly after you started?

Mr. JOHNSON. I did.

Mr. HARTKE. When did you begin to assume outside or other duties?

Mr. JOHNSON. Almost immediately.

Mr. HARTKE. And what were those duties?

Mr. JOHNSON. Undertaking to see that this thing was carried through to a successful issue for the benefit of the homesteaders.

Mr. HARTKE. You, with your associates, joined in doing that, did you?

Mr. JOHNSON. Yes, sir..

Mr. HARTKE. It was that association which resulted in this organization that you have now?

Mr. JOHNSON. I do not know anything about this organization.

Mr. HARTKE. You do not?

Mr. JOHNSON. No.

Mr. HARTKE. But it has the same offices that you were occupying?

Mr. JOHNSON. The same offices, but I am not occupying those offices.

Mr. HARTKE. When did you cease to occupy them?

Mr. JOHNSON. Along about August of 1928.

Mr. HARTKE. Up to that time how many homestead applications, would you say, were filed through your help and the help of your associates?

Mr. JOHNSON. Well, that is a matter of which there is record, and I would be merely guessing.

Mr. HARTKE. Could you estimate it?

Mr. JOHNSON. I think on the Lomas de Santiago grant, this is an estimate, there were probably a great many that we had nothing to do with and never heard of, but I think in all likelihood about 300 people filed down on the Lomas de Santiago. I do not know, but I should say so. I should think Mr. Smith over there could tell you better than I could.

Mr. HARTKE. About 300 on the Irvine Ranch?

Mr. JOHNSON. I should think so, but I do not know.

Mr. HARTKE. Does Mr. Smith know which ones were obtained through your influence?

Mr. JOHNSON. I dont' see how he could, hardly.

Mr. HARTKE. I am asking only for those that you or your associates assisted, Mr. Johnson, you say there were about 300 on the Irvine Ranch?

Mr. JOHNSON. Not that we had anything to do with. I think there were people filed there to that number, but we had nothing to do with a great many of them and never heard of them.

Mr. HARTKE. I am asking for the number that went through these offices and were assisted by this organization.

Mr. JOHNSON. Oh, I should say 30 to 35 people went through the office directly.

Mr. HARTKE. Directly and indirectly.

Mr. JOHNSON. Through Price's proposition; I don't know, because a great many of them filed on 40 acres and 80 acres.

Mr. HARTKE. Do you know what fees were charged in that connection?

Mr. JOHNSON. My understanding is that Price charged the people about $400.

Mr. HARTKE. What was charged in your office to those?

Mr. JOHNSON. You understand there was no contingent fee going with that. That is merely raising money to put the fight over. That money was turned over, as I understand it, to McLendon and there was no contingent fee. The thing commenced and ended with that money.

Mr. HARTKE. Oh, I see.

Mr. JOHNSON. McLendon, I believe, made a contract that he would carry it through to final conclusion for that amount of money.

Mr. HARTKE. And that was part of the 300 that filed on the Irvine Ranch?

Mr. JOHNSON. Yes.

Mr. HARTKE. Can you estimate the number that were assisted by, or in any way caused to file on the Palos Verdes grant through you or your associates?

Mr. JOHNSON. Well, there were about 93 people, I believe, that filed on the Palos Verdes before we knew anything about it.

Mr. HARTKE. How many after that?

Mr. JOHNSON. That is a matter they have records of in the office. I could not tell you.

Mr. HARTKE. Who is the custodian of those records?

Mr. JOHNSON. I believe Mr. Wheeler has them in charge.

Mr. HARTKE. Can those be produced, Mr. Wheeler?

Mr. WHEELER. Yes, sir.

Mr. HARTKE. Will you produce them this afternoon?

Mr. WHEELER. I can not do it this afternoon. They are in the vault and I can not get at them until to-morrow morning.

Mr. HARTKE. Will you produce them when you can?

Mr. WHEELER. Yes, I will be glad to.

Mr. HARTKE. Now, in reference to the San Fernando grant, how many homesteaders would you estimate filed applications, under those circumstances, on that grant?

Mr. JOHNSON. I have no knowledge of how many people filed on the San Fernando.

Mr. HARTKE. Can you estimate it at all, Mr. Johnson?

Mr. JOHNSON. No, sir.

Mr. HARTKE. This money that was taken in, you said, was used to defray the expense of this fight. What did the fight consist of?

Mr. JOHNSON. Well, there were rejections, you know, by the local land office when the filings were made, calling for appeals.

Mr. HARTKE. Yes.

Mr. JOHNSON. Calling for appeals to the Commissioner of the General Land Office, and there were numerous trips to Washington.

Mr. HARTKE. By whom?

Mr. JOHNSON. By Judge Summers.

Mr. HARTKE. How many trips did Summers make during this period?

Mr. JOHNSON. I believe 12 or 14.

Mr. HARTKE. Since 1922?

Mr. JOHNSON. No; he was not in it in 1922. Since 1923.

Mr. HARTKE. Will you state the different items of expense that were paid out of the fund that was derived from the applicants?

Mr. JOHNSON. I do not see any reason why I should, unless the committee requested. To my mind that is a matter that is personal and has nothing to do with the chamber of commerce or the public generally.

Mr. HARTKE. Do you object to answering?

Senator BRATTON. As a member of the committee I request you to tell us what the expenditures were and what they covered.

Mr. JOHNSON. I can produce the record.

Senator BRATTON. All right.

Mr. JOHNSON. Anything else would be a mere guess. I could not cover it, possibly, from memory.

Mr. HARTKE. In a general way, one of the items of expense was Mr. Summers' expenses to Washington?
Mr. JOHNSON. Yes.
Mr. HARTKE. Another was the payment for his services?
Mr. JOHNSON. Yes, sir. I do not know that he got any payment for his services. He had to be maintained, of course, while he was doing this work.
Mr. HARTKE. Who was the attorney that represented and advised you as to the legal rights of the parties concerned?
Mr. JOHNSON. Ben McLendon.
Mr. HARTKE. And after McLendon, whom?
Mr. JOHNSON. Williamson S. Summers.
Mr. HARTKE. As such attorney was he paid counsel fees?
Mr. JOHNSON. I do not think so.
Mr. HARTKE. You do not think he got any payments of attorney's fees at all?
Mr. JOHNSON. I do not know of anything specifically that was turned over to him as counsel fees. He was maintained.
Mr. HARTKE. Outside of Summers' expenses what other items of expense were incurred?
Mr. JOHNSON. When I refer to his expenses I refer to his personal expenses on trips to Washington.
Mr. HARTKE. Trips to Washington. Anything else?
Mr. JOHNSON. Office expenses.
Mr. HARTKE. At $135 a month?
Mr. JOHNSON. Yes. Stenographer hire and printing bills.
Mr. HARTKE. Just on that point. All the printing was paid out of this fund, was it?
Mr. JOHNSON. Yes.
Mr. HARTKE. And that included various literature that was distributed to the homesteaders?
Mr. JOHNSON. There was no literature distributed to the homesteaders that I know anything about.
Mr. HARTKE. Didn't you advise them of the progress of the work from time to time?
Mr. JOHNSON. Yes.
Mr. HARTKE. How?
Mr. JOHNSON. Orally.
Mr. HARTKE. You never sent them anything in writing?
Mr. JOHNSON. No, sir.
Mr. HARTKE. Mr. Johnson, I have here a pamphlet which is entitled "Fraudulent California Land Grants" by Clinton Johnson.
Mr. JOHNSON. Yes, sir.
Mr. HARTKE. Copyright 1926 by Clinton Johnson. Are you familiar with that?
Mr. JOHNSON. I am.
Mr. HARTKE. And you copyrighted that?
Mr. JOHNSON. I did.
Mr. HARTKE. Who wrote the statement contained in that?
Mr. JOHNSON. I did.
Mr. HARTKE. Are those statements true?
Mr. JOHNSON. As far as I know they are; yes.
Mr. HARTKE. Was that pamphlet distributed to people generally?
Mr. JOHNSON. To people generally?

Mr. HARTKE. Yes.

Mr. JOHNSON. It was sent to certain United States Senators, certain officials of the Government, and it was handed out to persons at their request.

Mr. HARTKE. How did they know you had it?

Mr. JOHNSON. How did they know it?

Mr. HARTKE. Yes; when they requested you for it.

Mr. JOHNSON. They saw it. It was shown to them.

Mr. HARTKE. Was it in your office?

Mr. JOHNSON. Yes, sir.

Mr. HARTKE. By whom was it shown to them?

Mr. JOHNSON. By different people.

Mr. HARTKE. So applicants generally were given copies of that pamphlet that I have handed [illegible] right?

Mr. JOHNSON. No;

Mr. HARTKE. W[illegible]uld you say?

Mr. JOHNSON. [illegible] got this pamphlet. I don't [illegible] were ha[illegible]re were probably 2,000 co[illegible]ned, [illegible]or thre[illegible]ies.

Mr. HARTKE. [illegible] those t[illegible] thre[illegible] and [illegible] disposed of?

Mr. JOHN[illegible]rtly; yes.

Mr. HART[illegible] Mr. W[illegible]

Mr. WH[illegible]

Senator [illegible] record.

Mr. HA[illegible]es.

The CH[illegible] That [illegible]ia Land Grants, by [illegible] Johnso[illegible]ved in ev[illegible]s Exhibit M, and plac[illegible] files [illegible].

Mr. HARTKE. [illegible] tw[illegible] copies [illegible] disposed of?

Mr. JOHNSON. [illegible] they [illegible] all d[illegible]of. I think perhaps we ha[illegible]nd.

Mr. WHEELER. [illegible]ave them.

Mr. HARTKE. Ho[illegible]u say?

Mr. WHEELER. I co[illegible]ing them.

Mr. HARTKE. Could you [illegible] Have two-thirds of them been distributed?

Mr. WHEELER. I would say so; yes.

Mr. HARTKE. Have you a copy there before you?

Mr. JOHNSON. I have.

Mr. HARTKE. Turn to page 4. Have you extra copies so the committee can have them, Mr. Wheeler?

Mr. WHEELER. Yes [distributing copies to committee].

Mr. HARTKE. Now turn to page 4; at the bottom of the page we find this statement:

> Fraud exposed in 1885. Under a Democratic adm'nistration, during the years 1886 and 1887, the Government of the United States was fortunate in securing the services for a brief period of two honest officials, who, regardless of attempted intimidation, adverse newspaper criticisms, open threats, or offers of bribery, undertook to execute their sworn duty to the Government of the United States and the people with reference to the conservation and disposal of public domain and to the restoration to the people of lands that had been, through various arts and devices, stolen from the Government of the United States.

Did you intend to imply by that that there were officials who were not honest, Mr. Johnson?

BEST AVAILABLE COPY

Senator BRATTON. I think that is carrying it too far. The document speaks for itself. The implication to be drawn from it, if any, is apparent.

Mr. HARTKE. I wanted to ask him who he had reference to especially——

Senator BRATTON. I doubt the materiality of this.

Mr. HARTKE. Very well. Then turn to page 23, Mr. Johnson.

Mr. JOHNSON. Yes.

Mr. HARTKE. You will note the first paragraph on that page says:

Those who have speculated in properties belonging to the Government furnish the most rabid opposition to the efforts made by reputable citizens to uncover the frauds and restore the stolen land to the Government.

Mr. WHEELER. What page is that, please?

Mr. HARTKE. Page 23.

Mr. WHEELER. I do not see that in the copy I have here on page 23.

The CHAIRMAN. I have a copy which appears to have that. Perhaps it would be well to ascertain whether the copies are alike.

Mr. JOHNSON. I think there were two or three editions of this, printed at different times.

Mr. HARTKE. This edition I am reading from is the one that has been designated as Exhibit M. Is this the copy of what you have before you, Mr. Johnson?

Mr. JOHNSON. No; it is not. I am trying to find what you were reading from. I see it is on another page here.

Mr. HARTKE. I will refer to the pamphlet I have before me here, on page 23 of Exhibit M, and following what I have already read it appears:

These powerful individuals have entered into a gigantic corporate conspiracy, representing all of the predatory interests involved in spurious land-grant titles, backed by stupendous funds to be used with the purpose and view of getting congressional action to forever cover up land frauds perpetrated against the Government and the people.

Can you name any individuals that you referred to there as men of powerful financial influence who have done the things that you assert they have done there?

Mr. JOHNSON. Well, there was an organization—I don't remember the names of the people who entered this organization that was formed, but I can get you data on that. I can not give it to you off hand.

Mr. HARTKE. Can you name any one man who is guilty of the things that you have suggested there?

Mr. JOHNSON. I would not name anybody without having specific information that he was the one.

Mr. HARTKE. I beg your pardon.

Mr. JOHNSON. I am not undertaking to injure anybody, but I can give you the organization and the names of those that were in it a little later if you want it, the organization that I was told was formed for that purpose.

Mr. HARTKE. Is this based upon hearsay or on your own knowledge?

Mr. JOHNSON. I know this organization was formed.

Mr. HARTKE. But this statement here, "In their ranks are men who are powerful financially who have frequently succeeded in exerting undue influence over official acts." Is that a fact or is it not?

Mr. JOHNSON. I think we can prove it is a fact, if you want the proof.

Mr. HARTKE. Who are some of those men?

Mr. JOHNSON. I can not give you their names at the present time.

Mr. HARTKE. Did you know their names at that time?

Mr. JOHNSON. I knew some of them who were in that organization.

Mr. HARTKE. I am not talking about that organization. I am talking about the men referred to there.

Senator BRATTON. Wait just a moment, please.

Mr. HARTKE. Certainly.

The CHAIRMAN. The committee is of a mind that the witness need not answer these questions which have been propounded to him and I would suggest to the witness that if, in the event of any further questions being put to him, if he has doubt in his mind as to whether or not he ought to answer or wants to answer, that he is at liberty to ask the committee whether or not the committee desires an answer to the question.

Mr. JOHNSON. Thank you, Senator.

Senator BRATTON. The committee is of the opinion that questions and answers, whether intended for that purpose, might serve as a basis for subsequent proceedings and the committee does not feel that it should lend itself to that or be responsible for it.

Mr. HARTKE. In order that I may make myself clear——

The CHAIRMAN. Just a moment, please.

Mr. HARTKE. Pardon me, Mr. Chairman.

Senator BRATTON. The committee also has decided to strike from the record the testimony with reference to passing the document, which counsel referred to, through the mails. We shall ask counsel to be careful and not transgress upon the rule which the committee has in mind.

Mr. HARTKE. I certainly shall not, if the committee please. I want to say, in order that my position may be made clear, that my only thought is to get at the real facts in the case as they are. And along that line I would like to ask further of Mr. Johnson who these officials are that are complained of in this document as being subjected to this influence. Can you name any of the officers, bearing in mind the committee's admonition that you need not answer if you do not wish to?

Senator BRATTON. That is the attitude of the committee, that the witness need not answer unless he so desires.

Mr. JOHNSON. I do not care to answer.

Mr. HARTKE. Now, you spoke of various fees being paid at different times, going up as high as $500. Do you know whether they ever exceeded that, Mr. Johnson?

Mr. JOHNSON. I have no knowledge of anything that has been done with reference to fees since along in 1928.

Mr. HARTKE. And prior to that time?

Mr. JOHNSON. Prior to that time I think the fees were uniformly $100, except in cases where people came in and said they could not afford to pay any fees, and they were carried free of charge.

Mr. HARTKE. Do you know whether or not, prior to 1928, any fees were charged in excess of that?

Mr. JOHNSON. Not as retainer fees, that I know anything about.

Mr. HARTKE. I hand you now a form of receipt that appears to bear the signature of Ben McLendon and yourself as a witness. Will you look at that and see if that is your signature (handing paper to witness).

Mr. JOHNSON (after examination). Yes, sir.

Mr. HARTKE. Will you explain the amount there of $600?

Mr. JOHNSON. That was not after 1926. As I said a while ago that when Ben McLendon was handling these cases he had nothing but this fee to handle a case, and that there was no contingent fee.

Mr. HARTKE. Oh, I see.

Mr. JOHNSON. In that case Price charged, I think, $400 to certain people that came in, and there were a few people that came in, and those receipts that were given by myself, that is, that I signed as a witness, but were given by Ben McLendon, some one had paid $500 and I guess some of them paid as high as a thousand dollars. That was all there was in it.

Mr. HARTKE. You were active at that time in obtaining fees from prospective homesteaders?

Mr. JOHNSON. I was receiving money that was brought into the office.

Mr. HARTKE. Did you go out and solicit them?

Mr. JOHNSON. No.

Mr. HARTKE. Do you know what occasioned these people to come to the office, how they first learned about it? Was it through this school of psychology that they learned of the facts?

Mr. JOHNSON. I could not say.

Mr. HARTKE. No advertising was done, was there?

Mr. JOHNSON. No, sir.

Mr. HARTKE. Did you have men out as solicitors?

Mr. JOHNSON. No. I suppose it was a case of one person telling another.

Mr. HARTKE. In cases where you witnessed the receipt, do you know whether or not that indicates that you handled the transaction yourself?

Mr. JOHNSON. No; it does not indicate that. It indicates that Ben McLendon was not in very good health and asked me to do this for him.

Mr. HARTKE. In cases where payment was made to you instead of to Mr. McLendon——

Mr. JOHNSON (interrupting). Generally they were made to me, and I turned the money over to McLendon. Frequently, of course, he turned the checks over to me and I had them cashed, checks made on outside banks.

Mr. HARTKE. And the money held by you in trust?

Mr. JOHNSON. No; turned over to McLendon.

Mr. HARTKE. But sometimes you acted as trustee for the funds?

Mr. JOHNSON. Oh, no; not at this time.

Mr. HARTKE. I ask that this receipt be made a part of the record.

The CHAIRMAN. Very well; let it be marked "Exhibit N," and placed in the record.

EXHIBIT N

STATE OF CALIFORNIA,
County of Los Angeles, ss:

Received of Charles S. Anderson and Lee R. Taylor the sum of $600, in lawful money of the United States, under the following understandings and agreement:

After having made a long and expensive investigation of a certain tract of land in the county of Orange, State of California, which tract of land lies immediately contiguous to prominent highways and paved roads, and is in immediate touch with most all modern conveniences of rail and stage transportation; and having been convinced by documentary records and research in the archives of the Land Department of the United States Government that it is a part of the public domain of the United States, and is subject to entry under the homestead laws, I have received the above named sum as consideration for my services in preparing the papers for application for homestead for and in the name of the party named above, and with the additional understanding and agreement that, after and when the homestead application is made, if it is not at once granted, I will make such appeals and contest to all the departments of the Land Department and Interior Department as will result in a final conclusion of the rights of the applicants for homestead in said property, and without further charge to said applicants named above.

It is understood and agreed between the parties hereto that this transaction in all its details shall be held in sacred confidence until such time as I shall have opportunity to have an official map and plat filed of record in the local land office, designating the metes and bounds of said property; and that the parties to whom this receipt is given shall be notified by me in writing of the preparation by the Government of said map, and shall use all due diligence in securing said information from the Government, so that the parties from whom said sum is received may be able to secure a priority of rights by filing said homestead entry.

It is understood and agreed that the undersigned is not responsible for the payment, or payments, required by law to be paid to the Government for filing said application for homestead, or for any part of the purchase price of the said land from the Government.

BEN MCLENDON.

Witness:
CLINTON JOHNSON.

Mr. HARTKE. I now hand you a canceled check dated November 6, 1925, for $250, payable to yourself, and signed M. L. Knapp, which contains the notation in the left-hand corner thereof "Legal services, McLendon, Ben". I ask you if you have seen that; that together with a form of receipt?

Mr. JOHNSON. Yes, sir.

Mr. HARTKE. That check was indorsed by you and you received that money, did you?

Mr. JOHNSON. The same as I did the other money. Frequently checks were made to me, yes. I think generally checks were made to me personally.

Mr. HARTKE. During that period of time did the various individuals hold the money or was it turned into one common fund?

Mr. JOHNSON. What do you mean by the various individuals?

Mr. HARTKE. Others like yourself that were there in the office. Did each one act as trustee for his own fund or was the money turned into one fund?

Mr. JOHNSON. It was turned over to Ben McLendon.

Mr. HARTKE. I offer this check as an exhibit.

The CHAIRMAN. Let it be received as "Exhibit O," and also placed in the record.

EXHIBIT O

MEXICAN LAND GRANT FRAUDS

LOS ANGELES, CALIF., November 6, 1922.

No. 578.

American Branch, California Bank, pay to the order of Clinton Johnson, $250 (two hundred and fifty dollars).

M. L. KNAPP.

Legal services, account of McLendon-Ben.

STATE OF CALIFORNIA,
County of Los Angeles, ss:

Received of Melvin L. Knapp the sum of $250 in lawful money of the United States, balance due in 90 days from date November 6, 1922, $250, under the following understanding and agreement:

After having made a long and expensive investigation of a certain tract of land in the County of Orange, State of California, which tract of land lies immediately contiguous to prominent highways and paved roads, and is in immediate touch with most all modern convenience of rail and stage transportation, and having been convinced by documentary records and research in the archives of the Land Department of the United States Government, that it is a part of the public domain of the United States, and is subject to entry under the homestead laws, I have received the above-named sum as consideration for my services in preparing the papers for application for homestead for and in the name of the party named above.

And with the additional understanding and agreement that, after and when the said application is made, if it is not at once granted, I will make such appeals and contests to all the departments of the Land Department and Interior Department as will result in a final conclusion of the rights of the applicant for homestead in said property and without further charge to said applicant named above.

It is understood and agreed between the parties hereto that this transaction in all its details shall be held in sacred confidence until such time as I shall have an opportunity to have an official map and plat filed of record in the local land office, designating the metes and bounds of said property, and that the party to whom this receipt is given shall be notified by me in writing of the preparation by the Government of said map, and I shall use due diligence in securing said information from the Government, so that the party from whom said sum is received may be able to secure a priority of right by filing said homestead entry.

It is understood and agreed that the undersigned is not responsible for the payment, or payments, required by law to be paid to the Government for filing said application for homestead, or for any part of the purchase price of the said land from the Government.

BEN MCLENDON.

Witness:
CLINTON JOHNSON.

Mr. HARTKE. I notice one provision in this receipt, after acknowledging the receipt of the money, where it says:

It is understood and agreed between the parties hereto that this transaction in all its details shall be held in sacred confidence until such time as I shall have an opportunity to have an official map and plat filed of record in the local land office, designating the metes and bounds of said property, and that the party to whom this receipt is given shall be notified by me in writing of the preparation by the Government of said map, and I shall use due diligence in securing said information from the Government, so that the party from whom said sum is received may be able to secure a priority of right by filing said homestead entry.

Mr. JOHNSON. Let me see that just a moment, please.

Mr. HARTKE. Certainly [handing paper to witness]. Was that provision in all the receipts that were given, do you know?

Mr. JOHNSON. I believe not. I think I have a blank receipt in my pocket.

Mr. HARTKE. And will you produce it, please.

Mr. JOHNSON. Yes. [After examination.] No; I believe this is the same thing.

Mr. HARTKE. These receipts were never printed; they were typewritten, were they not?

Mr. JOHNSON. Yes; typewritten.

Mr. HARTKE. And the preparation of these receipts and other clerical matters was paid for out of these moneys gotten from the homesteaders; is that right?

Mr. JOHNSON. Well, the general office expenses were carried from that money.

Mr. HARTKE. Mr. Johnson, do you know whether or not any applicants, these people who paid their moneys into this organization, were notified of the decision of the Supreme Court in connection with these land grants?

Mr. JOHNSON. I can not say. I had nothing to do with the legal end of it.

Mr. HARTKE. For instance, in any event, the one in evidence, Exhibit N, being the receipt from Lee R. Taylor and Charles A. Anderson, and the other, attached to the check and part of Exhibit O, being the receipt from Melvin L. Knapp, do you know whether either of those individuals who were notified of the various decisions of the Supreme Court and of other courts in connection with these grants?

Mr. JOHNSON. Ben McLendon at that time was handling that end of the proposition. As I understand it, Lee R. Taylor and Anderson were partners and they had a conference with him. I suppose they went into that, being partners.

Mr. HARTKE. But you did not yourself?

Mr. JOHNSON. No; I did not. I was not the attorney.

Mr. HARTKE. While you were in the office did you interview prospective applicants and explain the situation to them?

Mr. JOHNSON. Why, I——

Mr. HARTKE (interposing). Or what was your duties there in the office during those years?

Senator BRATTON. He has gone over that once.

Mr. HARTKE. I beg your pardon.

Senator BRATTON. Let us expedite the hearing as much as possible.

Mr. HARTKE. I think I am through, Senator.

Mr. WESTERVELT. May I ask a question?

The CHAIRMAN. Certainly.

Mr. WESTERVELT. Have you another document from Mexico with relation to any grant subsequent to May 13, 1846?

Mr. JOHNSON. That is included in the law just submitted. I have this book [exhibiting book], and as this book is in evidence, there is a liberal translation of that law that was made by the counsel from Bolivia, who was a Spanish scholar. It was made also in Mexico. I think it is found on page 26 of Exhibit M.

The CHAIRMAN. Are there any further questions?

Mr. LAWLER. I would like to suggest, if I may, a line of questions, and that is just what plan was adopted for the purpose of bringing these parties in contact with the land. Mr. Johnson, what means was adopted toward familiarizing the parties who were prospective

homesteaders with the land on which they were to make their entries?

Mr. JOHNSON. Well, they went to look at the land in each case.

Mr. LAWLER. Who took them there?

Mr. JOHNSON. That is a matter I do not know anything about. I did not take them.

Mr. LAWLER. Was any provision made in this organization of yours for that?

Mr. JOHNSON. No.

Mr. LAWLER. Was any means adopted or convenience adopted at your office headquarters for the preparation of their applications?

Mr. JOHNSON. Their applications, I think almost uniformly, were made in the office by the stenographer.

Mr. LAWLER. They were prepared there. Who did that particular work?

Mr. JOHNSON. Different people there.

Mr. LAWLER. You never had anything to do with that yourself?

Mr. JOHNSON. At times I did; yes.

Mr. LAWLER. So far as your personal knowledge goes, would you mind explaining to the committee just the mechanics of that operation, how the party was informed with reference to the land, and the facts that were used or necessary for the purpose of the preparation of his application.

Mr. JOHNSON. Well, the general outline would be that they were shown a map of the property, and there was a list kept, of course, of the people who had filed and where they had filed.

Mr. LAWLER. And you had that map in your office?

Mr. JOHNSON. Yes, sir.

Mr. LAWLER. Will you just illustrate it. Suppose I went in there and told you I wanted to make application on a homestead on the San Fernando grant. You would exhibit a map of the San Fernando grant?

Mr. JOHNSON. Yes.

Mr. LAWLER. And you would tell me where there was some land open, according to your theory of the matter?

Mr. JOHNSON. The statement was probably made that this land, so far as we had any knowledge, had not been filed on.

Mr. LAWLER. Yes; I see.

Mr. JOHNSON. They would go and look at the land and take their application to the Land Office.

Mr. LAWLER. You mean that the people would then go and look at the land?

Mr. JOHNSON. Yes, sir.

Mr. LAWLER. They would then return and you would prepare the homestead application for them?

Mr. JOHNSON. That was the general procedure.

Mr. LAWLER. And that was sometimes done by you and sometimes by Mr. Wheeler or other gentlemen about the office?

Mr. JOHNSON. Yes, sir.

Mr. LAWLER. Did Mr. Summers ever participate in that?

Mr. JOHNSON. No, I do not think he ever did.

Mr. LAWLER. Then the parties would be directed to the land office and an application made and a filing of entry would take place in a formal manner?

Mr. JOHNSON. That is my idea; yes.
Mr. LAWLER. Did you go to the land office with them yourself?
Mr. JOHNSON. No.
Mr. LAWLER. I understand you to state you are not a lawyer?
Mr. JOHNSON. No.
Mr. LAWLER. And that you put $30,000 of your own money into this?
Mr. JOHNSON. I put in considerable money there.
Mr. LAWLER. It was not money you had collected from somebody else?
Mr. JOHNSON. No.
Mr. LAWLER. But it was your money?
Mr. JOHNSON. Yes.
Mr. LAWLER. And you were relying all the time, I have no doubt, upon legal advice that was given to you by lawyers who were supposed to know something about it?
Mr. JOHNSON. Legal advice and on the evidence that was placed in my hands.
Mr. LAWLER. I presume your understanding of the evidence, your translation and construction of it was aided by the attorneys who advised you?
Mr. JOHNSON. Naturally.
The CHAIRMAN. That is all, Mr. Johnson, you may be excused.

TESTIMONY OF H. N. WHEELER, LOS ANGELES, CALIF.—Continued

Senator BRATTON. Mr. Wheeler, have you any additional testimony?
Mr. WHEELER. There are two things I would like to have identified here. The first is a publication known as "My Seventy Years in California," by J. A. Graves, and of this book I want placed in the record chapter 18.
The CHAIRMAN. Chapter 18 may be offered as Exhibit P and included in the record herewith.

MY SEVENTY YEARS IN CALIFORNIA

By J. A. Graves

CHAPTER XVIII

SPANISH AND MEXICAN LAND GRANTS IN LOS ANGELES, SAN FERNANDO RANCH LITIGATION—WILL OF JOSE BARTOLOME TAPIA—GRANT LITIGATION

I will endeavor to explain in detail the principal land grants in Los Angeles County, and for that purpose will begin at the top of the map, near the Kern County boundary line. The first grant encountered is La Liebre, a ranch of 48,820 acres, confirmed to J. M. Flores, and patented June 10, 1879. A very large portion of it lies in Kern County. It has always been a most wonderful stock ranch. The ranch is now owned by the El Tejon Ranch Co., of which Gen. M. H. Sherman is president.

Coming south on the Ridge Route, lying off to the right at a considerable distance from the present road over the Ridge Route, and in very rough territory, is the Rancho Temescal, much of which is also embraced in Ventura County. This ranch comprised 13,339 acres, was confirmed to Refugio de la Cuesta, and was patented September 13, 1871. There is a Cuesta grade, just beyond San Luis Obispo, the summit of which is 1,500 feet elevation. It would be gratifying to know whether there was a Cuesta Ranch in that neighborhood,

or whether the grade was named after some one of that name who was probably related to Refugio de la Cuesta.

The next grant encountered is the San Francisco, of 48,000 acres, also lying partly in Ventura County, which was confirmed to Jacoba Feliz and patented February 12, 1875. At the date of the patent it was owned by Mr. Henry M. Newhall, of San Francisco, and is still the property of his heirs. The towns of Newhall and Saugus are located on this property.

Crossing the mountains through which the San Fernando Tunnel runs, we reach the Rancho Ex-Mission de San Fernando, which has quite a history. It was sold during the war with Mexico by Governor Pio Pico, acting under a decree of the departmental assembly, to Eulogio de Celis, a native of Spain, then living in Los Angeles, for the modest sum of $14,000. Some time after the war, Celis sold to Pico an undivided one-half of the property to the San Fernando Farm Homestead Association, the principal promoters of which were Mr. Isaac Lankershim and his son-in-law, Mr. I. N. Van Nuys, for $114,000

The San Fernando Farm Homestead Association brought suit to partition the rancho and there was set aside to it the south one-half of the rancho, containing some 69,000 acres. In 1875, Eulogio de Celis, executor of his father's will, sold the north one-half of the property to Mr. George K. Porter, of San Francisco; Mr. B. F. Porter, of Monterey County; and Mr. Charles Maclay, then living in Los Angeles, for $115,000. These figures were then considered high. Compared with present prices of the same lands, it would seem that some one had touched this property with Aladdin's lamp.

I will relate an incident in connection with a portion of the north half of the San Fernando ranch, which made my wedding day, the 23d day of October, 1879, one of the most miserable I ever spent.

In 1878, some 16,000 acres of the north half of the ranch had been sold in a foreclosure proceeding in the case of De Celis *v.* Maclay, brought in the district court of Los Angeles County, seventeenth judicial district, for something like $37,000. Mr. George K. Porter was interested in it and was entitled to redeem from said sale. He informed me that he was going to do so. I had the day on my diary and was watching the matter. For a week prior to October 20 I had been confined to my room with a severe cold, and Mr. J. S. Chapman, who had shortly before come here from the northern part of California, was looking after my office for me. On the 20th, having this Porter matter in my mind, although I was still far from well, I got up and went to my office. Nothing had been heard from Mr. George K. Porter, who was a member of the wholesale boot and shoe house of Porter, Oppenheimer & Schlessinger, of San Francisco. I wired him that the time for redemption would expire October 23. On the morning of the 21st I received a wire from him asking me to wire him the amount necessary to redeem. Mr. Chapman went to the sheriff's office and, with the undersheriff, figured the amount that would be called for on the 23d for redemption purposes. I wired these figures to Porter and the next day received another wire from him saying that he was sending by Wells Fargo & Co.'s express a draft of the Bank of California on the Farmers & Merchants Bank, for the money.

Knowing the time that the morning train would arrive, I was at the express office, awaiting the letter containing the draft, when my friend, Mr. Pridham, the agent of the company, seeing me there, wanted to know if he could do anything for me. I told him I was awaiting an express letter by the morning train. He replied:

"You will not get it to-day. There is a freight train off the track in one of the long tunnels in the Tehachapi Mountains, and the passenger train can not possibly get in here before night."

Going back to the office, I told Mr. Chapman the situation and he was in an immediate panic. However, I wired the state of affairs to Porter and about 3 o'clock received an answer from him saying that the Farmers & Merchants Bank, under instructions from the Bank of California, would advance me the money. Chapman and I hurried to the bank, got the money, took it to the sheriff's office, tendered it, and demanded the certificate of redemption. The undersheriff, speaking to Mr. Chapman, said:

"I am awfully sorry, Chapman, but we made a mistake in figuring the amount the other day. It was contained in two different amounts, in the certificate of sale, and it will take $1,800 more than the figures I gave you."

I never saw a man as near collapsing as my good friend, J. S. Chapman, did. I told him not to get panic-stricken, as I always had a little money, but to stay where he was, and I hurried over to the Commercial Bank, where I was doing business. I was just in time, as they had run everything into the vault and

were about to lock it up. I drew my check, got the $1,800, hurried back with it, we effected the redemption, received from the sheriff the proper certificate, and recorded it in the recorder's office, a little before 5 o'clock. Chapman shook hands with me, and speaking with the usual drawl which he had, said:

"You go off and get married. I am going home and go to bed and sleep for 48 hours. I haven't slept a wink for two nights, worrying over this thing."

The San Fernando ranch went through much litigation, both the north and the south half. I was in all of it, as an attorney. In 1890, some 1,200 squatters attempted to make filings on various portions of the ranch, violently took possession of it, drove off the stock of the Los Angeles Farming & Milling Co., took possession of haystacks, and carried on ruthlessly. My firm were the attorneys for the owners of both the north and the south half.

Mr. Porter was an explosive individual and was perfectly willing to protect his rights, if necessary, by force. I advised him that he had a perfect right to do so. As fast as a squatter would arrive on his lands, he would have a force of his employees there, with wagons. They would gather up everything the squatters had brought, haul it off the ranch, and leave it in the county road. One squatter was more belligerent than the others, and on the advice of Mr. James McLachlan (still living), who was then district attorney, Porter swore out a warrant against him and caused his arrest for malicious mischief. He was discharged by a justice of the peace of San Fernando, and he immediately sued Porter for $10,000 damages. We tried the case before a jury and Judge W. P. Wade instructed the jury to return a verdict for the defendant. The plaintiff appealed, but the judgment was affirmed.

Mr. Van Nuys, who represented the Los Angeles Farming & Milling Co., would not countenance any violence on the part of his employees. The company had 12 stations on the south half of the ranch, with 300 employees, and they had been so insulated and bullyragged by the squatters that they would have welcomed a chance to use force upon them. But Mr. Van Nuys said the law owed him and must afford him protection, so we brought various actions against the squatters. One of them, the Los Angeles Farming & Milling Co. *v.* Thompson and others, went to trial. We obtained a verdict for the plaintiff in that action. It was appealed and the supreme court of the State affirmed the judgment. The defendants appealed to the Supreme Court of the United States, which also affirmed the judgment of the Supreme Court of California.

This ended the matter. We got out injunctions of so stringent a nature that the squatters could not stay on the land, after the suits were brought; in fact, they did not want to. There was an organized band of them, and they forced us to bring all this litigation in the hopes that the doctrine would be settled that the lands were open to private settlement. There was much involved, and we necessarily went to great pains in preparing our cases for trial. We even went so far as to have the exterior lines of the ranch rerun by a competent surveyor. There was no material difference between this surveyor's work and that of the surveyor who made the survey for the patent.

One peculiar thing struck us during the trial. All the surveys began near the Cahuenga Pass, and ran northerly, clear around the ranch, back to the starting point. There were many trees marked as stations of the survey. Every mark still left on a tree was on the south side rather than the north side. There was also a great conflict about station 39 in the Calabasas Hills, the extreme southwesterly boundary of the rancho San Fernando. The patent called for a live oak tree, but the courses and distances led to a white oak tree, usually called a post oak, and there was apparently no mark upon it.

On Saturday during the trial I went to lunch at a celebrated restaurant kept by Jerry Illich. I was upstairs, and in the same room was Romulo Pico, a son of Andreas Pico, who was formerly one of the owners of the San Fernando ranch. He called over to me and asked me how we were coming along with the San Fernando trial. I told him, all right. He then said that he helped survey the ranch for the patent, when he was 15 years old. This was interesting. I asked him why it was that every tree, which was a station of the survey, was marked on the south side instead of the north side, when they had approached it from the north side. He answered:

"When we had run the exterior boundaries, Surveyor Hancock turned around and rechecked them, going the other way, and as we came to each tree which had been selected as a monument, we then removed the bark and cut into the tree, 'S. F. Sta.,' giving the number."

I asked him if he could locate station 39, the extreme southwesterly boundary of the rancho. He said:

"Sure. It was a large post-oak tree. I have been there hunting many times since."

Remember that the field notes called for a live-oak tree. The next day was Sunday, but I immediately made an arrangement with him to visit the ground with me. When we got into the neighborhood of station 39 he went straight to it. A foreman of one of the ranches was with us. He had an ax in his express wagon. Going to the south side of the tree there was evidence, very slight, however, that the bark had been disturbed. We cut into the bark, removed a piece about 18 square inches, and there was the mark on the tree, "S. F. Sta. 39," and the reverse of it showed plainly on the piece of bark we took off the tree.

I carried this bark into court the next morning and settled for all time the true monument of station 39. In the 40 years that elapsed from the time of the survey for the patent and the survey made for us at the time of this suit the scar occasioned by the removal of the bark from the post oak at station 39, in order to mark the number of the station on the trunk of the tree had been entirely overgrown by new bark in such a manner that it took the closest inspection to discover that any bark had ever been removed. This most unjust litigation forced upon the Los Angeles Farming & Milling Co. cost the company in court costs, witness and attorneys' fees not less than $50,000.

On the western boundary of the San Fernando and bounded on three sides by it is a small ranch, El Escorpion, originally granted to an Indian named Odon and confirmed to the Indian Urbano et al. It contained 1,109 acres, and patent was issued to it in 1873. This property was subsequently acquired by Mr. Miguel Leonis, a wealthy sheep raiser.

Situated entirely within the limits of the San Fernando and near its southern boundary and about equally distant from its eastern and western boundaries is the rancho El Encino, of 4,460 acres, confirmed to V. de la Oco, and patented January 8, 1875. The reason for this property being a patented grant lying within the boundaries of the San Fernando ranch is that it was granted prior to the grant of the San Fernando. The Encino in time was owned by the Garnier Bros. and afterwards by Juan Bernard.

Also situated entirely within the boundaries of the north half of the rancho San Fernando was the celebrated mission of San Fernando church property, patented to the Roman Catholic Church and containing in all, but in several pieces, 76 acres of land. This at one time was one of the most prosperous missions in the State of California; had more cattle, horses, and sheep than any of the other missions.

Some distance to the west of the San Fernando lies the Las Virgines, of some 26,000 acres, lying partly in Ventura County, which was confirmed to Maria Antonia Machado and patented September 5, 1853.

This ranch was at one time subject to considerable litigation, but the title was finally satisfactorily straightened out.

Also in the same neighborhood was the rancho El Conejo, which was confirmed to J. de la Noriega, for 48,571 acres, and was patented June 8, 1873.

Much of this ranch also lies in the county of Ventura.

South of the San Francisco and west of the San Fernando came the rancho Simi, a very small portion of which lies in Los Angeles County. That portion of the rancho in Los Angeles County is exceedingly rough, taking in the summit of the Santa Susana Mountains. The Chatsworth Tunnel of the Southern Pacific Railroad Co. runs under the Simi at about midway north and south of the rancho. It contains 113,009 acres, was confirmed and patented to J. de la Noriega on January 29, 1865. He was also the patentee of the adjoining ranch already spoken of, the El Conejo. Of course, the larger portion of the Simi lies in Ventura County.

East of the San Fernando, at what might be called the lower mouth of the valley, lies the rancho Providencia, of 4,438 acres. It was confirmed to D. W. Alexander and others and was for many years owned by Doctor Burbank. When he sold it to a syndicate which organized the Providencia Land & Water Co., he built the Burbank Theater, on South Main Street, in Los Angeles. It was always a very excellent rancho, has been subdivided and resubdivided, and now contains a large population.

Adjoining it on the south and east and extending into the mountains was the Los Feliz, confirmed and patented to Maria Ygnacio Verdugo and containing 6,647 acres. It was afterwards owned by Thomas Bell, of San Fran-

cisco. On April 18, 1879, I, acting for Bell, sold it to Griffith Jenkins Griffith, who years afterwards presented the hill land of the rancho and some bottom land to the city of Los Angeles as a public park.

The land comprising the original city of Los Angeles was also a Mexican grant and it and the Feliz ranch were coterminous for quite a distance.

North of the Los Feliz and east of Providencia and of the San Fernando and extending to the Arroyo Seco on the east and the Sierra Madre Mountains on the north (with one exception only) is the rancho San Rafael, containing 36,480 acres, confirmed to Julio Verdugo et al., and patented January 28, 1882.

The very prosperous city of Glendale and many other country settlements were upon the San Rafael.

The rancho La Canada, of 5,000 acres, was confirmed to Jonathan R. Scott, and patented August 1, 1866. It lies in elongated form next to the Sierra Madre Mountains and the rancho Los Feliz and embraces a considerable portion of Flintridge, which is now undergoing very high-class development.

West of the Canada and east of the northeast corner of the San Fernando lies the rancho Tujunga, which was confirmed to Don David Alexander, contained 16,600 acres of land, and was patented October 7, 1874.

It will be more convenient to take up some of the other grants lying south of the San Fernando at this time and come back to the patented ranchos lying north of the city of Los Angeles later on. Crossing the Santa Monica Mountains from the San Fernando Rancho, the first grant encountered is the rancho San Vicente y Santa Monica, which for some miles a coterminous boundary with the San Fernando. It was confirmed to R. Sepulveda, contained 30,250 acres of land, and was patented July 28, 1881. This rancho had quite a frontage on the Pacific Ocean, and north of a straight line, which would be the northern boundary of that portion of the rancho which extended to the Pacific Ocean, was the rancho Boca de Santa Monica, confirmed to Ysidro Reyes et al., containing 6,656 acres of land and patented July 21, 1882. Santa Monica, Ocean Park, and Venice are situated upon these two ranchos. In June, 1875, there was not a house anywhere on the beach. By fall of that year a few frame shanties had been built on the town site of Santa Monica and from that time on its growth has been quite steady.

The Topango Malibu Sequit was originally granted to Jose Bartolme Tapia in the year 1804, but the documents granting the same to him was lost and Leon V. Pruhomme succeeded to his title, petitioned for confirmation, and obtained it. It contained 13,350 acres of land and was patented August 20, 1873. Don Mateo Keller finally succeeded to the title to the ranch and it was patented to him. In 1872 he made an agreement to sell the land to one Carrie S. Lewis, a resident of Cleveland, Ohio. On February 26, 1874, Mrs. Lewis having defaulted in her payments, Anson Brunson brought an action for Don Mateo Keller against Carrie S. Lewis and her husband, G. F. Lewis, to quiet title to the premises. Judgment was rendered in accordance with the prayer of the complaint, in the lower court. An appeal was taken and the judgment was modified by the supreme court to the extent that the Lewises were given a short time within which to pay the balance, and the judgment provided that, should they not pay, a decree should be entered canceling their rights.

I am of the opinion that the action which Brunson brought had been the form of action used in California up to that time in cases of this kind, but the judgment of the supreme court, in Keller *v.* Lewis, established a new procedure in accordance therewith.

A rather singular thing was the introduction in evidence in the trial of the above-mentioned case of a copy of the will of Jose Bartolome Tapia, from which I will quote, as it is a fair sample of the wills made in those days.

He first commended his soul to God, and asked that his body be interred wherever the reverend fathers of the Mission San Gabriel designated. He then specified very particularly what he owed and first said:

"I declare that I owe to the mission of San Diego $300, and if Father Fernando says it is more, it is what the father may say.

"I declare that I owe to Father Jose Maria Saibidea $80 and 3 pounds of sugar, and I know not the price, and this is all I owe to the mission bureaus and other neighbors of mine.

"I declare that Ensign Joaquin Maritoriena owes me $180.

"I declare that Corpl. Antonio Maria Ortega agreed to pay me what his deceased father owed me.

"I declare that Ensign Delgado owes me $18 in cash—it is $12.

"I declare Orlando Pena owes me $4.

"I declare that Pvt. Marcos Oballe owes me $3 cash.
"I declare that Sergeant Matias owes me $1.
"I declare Alencio Valdez owes me $12.
"I declare Ygnacio Rendon owes me $10.
"I declare Ramon Buelua owes me $10."

He then went on to specify the livestock he had, and enumerated every possible thing that could be in his house, and in this enumeration is the following:

"Seven boxes with their keys; 1 writing case, furnished; 1 Holy Christ; 18 saints; 2 liquor cases, complete; 1 traveling trunk," etc.

The enumeration concluded, he further said:

"I declare that Gabriel Sorelo owes me $26 in money, which I paid Father Sarilla for him the year 1808.

"I declare that Jose Antonio Carrillo owes me a lot of lumber, which appears from his signature.

"I declare that Antonio Priones owes me a tame saddle mare mule and one tame he saddle mule, and I already found the he mule.

"I declare that he owes me a cow and a calf, which he agreed to give me for Antonio Ygnacio Abila the year 1823.

"I declare that he owes me $5 for a pair of leggings.

"I declare that among my accounts of the bureau of San Diego there are $50 that Torosio Feliz gave me for the said cattle, which remained of the deceased Rocha.

"I declare that he owes me a cow and a calf, which he agreed to give me for Antonio Ygnacio Abila the year 1823."

He then directed Corporal José Tiburcio Tapia, his legitimate son, and his legitimate wife, Maria Francisca Mauricia Villalovo, to immediately divide all the property among those who are entitled to it. After various exhortations to his son and to his wife he revoked all other wills and executed this will on April 15, 1824.

By a postcript he added:

"I declare that it has been my will that there remain to my wife, for her maintenance, the vineyard with the little planting ground, and it is from where it is fenced to the ditch of the deceased Mariano Verdugo; to carry on the vineyard let her have the still, the kettle, 2 yoke of oxen, 2 pipes, and 3 barrels. All the saints are for my old woman, the mill, and the house. And the ranch and all the cattle belong to said wife."

This will shows the simple honesty of these old native Californians. It is too bad that they fell easy victims to the American settlers.

Mr. H. W. Keller succeeded to the title of his father to the Rancho Topango Malibu, his sisters receiving other properties, in the city of Los Angeles, in lieu of their interest therein. Keller sold it for upwards of $300,000 to Frederick K. Rindge, whose family still own it. It is now supposed to be worth many millions of dollars.

Bounded on the west and north by the Rancho San Vicente y Santa Monica, on the east by the Rancho Rodeo de las Aguas, and on the south by the Ranchos La Ballona and Rincon de los Bueyes, was the Rancho San José de Buenos Aires, which was confirmed and patented to B. D. Wilson, contained 4,338 acres, and patent was issued December 4, 1875. It has become an exceedingly valuable piece of property.

Immediately east of the last-mentioned property was the Rancho Rodeo de las Aguas, which means "A gathering of the waters." Where the town site of Sherman is situated, on this rancho, in 1875, was a very marshy piece of land, where a number of springs of pure water bubbled up from beneath the surface, forming most excellent pools, where mallards and canvasbacks loved to resort. With the development of water for adjacent lands these springs, of course, in time subsided, leaving the land open for occupation. This rancho subsequently was almost entirely owned by Messrs. Hammel & Denker, hotelkeepers of Los Angeles, and quite large property holders in that city. The rancho was confirmed and patented to Manuel R. Vandez, contained 4,419.31 acres, and patent was issued January 27, 1871.

Lying east of the Rodeo de las Aguas was the Rancho La Brea, confirmed and patented to A. J. Rocha, containing 4,439 acres. Patent was issued January 15, 1873.

Mr. Henry Hancock, an old-time surveyor of Los Angeles, succeeded to the title of this property, which still remains in his heirs. It has been one of the most valuable oil-producing properties in California and many wells on it are

still being pumped. The famous Brea Pits, from which prehistoric skeletons have been taken in great numbers, are included in the limits of this rancho. Portions of the rancho have already been subdivided and have brought fabulous prices for residence purposes.

Between this rancho and the city limits of Los Angeles was a considerable amount of United States Government land, the title to which has been acquired under the preemption or homestead laws, and which is now thickly populated.

South of the Rodeo de las Aguas was the Rancho Rincon de los Bueyes, meaning "The corner of the cattle," containing 3,127 acres, confirmed and patented to Francisco Higuera. Patent to it was issued August 27, 1872.

This ranch and the Sausal Redondo in 1875 were owned by Mr. Dan Freeman. The Sausal Redondo had almost 10 miles of frontage on the Pacific Ocean. The town of Ballona was situated in it. It had an average width of 5 miles and there are quite a large amount of United States Government land lying to the east of it, title of all of which has been acquired in various manners and is now individually owned by various people and corporations. The south line of the Sausal Redondo runs right up to the town of Redondo Beach. The town of El Segundo, where the Standard Oil Co. has a refinery and much tankage, is on the Sausal Redondo.

In 1875, ranging in the Baldwin Hills and on the Sausal Redondo, were seven wild antelopes, the remnant of a great herd that once inhabited this portion of Los Angeles County. In the next few years they were all killed off.

South and east of the Sausal Redondo and extending over to the San Gabriel River, which empties into the harbor of San Pedro, and with a frontage of possibly 2 miles on the ocean, where the town of Redondo Beach is situated, lies the Rancho San Pedro, commonly known as the Dominguez Rancho. It was confirmed and patented to Manuel Dominguez, contained 43,179 acres of land, and patent to it was issued December 18, 1858.

Manuel Dominguez was one of the sterling men of the old régime. He held most of this property intact, and it is still owned by his heirs. It has proven to be one of the richest oil territories in the State of California.

Southwesterly of the San Pedro, and bounded on three sides by the Pacific Ocean, was the Rancho Los Palos Verdes, confirmed and patented to Jose L. Sepulveda, for 31,629 acres, on June 23, 1880. The town of San Pedro, the Government lighthouse at Whites Point, and the Government military fortifications, where guns of immense caliber and carrying power are mounted, are also on this property. This was a most excellent stock ranch. The western portion of it can never be very popular for beach settlements, for the reason that strong winds prevail there all summer long and the coast is not suitable for bathing purposes. The entire beach is composed of sharp black rocks, and immediately outside of it are heavy kelp beds, which detract very largely from its value.

On the extreme southwest is a place which has always been called Portuguese Bend, noted for its fishing, and especially for its abalones.

Near the northeast corner of the San Pedro Ranch, and bounded on the east by the Rancho San Antonio and on the west by United States Government lands, lies the Rancho La Tajauta, confirmed and patented to Enrique, Abila, et al., containing 3,559 acres, and patented January 8, 1871. It was a splendid piece of land.

Northeast of it, and running up to the southeast boundary of the lands within the original boundaries of the city of Los Angeles, lies the Rancho San Antonio. It was confirmed and patented to Antonio Maria Lugo on July 20, 1866, and contained 29,513 acres of land.

Still northeast of the San Antonio, came the Rancho La Merced, containing 2,363.75 acres, confirmed to F. P. F. Temple and Juan Mateo Sanchez, and patented February 13, 1872.

North of it was the Rancho Potrero Grande, containing 4,631 acres, confirmed and patented to Juan Mateo Sanchez, patent issued July 19, 1855; and east of it was the Rancho de Felipe Lugo, containing 4,042 acres, and confirmed and patented to Morillo and Romero, patent issued June 5, 1871.

Juan Mateo Sanchez owned the La Merced, now one of the richest oil fields in California, the Potrero Grande, and the Potrero de Felipe Lugo. When the banking house of Temple & Workman failed, in 1875, its owners borrowed $225,000 from E. J. Baldwin, of San Francisco, with interest at 1¼ per cent per month, compounded monthly. Included in the mortgage were 40,000 acres of Puento Rancho, owned by William Workman, the Temple Block at the junction of Temple, Spring and Main Streets, a valuable piece of property on Spring Street, in Los Angeles, where the city hall is now being built, and a

half interest in the Rancho Las Cienegas hereinbefore described. To accommodate his friend, F. P. F. Temple, of Temple & Workman, Juan Mateo Sanchez included his three properties, the Merced, the Patrero Grande and the Felipe Lugo, in the mortgage. Workman committed suicide, Temple had a stroke of paralysis, lingered for a time, and died. Baldwin did nothing with his mortgage until the time was approaching when it would be barred by the statute of limitations. He then assigned it to Camillo Martin, a banker of San Francisco, who was not an American citizen. Suit was brought in the United States District Court in San Francisco, to foreclose the mortgage, and all of these magnificent properties went to satisfy the debt, which was largely increased by compound interest, and taxes paid by Baldwin, and expenses of the suit. H. A. Unruh, the executor of Baldwin's estate, sold 40,000 acres of the Puente Rancho, in subdivisions, to various parties, for the sum of $6,000,000. Baldwin sold, during his lifetime, the Rancho Potrero de Felipe Lugo and the Rancho Potrero Grande, at very excellent figures.

The Merced was rough hill land and could not be sold. It was only fit for sheep pasture. But subsequently, what is called the Montebello Oil Fields were developed there, and Baldwin's two daughters have received immense fortunes in oil royalties from the property. As their lands are held by large companies who drill only one well to five acres, they will probably receive royalties from the land as long as they live.

Coming toward the coast, and immediately east of the San Antonio and the Merced, is the Rancho Paso de Bartolo. This was confirmed and patented to the following persons and in the following amounts:

To Bernardino Guirado, 875 acres, patent issued September 27, 1867;
To Joaquin Sepulveda, 217 acres, patent issued March 17, 1881;
To Pio Pico, 8,891 acres, patent issued August 5, 1881.

This property was the last holding of Pio Pico in Los Angeles County. When Brunson, Eastman & Graves dissolved, the firm held the note of Pio Pico for $250. for services rendered. I took the note in settlement. Not being able to collect it of Pico, I sued upon it, and attached his interest in the Paso de Bartolo, which was generally known as the Ranchito. I sold it under execution, after judgment obtained, and two days before the time I should have received a deed, Mr. A. Glassell, who was the attorney for Pico, paid me the amount necessary to redeem the land from that sale.

The Paso de Bartolo was one of the most productive pieces of property in Los Angeles County. In the old days it was devoted almost entirely to growing of corn. It is not generally known that in 1875, and for years afterwards, Los Angeles County produced more corn than the balance of the State of California.

Southwest of the Paso de Bartolo came the Rancho Santa Gertrudes. It was confirmed to McFarland & Downey, early bankers here, who had purchased the same from the original grantee of the Mexican Government, and was patented for 17,602 acres on August 19, 1870. It was also a splendid piece of farming land, and at a quite early date considerable portions of it were subdivided by McFarland & Downey and settled upon by good, sturdy farmers. It was sold at that time at a ridiculously low price, in many instances not over $20 an acre.

South of the Santa Gertrudes and east of the Rancho San Pedro, and extending to the Pacific Ocean, embracing all of what was formerly known as Terminal Island and a very considerable portion of Long Beach, was the Rancho Los Cerritos, confirmed and patented to Juan Temple for 27,054 acres on December 7, 1878. This ranch, at quite an early date, was acquired by Jonathan and Llewellyn Bixby, who used it for sheep-raising purposes in connection with other lands which they owned. They also subdivided the northern portion of it and sold it off to actual settlers.

East of the Rancho Los Cerritos comes the Rancho Los Alamitos, which was confirmed and patented to Don Abel Stearns, who had acquired it from the original Mexican grantee, for 28,027 acres, patent issued August 20, 1874. It was subsequently acquired by Michael Reese, whom I have spoken of before as the man who floated the bonds for the Southern Pacific Railroad Co. to build its road from San Francisco to New Orleans, and it was acquired from his estate by I. W. Hellman, Jotham Bixby, and John H. Bixby, a cousin of Jotham.

It included the very extensive oil field known as Signal Hill. The three owners of this ranch formed the Alamitos Land Co. and conveyed to it lands now embracing a very large portion of Long Beach, including Signal Hill. They received immense returns from sales of lots in Long Beach. They subdivided all of Signal Hill except about a hundred acres embracing the east face thereof,

which was too steep for subdivision, and sold off the lots on Signal Hill for from $100 to $250 apiece. Many of these lots have produced hundreds of thousands of dollars in oil since. The Alamitos Land Co. used to complain to itself that the east face of the hill was too steep to be disposed of in subdivisions. They subsequently leased it to the Shell Oil Co., and the amount of royalties received by the heirs of the three original owners from that hundred acres is simply marvelous.

While I was still practicing law I partitioned this property between the three owners. The partition was by agreement. L. C. Goodwin, Oscar Macy, and a clergyman in Pasadena, named Robert Strong were appointed by the three owners. They appraised the property, mapped it in subdivisions, and the owners agreed upon a partition and deeded to each other. Each owner received 7,200 acres of the Alamitos, and I think none of them have sold any particular portion of it.

I sold for Mr. Hellman, acting as his attorney in fact, and making all the deeds, some 33 acres, where Seal Beach is situated, for about $10,000 more than twice as much as he paid for his original interest in the entire ranch. I know of no piece of ranch property in Los Angeles County that yielded a bigger return to the owners than the Alamitos.

Lying north of the Alamitos and east of the Cerritos and south of the Santa Gertrudes, came the Rancho Los Coyotes, confirmed and patented to Andres Pico et al., for 48,806 acres, on March 9, 1873. A large portion of this ranch was also acquired by the Bixbys and was used by them in connection with their other properties for sheep-raising purposes. Many acres of this ranch were owned by the Sterns Ranch Co.

Lying east of the Alamitos, with a considerable frontage on the Pacific Ocean, came the Rancho La Bolsa Chica and the Rancho Las Bolsas. The Bolsa Chica was patented to Joaquin Ruiz, for 8,107 acres, on May 7, 1874. The very popular Bolsa Chica Gun Club is situated upon this rancho. Some of the club's acreage is now valuable oil-producing territory. The Rancho Las Bolsas was confirmed and patented as follows: An undivided one-half thereof to Ramon Yorba, Domingo Yorba, Soledad Yorba de Abila, Juan Abila, Dominga Yorba de Aguilar, wife of Chavez Aguilar, and Julian Chavez, for 33,460 acres, on June. 19, 1874. The other undivided one-half was confirmed and patented on August 27, 1877, to Maria Cleopa Nieto, wife of Jose Justo Morillo. Petition for confirmation recited that the claim was founded on a Spanish grant to Don Manuel Nieto, made in the year 1784 by the then Governor of California, Don Pedro Fajes, and also on a grant to Catarina Ruiz, widow of Don Antonio Nieto, made by Done Jose Figueroa, governor, for the Mexican Government, on May 22, 1834.

A portion of the Rancho Las Bolsas lies in Orange County. Both of these ranchos were very valuable properties. Just after I came to Los Angeles a band of squatters attempted to settle upon them and also upon the San Joaquin Rancho, now in Orange County, but then in Los Angeles County. The firm of Brunson, Eastman & Graves, as attorneys for the Stearns Rancho Co., brought actions in ejectment, secured very drastic injunctions, and finally won out in all of the suits.

Away back in the early history of Los Angeles County, Don Abel Stearns made a trust deed to Alfred Robinson and others to a great deal of land, including acreage in the Los Coyotes, La Bolsa Chica and Las Bolsas, and other ranchos now in Orange County, and afterwards the Stearns Rancho Co. acquired all the lands in that trust.

The Anaheim Union Water Co., which supplied water to the Anaheim settlement, which was a German settlement made in 1857, at various times brought suits against many people, involving water rights. The Stearns Rancho Co. was a party to one of these suits and our firm appeared for it. I do not remember just how that suit terminated. Years afterwards, when Mr. J. S. Chapman and I were associated together, the Anaheim Union Water Co. brought another suit regarding water rights, and made the Stearns Rancho Co. a party. Mr. Alfred Robinson and Mr. E. B. Polhemus, who represented the Ranch Co., came to see our firm regarding our appearing for them. Mr. Chapman had not had any experience in the matter, I happened to be out, and he told them to come back at 1 o'clock and we would tell them what we could do for them. I knew something about this litigation, so I asked Mr. Chapman what he thought we ought to charge them. He replied, in his slow way of speaking, "I suppose we could help try it in the lower court for $250." I did not say anything.

He was very diffident about fees, shrank from fixing them, and he made it convenient to be up in the courthouse at 1 o'clock. I knew both Robinson and Polhemus. I discussed the matter with them, and then proposed that we would appear for them in the action for a retainer of $2,500, and upon the conclusion of the trial in the superior court or a dismissal of the action we were to receive $2,500 more. They asked me to put that in a letter, which I did, taking a copy of it in an old-fashioned letter-press book. They gave me a draft on San Francisco for $2,500, and when Mr. Chapman came back I handed him a check for $1,250. He wanted to know what it was for. I told him, and all he said was, "Great God!" Not long afterwards the suit was dismissed and Mr. Robinson promptly sent us another check for $2,500.

Years later, after Mr. Chapman and I had dissolved, another suit was brought by the Anaheim Union Water Co., but none of our former clients were involved in it. The water company employed Mr. Chapman, who struggled with that suit for years, and after they had paid him $4,000 in fees he begged them to allow him to give them back the $4,000 and let him withdraw from the case, which, however, they refused to do. I am afraid he did at least $20,000 worth of work for them, and I do not know what he got out of it.

East of the Las Bolsas, fronting upon the ocean and extending northeasterly many miles toward the mountains, was the Rancho Santiago de Santa Ana, confirmed and patented to Bernardino Yorba et al., and containing 62,516 acres.

North of the Los Bolsas was the Rancho San Juan Cajon de Santa Ana, containing 35,970 acres, confirmed and patented to Juan Pacifico Ontiveras on May 5, 1877.

Much of this land and of the La Habra, next spoken of, fell to the Stearns Rancho Co. At the northwest corner of the San Juan Cajon de Santa Ana and south of the Puente was the Rancho La Habra, confirmed to Andreas Pico for 6,698 acres, and patented December 4, 1872. Much of this property is now very valuable oil-producing territory.

Immediately north of the San Juan Cajon and east of a portion of the La Puente is the Rancho Rincon de la Brea, confirmed and patented to Juan Ybarra, containing 4,452 acres, patent issued November 14, 1864. This is out of the oil belt and is pasturage land. To the east of it was considerable United States Government land, the title to which has been acquired in various manners.

East of the San Juan Cajon came the Rancho Canon de Santa Ana, patented to Bernardino and Juan Yorba for 4,449 acres. Jotham W. Bixby acquired a large acreage in the northeast corner of it from one Davila. That portion of it was entirely a stock ranch. The community known as Orange is upon this rancho.

Southeast of the northern part of the Santiago de Santa Ana came the Rancho Lomas de Santiago, containing 47,226 acres, and patented to Teodocio Yorba on February 1, 1868. James Irvine purchased it from the original grantee of the Mexican Government.

Lying between the Lomas de Santiago and the ocean came the Rancho San Joaquin, confirmed and patented to Jose Sepulveda, for 48,808 acres, on September 16, 1867, and which was also acquired by James Irvine. The larger portion of both of these properties is still owned by the son of James Irvine.

Fronting on the ocean and southeast of the San Joaquin is the Rancho Niguel, confirmed and patented to Juan Abila et al., for 13,316 acres, patent issued April 5, 1873.

Northwest and southwest of the Lomas de Santiago came the Rancho Canada de los Alisos, which was confirmed to J. Serrano for 10,668 acres and patented June 29, 1871.

Lying well away from the ocean and bounded on two sides by the Mission Viejo or La Paz was the Rancho Trabuco, which was confirmed and patented to Juan Foster for 22,184 acres on August 6, 1866.

The Mission Viejo, or La Paz, containing 46,432 acres, was confirmed and patented to Juan Foster on August 6, 1866, he having acquired the title from Augustin Oliveras, the original grantee of the rancho.

The Rancho Boca de la Playa lies between the Mission Viejo or La Paz and the ocean. It was confirmed to E. Vejar for 6,607 acres and patented March 1, 1871.

I have now discussed all of the Spanish grants, beginning with the Rancho La Liebre and, after getting to the San Vicente y Santa Monica, following

the coast and then going from the coast up to Los Angeles and taking in all of the grants then in Los Angeles County, many of which are now in Orange County, to the south and east limits of the present Orange County. I will complete the discussion of these grants to the north and east of those we have already considered. The first of these is the Rancho La Puente, which lies east of the Potrero Grande and of the San Francisquito, which we will discuss later. It was confirmed and patented to Workman & Rowland, who succeeded to the title of the original grantees of the Mexican Government, for 48,790 acres on April 9, 1867.

Bordering on the La Puente on the northeast came the little Rancho of Los Nogales, confirmed and patented to Maria Jesus de Garcia for 1,006 acres on June 20, 1882.

Then came the Rancho San Jose, confirmed and patented to Henry Dalton, Pancho Palomirez, and Juan Vejar, for 22,340 acres on January 20, 1875, and adjoining it came the San Jose addition, confirmed and patented to the same people for 4,430 acres on December 4, 1875. The prosperous community of Pomona and many other towns in that section are located on one or the other of these ranchos.

West of the San Jose came the Rancho Azusa, patented to Henry Dalton, for 4,431 acres, in May, 1876, he having succeeded to the title of the Mexican grantee of said land; and immediately west of the Azusa came the Azusa de Duarte, confirmed to A. Duarte, for 6,595 acres, and patented January 6, 1878. This takes in all the grants in that section up to the San Bernardino County line.

South of the Azusa was the Rancho San Francisquito, also patented to Henry Dalton, for 8,898 acres, on May 30, 1867, and north of it, and running up to the mountains, was the Rancho Santa Anita, also patented to Henry Dalton as the assignee of the original Mexican grantee, for 13,310 acres, on August 9, 1866.

On a portion of the Santa Anita was E. J. Baldwin's celebrated orange orchards, vineyards, and stock-breeding establishment.

West of the Santa Anita, and running to the Arroyo Seco, came the Rancho San Pascual, patented to Manuel Garfias, for 13,603 acres, on April 5, 1863. This is now the site of prosperous Pasadena.

Cornering on the southeast corner of the San Pascual was another rancho called the San Pascual, but generally known among the native Californians as the San Pascualito, or Little San Pascual. It contained 2,000 varas square, and was patented to Juan Gallardo in 1881. I obtained the patent to this property. My home place of 50 acres, where I have lived for almost 40 years, is a little south and east of the center of this 2,000-vara tract, which contained 1,001 acres of land. A covered reservoir which I own at the foot of the hill, where Los Robles Avenue comes from Pasadena, would be about the northwest corner of this grant.

The island of Santa Catalina, while in the Pacific Ocean, is geographically situated within Los Angeles County. Its grantee was Jose Maria Covarrubias, the father of Nick Covarrubias, several times sheriff of Santa Barbara County and at one time United States marshal of this district. It contained 45,220 acres and was patented April 10, 1867, to James Lick, who had purchased it from Covarrubias. Covarrubias was also the grantee of the Rancho Castaic, which lies in Ventura and Santa Barbara Counties.

The foregoing ranchos described in detail herein comprise all of the grants embraced in Los Angeles County as the county existed in 1875 and before Orange County was carved out of its southeast corner.

What occurred in Los Angeles County as to grants, from the King of Spain or from the Governors of Mexico or from the Governors of California, acting under decrees of the departmental assembly, occurred all over the State of California. Wherever there was good pasture and water, you will find these grants. Much Government land fell in between some of them, the title to which has been acquired in various manners under the laws regulating the disposition of United States Government lands. One can readily understand what a prolific source of litigation was the settlement of the title and the partitioning of these various grants among their numerous owners.

Mr. WHEELER. Then I have here form of a grant that is shown on page 382 of the book known as The Public Domain, published by the Government in 1880.

EXAMPLE OF A SPANISH LAND GRANT IN CALIFORNIA

The following case is given as an illustration of California grants as presented to the board of land commissioners for adjudication, including the decrees on title:

No. 497.—Claim of heirs of Juan Read to Corte de Madera del Presidio. (Translation of Espediente.) Stamp third. Two reales.

Provisionally authorized by the commissariat ad interim of the port of Monterey, of Alta, California, for the years 1831 and 1832.

Reauthorized for the years 1833 and 1834.

Senor Governor and Superior Political Chief:

Juan Read, a native of Ireland (of the Roman Catholic religion), and a resident of this territory for nine years, in the most proper form presents himself before your excellency, and representation makes:

That possessing, by the favor of God, 400 head of neat cattle and 60 horses, and desiring a piece of land where I can, without prejudice to a third party, support and increase them, and live quietly and tranquilly in a property under the protection of this Mexican Republic, I ask for your excellency to be so good as to grant me the place called Sausalito.

June 27, 1834.

JUAN READ.

MONTEREY, *July 8, 1834.*

In conformity with the laws in the matter, the military commandant of San Francisco will report if the party interested in this proceeding has the necessary requisites to be attended to in his petition; if the land which is asked for is comprehended in the 20 border leagues, or in the 10 litteral, mentioned in the law of August 18, 1824; if it is irrigable, dependent on the seasons, or pasture land; if it belongs to the property of any private person, corporation, mission, or pueblo; if the petitioner has a letter of naturalization in the United Mexican States; if there has been any other land granted to him before, and whatever else it is believed will illustrate the matter. This done, the espediente will be passed to the Reverend Father minister of the mission of San Rafael, that he may report what occurs to him.

The Sénor Don Jose Figueroa, general of brigade, commandant general inspector, and superior political chief of Upper California, thus ordered, decreed, and signed, of which I certify.

JOSE FIGUEROA, *Senor Superior Political Chief.*

AGUSTIN V. ZAMORANO, *Secretary:*

The land which Don Juan Read, a resident of this jurisdiction, asks for, is included in the 10 litteral leagues mentioned in the law of colonization of August 18, 1924, and not in the 20 border leagues spoken of in the same law. The lands are irrigable and parture pasture lands in the canadas formed by the mountains which compose the same; it belongs to no private person, corporation, or pueblo; the petition has no letter of naturalization, although he has proved that he has asked one six years ago in the city, and afterwards in this territory, the which, on account of the vicissitudes or changes of the revolutions, he has not been able to procure. He has also proved that he has served some years under the Mexican flag as first mate of a vessel, and that he has been settled with his property on this frontier for three years. In the year 1831 there was given him as a loan a piece of land which he afterwards abandoned. He has the requisites to entitle him to be attended to.

San Francisco, August 1, 1834.

NEARIANO G. VALLEJO.

Senior Superior Political Chief:

The land asked for by Don Juan Read is not among those most important to the mission, although it formerly occupied it with cattle; but in this your excellency will do what you think proper.

San Rafael, August 12, 1834.

FRIAR JOSE LORENZO QUIJA.

MONTEREY, *September 23, 1834.*

Join this to the foregoing.

FIGUEROA.

(Sketch or plan of the grant of "El Corte de Madera del Presidio.")

Mr. WHEELER. Then follows the map which, under the law, was a necessary part of the application for the grant. Then follows several affidavits showing that this party who applied for this grant was a man of good character and that he had the cattle necessary in order to get the grant.

Senator BRATTON. But does that refer to the San Fernando case?

Mr. WHEELER. It relates not to the San Fernando case, but I might say it merely as a form of grant. It is a case of Juan Read.

Senator BRATTON. It follows that unless it relates to the San Fernando grant that it is needlessly encumbering the record, because the documents relating to the San Fernando grants speak for themselves either as to the validity or invalidity.

Mr. WHEELER. That will be all.

Senator BRATTON. Anything on behalf of anyone respecting the San Fernando tract?

Mr. WHEELER. You mean in behalf of anyone in our organization?

Senator BRATTON. Yes, anything additional.

Mr. WHEELER. I can simply say this, that it is very easy to show sufficient United States Supreme Court decisions to prove that the parties, for instance Mr. Johnson, had a perfect right to do what he did and all that sort of thing. I do not think I have anything to show outside of that.

Senator BRATTON. That is a matter of law.

Mr. WHEELER. Yes, sir.

The CHAIRMAN. Mr. Wheeler, you spoke yesterday of certain witnesses whom you desired to offer in connection with the San Fernando grant.

Mr. WHEELER. Yes, sir; there are several I would like to have appear and produce their titles to this grant, as the Supreme Court says they must do. I haven't any way of compelling these witnesses to come, but I would be glad to have the committee call them from the list that you have there.

Mr. HARTKE. May I say this, Mr. Chairman?

The CHAIRMAN. Will you pardon me just a moment? Are all of those who you suggested yesterday as witnesses desired for that one purpose?

Mr. WHEELER. For the San Fernando case.

The CHAIRMAN. And you want them to produce their titles?

Mr. WHEELER. To the various tracts of land that they hold and have subdivided and sold to the so-called present owners.

The CHAIRMAN. Anyone of them could furnish what the others could furnish, could they not?

Mr. WHEELER. That is partly true, although different witnesses would speak of different angles of the case. Some of them—for instance, Mr. Allen, of the Title Insurance & Trust Co.—could testify as to their subdivision and the issuing of titles, and show what they are; and Chandler might possibly testify as to whether title passed——

Senator BRATTON. But whether a part of the land appearing in the original grant has since been subdivided and sold, would be

wholly immaterial, in view of the committee. The question we are concerned with is whether the parties holding under the grant received a good title and now possess a good title.

Mr. WHEELER. Senator, would not they be compelled to show from what source they acquired their present so-called title; that is, the source of the grant? The subdividers of the property would have titles, if there are any. I would think——

Senator BRATTON. The committee is wholly unable to see wherein subdivision would have any relation to the validity of title at all.

Mr. WHEELER. But if I am a subdivider of land in the San Fernando Valley, and I buy land and sell it to somebody, I certainly can show my right to do so if I have any.

Senator BRATTON. That is not the view the committee takes of it.

Mr. HARTKE. Mr. Chairman, I just have this suggestion to make in connection with the nature of the hearing, if I may do so. The resolution, as it was originally adopted, was clearly one to investigate into certain alleged frauds, and the question of determining the legal situation as to the validity of these titles is not involved; but in the discussion by Mr. Summers at the hearing in February, 1927, contained in the document Mexican Land Grant Frauds, said: "We are conducting the investigation in order to ascertain whether or not these private interests control our public officials." He said further, on page 19 of the hearings: "I am not asking this committee to go into the details as to the title, but what I want to know is: If the Land Department, the great domestic branch of this Government, is being controlled by private interests, if the Department of Justice is being likewise controlled." Then Senator Nye said it seems the claim that has been left here with the committee is that these homesteaders have been retarded in carrying out their actions in the courts——

Senator BRATTON. Mr. Hartke, we are familiar with all that.

Mr. HARTKE. And for that reason we feel that the question of title is not a matter that can be settled. There is one thing that we want to place before the committee at this point as a part of our case and as a part of the cross-examination, and that is this form of receipt and a form of application for homestead entry, if Mr. Wheeler has no objection to it. We offer it to show the form that is being used, if this is the form.

Mr. WHEELER. I would not say that this is the form without carefully checking it with our contract. This, however, is the form of homestead entry blanks which we have used and which we will use and which we will continue to use.

Mr. HARTKE. May it be admitted with the understanding that it can be withdrawn if it is not correct?

Mr. WHEELER. Certainly. I have just handed the committee copies of our contract, showing the three different contracts.

Mr. HARTKE. But this is the form you have been using up to the present time?

Mr. WHEELER. I would not say so without comparing it.

Mr. HARTKE. Then if it is compared and found to be correct it can remain as an exhibit, and it can be introduced with that understanding?

The CHAIRMAN. With that understanding; yes. It may be received as Exhibit Q, and will be placed in the record at this point.

EXHIBIT Q

This will witness that I, George Wesley Clark, reside at 235 Clinton Street, in the city of Pasadena, County of Los Angeles, State of California.

That I intend to file an application to homestead a certain tract of land that I believe is a part of the public domain of the United States, and as such open to homestead entry by qualified citizens;

That I anticipate a controversy before my application will be recognized and the homestead allowed, and therefore I deem it advisable at this time to employ an attorney to examine into, define, and determine the legal status of, and my right to said land, and after my application is filed to represent me before such departments and tribunals as may be necessary; that for these purposes I have retained Williamson S. Summers as my attorney and have this day paid him as a retainer the sum of $500.

I hereby agree that on or before six months after all or any part of said homestead shall be confirmed to me, or to my lawful heirs or successors in interest, by a United States Government patent, I will pay to the said attorney a sum of money equal to 33⅓ per cent of the appraised value of the land. In the event that I can not agree with the said attorney on the value of the land so patented, then and thereupon the value of said land shall be determined by a board of appraisers, selected under rules recognized by law.

It is understood and agreed that this employment shall be binding on my heirs, assigns, and successors in interest.

In witness whereof I have hereunto set my hand and seal this 27th day of September, 1927.

[SEAL.] GEORGE WESLEY CLARK.
----------, *Witness.*

Received $500 on behalf of and for delivery to said attorney on the date hereinabove written.

CLINTON JOHNSON, *Trustee.*
By H. N. WHEELER.

Record of homestead application: NW. ¼ section 26. T. 2 N., R. 16 W., SBBM. Date of filing, September 27, 1927. Serial No. 044483.

HOMESTEAD ENTRY

United States Land Office, ———— Serial No. ———
Receipt No. ———

APPLICATION

I, ———— (————), do hereby apply to enter, under section 2289, Revised Statutes of the United States, the ————, section ———, township ———, range ———, ——— meridian, containing ——— acres, within the ——— land district; and I do solemnly swear that I am not the proprietor of more than 160 acres of land in any State or Territory; that ——— that my post-office address is ————; that this application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation; that I will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that I am not acting as agent of any person, corporation, or syndicate in making this entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that I do not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for myself, and that I have not directly or indirectly made, and will not make, any agreement or contract, in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which I may acquire from the Government of the United States will inure in whole or in part to the benefit of any person except myself. I further swear that since August 30, 1890, I have not entered and acquired title to, nor am I now claiming, under an entry made under any of the nonmineral public land laws, an amount of land which, together with the land now applied for, will exceed in the aggregate 320 acres; and that I have not heretofore made any entry under the homestead laws, or filed a soldier's or sailor's declaratory statement, except ————; that I am well acquainted

with the character of the land herein applied for and with each and every legal subdivision thereof, having personally examined same; that there is not, to my knowledge, within the limits thereof any vein or lode or quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, or copper, nor any deposit of coal, placer, cement, gravel, salt spring, or deposit of salt, nor other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially nonmineral land, and that my application therefor is not made for the purpose of fraudulently obtaining title to mineral land; that the land is not occupied and improved by any Indian.

——— ———.

NOTE.—Every person swearing falsely to the above affidavit will be punished by law for such offense. (See Sec. 125, U. S. Criminal Code, below.)

I hereby certify that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known (or has been satisfactorily identified before me by ———); that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described; and that said affidavit was duly subscribed and sworn to before me, at my office, in ———, ———, within the ——— land district, this ——— day of ———, 192—.

——— ———.

United States Land Office at ———,
———, 192—.

I hereby certify that the foregoing application is for surveyed land of the class which the applicant is legally entitled to enter under section 2289, Revised Statutes of the United States, that there is no prior valid adverse right to the same, and has this day been allowed.

——— ———, *Register.*

UNITED STATES CRIMINAL CODE.—CHAP. 6

SEC. 125. Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, shall willfully and contrary to such oath state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than $2,000 and imprisoned not more than five years. (Act, March 4, 1909, 35 Stat., 1111.)

The CHAIRMAN. You have indicated that there are three different forms of contract, and in what respect do they vary?

Mr. WHEELER. The first form is the type that was used when the hundred dollar fee was carried, and the contingent fee, a sum of money equal to one-half of the appraised value of the land so homesteaded, as determined by the board of appraisers selected under the rules of law. The other form, which I have in my hand, is for a retainer fee of $500, and the contract under which they agree to give a sum of money equal to 33⅓ per cent of the appraised value. The other form is made out at the present time with a retainer fee of $1,000 and a contingent fee of a sum of money equal to 25 per cent of the appraised value.

The CHAIRMAN. They may be received in evidence as Exhibit R, and will also be placed in the record at this point.

EXHIBIT R

This will witness, that I, ———, reside at ———, in the city of ———, county of ———, State of California. Telephone No. ———.

That I intend to file an application to homestead a certain tract of land that I believe is a part of the public domain of the United States, and as such open to homestead entry by qualified citizens;

That I anticipate a controversy before my application will be recognized and the homestead allowed, and, therefore, I deem it advisable at this time to employ an attorney to examine into, define, and determine the legal status of, and my right to said land, and after my application is filed to represent me before such departments and tribunals as may be necessary; that for these purposes, I have retained Williamson S. Summers as my attorney and have this day paid him as a retainer the sum of $500.

I hereby agree that, on or before six months after all or any part of said homestead shall be confirmed to me, or to my lawful heirs or successors in interest, by a United States Government patent, I will pay to the said attorney a sum of money equal to 33⅓ per cent of the appraised value of said land. In the event that I can not agree with the said attorney on the value of the land so patented, then and thereupon the value of said land shall be determined by a board of appraisers, selected under rules recognized by law.

It is understood and agreed that this employment shall be binding on my heirs, assigns, and successors in interest.

In witness whereof, I have hereunto set my hand and seal this ——— day of ————, 192—.

——— ——— [SEAL].

Record of homestead application:
——— section ——,
——— section ———,
Township ———, range ——, S.B.B.M.
Date of filing ————, 19—.
Serial No. ————.
Location ————.
Map No. ————.

Received $500 on behalf of and for delivery to said attorney on the date hereinabove written.

———,
Trustee.

This will witness, that I, ---------- reside at ----------, in the city of ---------- county of ----------, State of California.

That I intend to file an application to homestead a certain tract of land that I believe is a part of the public domain of the United States, and as such open to homestead entry by qualified citizens;

That I anticipate a controversy before my application will be recognized and the homestead allowed, and therefore, I deem it advisable at this time to employ an attorney to examine into, define, and determine the legal status of, and my right to said land, and after my application is filed to represent me before such departments and tribunals as may be necessary; that for these purposes, I have retained ---------- and I have agreed and do hereby agree, for services rendered and to be rendered, that on or before six months after all or any part of said homestead shall be confirmed to me, or to my lawful heirs or successors in interest, by a United States Government patent, I will pay to my said attorney a sum of money equal to 50 per cent of the value of the land homesteaded. In the event that I can not agree with said attorney on the value of the land so homesteaded and patented, then the value of said land shall be determined by a board of appraisers, selected under the rules recognized by law.

It is understood and agreed that this employment shall be binding on my heirs, administrators, assigns, and successors in interest.

In witness whereof, I have hereunto set my hand and seal this ------ day of ----------, 1926.

------ ------ [SEAL]
------ ------ *Witness.*

Record of homestead application:
---------- section ------
T. ------, R. ------
Date of filing ----------
Serial No. ----------

This will witness, that I, _____ reside at _____, in the city of _____ county of _____, State of California.

That I intend to file an application to homestead a certain tract of land that I believe is a part of the public domain of the United States, and as such open to homestead entry by qualified citizens;

That I anticipate a controversy before my application will be recognized and the homestead allowed, and therefore, I deem it advisable at this time to employ an attorney to examine into, define, and determine the legal status of, and my right to said land, and after my application is filed to represent me before such departments and tribunals as may be necessary; that for these purposes, I have retained _____ as my attorney and have this day paid him as a retainer the sum of $_____ and agree to pay the further sum of $_____ on or before _____ days.

I hereby agree that, on or before six months after all or any part of said homestead shall be confirmed to me, or to my lawful heirs or successors in interest, by a United States Government patent, I will pay to the said attorney a sum of money equal to 25 per cent of the appraised value of said land. In the event that I can not agree with the said attorney on the value of the land so patented, then and thereupon the value of said land shall be determined by a board of appraisers, selected under rules recognized by law.

It is understood and agreed that this employment shall be binding on my heirs, assigns, and successors in interest.

In witness whereof, I have hereunto set my hand and seal this _____ day of _____, 1926.

_____ _____ [SEAL.]
_____ _____ *Witness.*

Record of homestead application:
_____ section _____
T. _____, R. _____
Date of filing _____
Serial No. _____

Received $_____, on behalf of and for delivery to said attorney on the date hereinabove written.

_____,
Trustee.

Mr. LAWLER. Ought it not be said now, in view particularly of some suggestions that have been made if these gentlemen are not lawyers, and in view of the peculiar phraseology of that contract relating to homestead entries, that some suggestion ought to be made to them as to their right in that respect?

Senator BRATTON. Mr. Wheeler, are you a practicing attorney?

Mr. WHEELER. No, sir.

Senator BRATTON. Have you been admitted to practice the law?

Mr. WHEELER. No, sir. I have never taken the bar examination.

Senator BRATTON. Have you ever been admitted to practice either in the State or Federal courts of California?

Mr. WHEELER. No, sir.

Senator BRATTON. Or before the Land Department here?

Mr. WHEELER. No, sir.

Senator BRATTON. Is Judge W. S. Summers, to whom reference has been made in the testimony, a practicing attorney?

Mr. WHEELER. Mr. Summers is an officer of the Supreme Court.

Senator BRATTON. What do you mean?

Mr. WHEELER. I might term him a Federal attorney.

Senator BRATTON. But what do you mean by that?

Mr. WHEELER. Mr. Summers has never applied to the California State courts to practice here because he had no interest in practicing

in the State, except in representing matters of this kind before the Interior Department.

Senator BRATTON. Then he is not admitted to practice before the State courts of California?

Mr. WHEELER. That is the way I understand it.

Senator BRATTON. Is he admitted to practice in the Federal courts of California?

Mr. WHEELER. He can practice in any Federal court in any State.

Mr. WESTERVELT. I believe I can straighten that out, Senator.

Senator BRATTON. If you will, please do so. Mr. Wheeler is not familiar with it.

Mr. WESTERVELT. I am quite satisfied, although I am speaking from hearsay, that while Judge Summers is not a member of the State bar he is admitted to practice in the Federal courts, both in the local district and other districts, and does not practice in the State courts.

Senator BRATTON. What about his being admitted to practice before the local land office.

Mr. WHEELER. I believe that he is. Of course, he is admitted to practice before the Land Office in Washington.

Senator BRATTON. Do you mean he has been admitted to practice in the United States District Court for the Southern District of California?

Mr. WESTERVELT. Yes. That is my understanding. It is not my own personal knowledge but I am quite satisfied that is true.

Senator BRATTON. Do you make that statement upon information given to you by Judge Summers?

Mr. WESTERVELT. Yes, sir.

The CHAIRMAN. Mr. Wheeler, I understand that you have rested your case in so far as the San Fernando grant is concerned?

Mr. WHEELER. I would say that I am through for the present time, except to suggest to the committee to call these necessary witnesses to show their title, to subpœna them or do whatever seems necessary, because I am at a loss to know how I can compel them to come here.

The CHAIRMAN. At least then, with relation to any fraud charges which you may have to offer you have completed your case in so far as the San Ferando grant is involved?

Mr. WHEELER. Not completed, but at this time, and the fraud charges and the criminal connections of this case, as I understand it, will be taken up in Washington, D. C.

The CHAIRMAN. But why not here?

Mr. WHEELER. Because of the fact a great many witnesses are back there and some of the evidence is back there, and those are the instructions of Mr. Summers.

The CHAIRMAN. Is it not likely that more witnesses would be here than would be available in Washington?

Mr. WHEELER. That might be true.

The CHAIRMAN. Then why do you not undertake to disclose these matters here at this time?

Mr. WHEELER. I would be perfectly glad to do so, but I can not do it this morning and would not do it without a conference with Mr. Summers.

Senator BRATTON. Mr. Wheeler, the charge was made by Judge Summers in Washington that fraud on the part of certain Government officials could be established; he gave the committee there a list of witnesses by whom that fact could be established. Some of them lived in California. You and Judge Summers must have had notice for weeks that the committee would be here at this time to take the testimony available in California and we would like to know the reason for your reluctance to submit proof upon that issue.

Mr. WHEELER. Senator, if I may interrupt, it is not a matter of reluctance.

Senator BRATTON. Let us proceed, then.

Mr. WHEELER. It is a matter of fact that Mr. Summers was not able, due to illness, to advise and instruct me and give me the necessary information on that. What I do have I do not believe is sufficient, and when I do it I would like to do the job complete.

Senator BRATTON. Will you be ready at 1.30 to begin with your program?

Mr. WHEELER. No; I can not.

Senator BRATTON. When can you be prepared to submit it?

Mr. WHEELER. I can not say until I have a chance to confer with Mr. Summers to-night or to-morrow.

Senator BRATTON. But is it possible that you and Judge Summers have not discussed this matter and agreed upon a course of procedure?

Mr. WHEELER. It is not only possible, but it is a fact. I have taken this thing in my hands, when I found Mr. Summers was sick, without even a conference with him, since his return from Washington, except just for a moment at a time, and he was so weak that I just refrained from asking him about the information and the situation that I would like very much to have had. I have gone ahead with just what I have had in my hands.

Senator BRATTON. That statement comes to us as something of a surprise because Judge Summers has told the committee that you are intimately familiar with every detail of this whole transaction.

Mr. WHEELER. By that he meant the general situation here. The situation in Washington, which was the political end of it, and some cases that he handled personally—there is a great deal of it that I do not know about except in a general way; I do not have the absolute, definite documents, or some of the original letters and the names and addresses of these witnesses.

Senator BRATTON. But we are not referring now to information available at Washington but the testimony available here in California. You are not prepared to submit that?

Mr. WHEELER. Not this morning, if you please.

The CHAIRMAN. The committee has received this morning a letter, dated April 2, signed by Mr. Harry Chandler, which is as follows:

GENTLEMEN: It has been brought to my attention that my presence at your hearing has been requested by a representative of the claimants, and I beg to inform you that I shall be available at any time that the committee desires to have me there and shall be willing to come upon your request.

The same intent and purpose is expressed in a letter received from Mr. Stewart O'Melveny; also a letter from Mr. E. Palmer Connor. Now, from these gentlemen, Mr. Wheeler, you would expect to obtain some information with relation to titles?

Mr. WHEELER. I would expect to obtain this information from any one of those gentlemen.

The CHAIRMAN. Well, if any one, or all of those gentlemen should appear here this afternoon would you be ready, following their appearance, to proceed with and lay before the committee the cases of fraud which you have in mind?

Mr. WHEELER. I believe I would. The details of it I would be able to give you after a conference with Mr. Summers, which I hope to be able to have some time to-day or this evening. I will try to have a conference with him this evening if it is possible and he is able.

The CHAIRMAN. Another letter has just been received from Mr. J. F. Sartori, in which he says:

> I am informed that on yesterday somebody addressing your honorable body suggested my presence would be desirable as a witness. While I will state that so far as I am aware there is no information in my possession which would throw any light upon the matters under inquiry by your committee, I shall nevertheless make it convenient to respond should your committee deem my presence desirable.

The committee will request that if possible this afternoon those four gentlemen—Mr. Sartori, Mr. Chandler, Mr. O'Melveny, and Mr. Connor—appear. Is there anyone here who can reach them and inform them of the request?

Mr. LAWLER. I will endeavor to reach Mr. Sartori, Mr. Chairman. I telephoned to him after I left here last evening and that is probably the reason for his letter.

Mr. MUSICK. I think we can reach the others, Mr. Chairman.

The CHAIRMAN. Then we will recess at this time until 2 o'clock.

Mr. LAWLER. Before formally recessing, Mr. Chairman, let me state that I have ordered from the county recorder a photostat copy of the original map that accompanied the patent to the San Fernando grant. I can have a certified copy of the patent made if the committee desires it, although it is practically set forth in the decision of the court in One hundred and eightieth United States and One hundred and seventeenth California. However, if the committee desires it, I can get a completed copy of the patent.

The CHAIRMAN. If you please, Mr. Lawler.

(Whereupon, at 12 o'clock noon, the committee recessed until 2 o'clock p. m.)

AFTER RECESS

The subcommittee reconvened at 2 o'clock p. m., pursuant to the recess.

The CHAIRMAN. The committee will be in order. Mr. Connor.

TESTIMONY OF E. PALMER CONNOR,, CHIEF SEARCHER FOR THE TITLE INSURANCE & TRUST CO., LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

Mr. CONNOR. E. Palmer Connor.

The CHAIRMAN. And your occupation?

Mr. CONNOR. Chief searcher for the Title Insurance & Trust Co.

The CHAIRMAN. Of Los Angeles?

Mr. CONNOR. That is correct.

The CHAIRMAN. You have been asked to appear, Mr. Connor, following your letter to the committee signifying your willingness to appear in event the committee should desire, and you, of course, are quite conversant with the matter under inquiry?

Mr. CONNOR. Yes, sir.

The CHAIRMAN. And it has been alleged that you were possessed of information that would cast light upon the matter which the committee has under inquiry. We are going to ask Mr. Wheeler, or anyone whom he may desire to do so, to question you with relation to those matters.

Mr. WHEELER. I would like to ask the committee a question first, and that is if I may question the witness, then have the witness leave the stand, call another witness, and then recall this witness? Would that be permissible?

The CHAIRMAN. If you can indicate what the occasion for such procedure might be that might be done. I am sure, if possible, that the committee would desire that the witnesses be not held any longer here than is necessary. However, after we reach whatever point you intend to make and the issue is laid before us then we may be able to determine better whether or not such an arrangement can be made.

Mr. WHEELER. Very well. Do I understand that we are considering Senate resolution No. 291 as a whole or just in part?

The CHAIRMAN. As a whole.

Mr. WHEELER. Then I may question the witness regarding his knowledge of titles as well as on the criminal side of it?

The CHAIRMAN. Yes.

Senator DALE. Are you going to ask the witness to qualify as an expert?

Mr. WHEELER. That is what I wanted to do.

Senator DALE. There will be no objection to that.

Mr. WHEELER. Mr. Connors is an expert title searcher employed by the Title Insurance & Trust Co—am I right in that; are you employed by that company?

Mr. CONNOR. I am.

Mr. WHEELER. As an expert title searcher do you know of your own knowledge of any grant in the San Fernando Valley that this policy of title insurance has been issued on [indicating paper to witness]; is this copy here a copy of a policy that you issue?

Mr. CONNOR. That is a simple policy.

Mr. WHEELER. Is it a fair sample?

Mr. CONNOR. Yes.

Mr. WHEELER. Is it the policy that is issued?

Mr. CONNOR. We issue a great many kinds of policies.

Mr. WHEELER. Is this one of them?

Mr. CONNOR. That is one of them.

Mr. WHEELER. Do you happen to know of your own knowledge of any policy like this, covering land in the San Fernando Valley, issued to anybody anywhere in the United States, that has been sent through the United States mail?

Mr. CONNOR. I do not know of any such policy. I presume there are some.

Mr. WHEELER. Isn't it the practice of your company to mail them out?

Mr. CONNOR. Yes, sir. Most of them are mailed. I would not say most, but a good percentage of our policies and guaranties go out through the mail.

Mr. WHEELER. And as an expert title searcher, of course you have read the policy.

Mr. CONNOR. Yes, sir.

Mr. WHEELER. In the policy, where it says here that such conditions and stipulations, together with Schedules A and B, are hereby made a part of this policy—you, of course, have read Schedules A and B, have you not?

Mr. CONNOR. Yes, sir.

Mr. WHEELER. Then in Schedule B, under the head of "Exceptions," what is your opinion of the meaning of the word "Exception" in that position there; does that mean that they except from their liability anything in that clause or paragraph, or would it be excepted?

Mr. CONNOR. The policy has certain exceptions which we do not cover.

Mr. WHEELER. Would you say that that is a list of exceptions?

Mr. CONNOR. Yes; that is a list of exceptions.

Mr. WHEELER. I would like to ask you, as a title expert and searcher in this district, what is meant by clause 1, line 1, where it says, "Any facts which a correct survey and inspection of said land would show"?

Mr. CONNOR. The meaning of that is simply this. If we made a survey of a parcel of land that, according to the record, had certain measurements, and survey of the ground would show that those measurements were not correct, that would not be insured against. For instance, if a lot was recorded at 50 feet and the survey showed it to be only 49½ feet, we would not be responsible for the discrepancy.

Mr. WHEELER. In other words, in issuing a policy of insurance to me, if I should purchase, and it should develop at a later time that it was 10 or 12 feet short, I would merely stand to lose that 10 or 12 feet; is that it?

Mr. CONNOR. That is correct; yes.

Mr. WHEELER. In other words, I am going out to buy a ranch of 4,000 acres. When I buy the ranch, I take out a policy of title insurance. I would not buy that ranch under a quit claim or grant deed without I had this policy of insurance. The policy of insurance is the reason for my buying the land, because I do not have much faith in the title outside of that, and I feel when I get a policy of insurance on the title that it is absolutely safe. Then in the course of a few months a friend of mine comes along and tells me that I haven't got 4,000 acres of ground, but he will be surprised if I have got 2,000 acres of ground. But, I say, I have an insurance policy on it, and if I only have 2,000 acres I can collect under my insurance for the balance of the acreage. Would you say that under this policy I could collect?

Mr. CONNOR. I would not say so. If you had such a proposition or were purchasing such land we would advise you to have a survey of the ranch made.

Mr. WHEELER. Is that customary in the escrow course?

Mr. CONNOR. Where there is any question as to acreage.

Mr. WHEELER. For the purchaser of the land to have a survey made during the escrow?

Mr. CONNOR. Unless he is satisfied as to the record showing of the dimensions of the land.

Mr. WHEELER. I just wanted to know for sure. In paragraph 3 it says they also except from their policy any action of any governmental agency for the purpose of regulating use or occupancy, or any building or structure thereon—what would be the meaning in your knowledge of that?

Mr. CONNOR. That is designed to cover special zonings in this valley, in the case the property was only for business and was purchased for residence property. It wouldn't cover that point.

Senator BRATTON. Is a stipulation of that sort peculiar to this particular community?

Mr. CONNOR. You mean zoning?

Senator BRATTON. That part of the paragraph which has just been cited there.

Mr. CONNOR. Yes, sir; it is because there are many municipalities in the county, all of them zoning their property into various municipalities for different purposes and those zones are changed possibly from time to time.

Mr. WHEELER. It says here, "Any action of any governmental agency" and I just wanted to ask for the sake of information because I might want to take out one of these myself and I would like to know for instance, if I should buy this 4,000 acres of ground say, up here in the San Fernando Valley, and if when this Senate investigation is through it is conclusively proven that the Government today actually holds title to that ground, and the Secretary of the Interior, as trustee for the people, is duty bound by his oath of office to say to them that not one square foot of the ground is properly appropriated, and then suppose the Government should come in and dispossess me of that ground—and that has been done many times—what would be my recourse under this?

Senator BRATTON. I think perhaps you gentlemen can settle that between yourselves without taking the time of the committee.

Mr. WHEELER. All right.

Senator BRATTON. If you want to negotiate about a certificate, that can be done without taking the time of the committee?

Mr. WHEELER. I have just a couple more questions I wish to ask the witness and then I am through. Are you financially interested in the Title Insurance & Trust Co., do you own any stock?

Mr. CONNOR. Yes; I do.

Mr. WHEELER. You are one of the stockholders?

Mr. CONNOR. I am.

Mr. WHEELER. Could you identify, or do you know of your own knowledge whether or not one or the other of the witnesses you will call this afternoon, for instance, Mr. Harry Chandler, owns any stock in that corporation?

Mr. CONNOR. I could not say.

Mr. WHEELER. You do not know?

Mr. CONNOR. I do not know.

The CHAIRMAN. That is all, Mr. Connors, thank you.

Mr. MUSICK. Mr. Chandler is here now, Mr. Chairman.

Mr. WESTERVELT. May I make a brief statement to the committee?

The CHAIRMAN. Yes, Mr. Westervelt.

Mr. WESTERVELT. At the close of this morning's session I felt that I saw what the committee had in mind and that there was apparently a sort of impasse between Mr. Wheeler and the committee. At my suggestion, Mr. Wheeler went out to see Judge Summers; I arranged to talk with Judge Summers over the telephone. That is the reason I was a few minutes late in getting here because I was waiting for the telephone message. Judge Summers was in bed and some arrangements had to be made to enable me to talk to him over the phone. He asked me to say to the committee that what he had said to you, and what he had intended to say to you, was that Mr. Wheeler had full knowledge of all the matters concerning the titles; that he had not intended to convey the thought that Mr. Wheeler had knowledge of, or had consulted with him, concerning the various charges that have been spoken of here as fraud charges which, I think I understood the Chairman to say, were reported by Mr. Summers to the committee at a previous hearing, together with names of witnesses in support of it. Mr. Summers asked me to say to the committee that he had not taken anyone into his confidence on that; that he would be prepared, the moment his health permitted it, at such time and place as the committee desired, to substantiate his charges and offer his evidence, but that he was not in condition to advise with anyone or to enable anyone to conduct any examination in regard to that matter to-day. I thought that there was apparently—the situation had reached the point where I was justified in taking it upon myself to communicate with Mr. Summers.

The CHAIRMAN. On yesterday afternoon the committee visited with Mr. Summers. We left with the understanding that we might return in a couple of days, when he was better.

Mr. WESTERVELT. It may be that is what he had in mind in talking to me about a future date. I do not know.

The CHAIRMAN. In any event, you have not been led to believe that our opportunity to go back there to his home for a hearing has been foreclosed?

Mr. WESTERVELT. Oh, not at all. I think I have stated verbatim the message he gave me to give you, and I thought this was the proper time to bring it to your attention.

Mr. WHEELER. If I may say just one thing, my only purpose in wanting to have these witnesses take the stand at this time is merely to make the record that is necessary to connect them with the case and will ask them just a few personal questions in connection with the Title Insurance & Trust Co., of Los Angeles, and then to have Mr. Omelviny take the stand to identify the booklet which he has sent out, and little things like that, because the rest of the case must wait until Mr. Summers can handle it.

The CHAIRMAN. Very well Is Mr. Chandler here?

TESTIMONY OF HARRY CHANDLER, NEWSPAPER PUBLISHER, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. State your full name.

Mr. CHANDLER. Harry Chandler.

The CHAIRMAN. And your occupation.

Mr. CHANDLER. Newspaper man.

The CHAIRMAN. The occasion for your being asked to appear here this afternoon was partly due to your letter of yesterday or this morning, indicating a readiness to come. I think you are conversant with the purpose of the committee and we understood that you were possessed of information that might be helpful to us in connection with the matter under inquiry. Mr. Wheeler has some questions which I understand he desires to propound to you, if you will proceed at this time, Mr. Wheeler.

Mr. WHEELER. First of all, I would like to tell Mr. Chandler that I am not an attorney and in fact, know very little about law. Mr. Summers puts it in this way, that I wouldn't know a law suit if I met it in the street.

The CHAIRMAN. You are represented, and those associated with you are represented here by Mr. Westervelt, are you not?

Mr. WHEELER. Yes, sir.

The CHAIRMAN. Then why don't you let Mr. Westervelt proceed with this matter?

Mr. WHEELER. If I may just ask a few questions, then he can proceed with the witness as he sees fit, and if that is proper.

The CHAIRMAN. Very well.

Mr. WHEELER. I just want to ask Mr. Chandler if he has authorized this editorial in the Los Angeles Times of February 26, 1929.

Mr. CHANDLER. You mean the editorial on the highway?

Mr. WHEELER. No; this one here [indicating].

Mr. CHANDLER. Yes; I think I did.

Mr. WHEELER. Then I would like to ask you if you are the owner in part or in any way of the stock of the Title Insurance & Trust Co.?

Mr. CHANDLER. No, sir.

Mr. WHEELER. You have no stock in it?

Mr. CHANDLER. No stock in it; no.

Mr. WHEELER. Do you have any interest in the Title Insurance Co.?

Mr. CHANDLER. No; except that I own some stock in a company that has a little stock, a very little bit of stock—in fact about 1 per cent—I have an interest in a company that owns a little stock in that company.

Mr. WHEELER. In the Title Insurance & Trust Co.?

Mr. CHANDLER. Yes; but my personal interest would be so slight it would be negligible.

Mr. WHEELER. Then actually you have no connection with the Title Insurance & Trust Co.?

Mr. CHANDLER. No, sir.

Mr. WHEELER. That editorial is as follows [reading]:

Land-title raiders: The inquiry now tentatively before the United States Senate Committee on Lands into land titles in southern California based on Spanish and Mexican grants, while totally unnecessary from the standpoint of establishing facts, may still have an excellent effect if it quiets for all time the recurrent efforts of land-title raiders to attack them. At the conclusion of its inquiry the committee must find that there are no better and clearer titles in the United States than these, since they have been repeatedly confirmed by the courts, and such a report transmitted to Congress may rouse that body to the desirability of amending the public land laws so that homestead entries can be refused by the various land offices at the outset, unless there is an

affirmative showing that the land filed upon is actually public land. Such legislation is strongly advocated by Brainard B. Smith, register of the local land office.

At present the land offices have no option in the matter. They must accept any homestead filing that is offered, even when thoroughly aware that the application will be rejected on investigation, and the fact of filing enables some lawyer to collect a fee for preparing the necessary papers. In past years attacks by this method have been made on titles in the San Fernando Valley, the Malibu Ranch, the Irvine Ranch, Palos Verdes, and others, in no case with success. There still seems to be people who do not know that all the Spanish and Mexican grants have been made good, in accordance with the treaty of peace between the United States and Mexico, by United States patents, or who are hopeful that some time, some day, some one may find a flaw in them.

There is, in fact, nothing surer than that these titles are good and will stand every test to which they can be put; and that those who attack them are simply wasting time and money.

The money goes into the pockets of the lawyers who make a regular business of such filings, notwithstanding that they well know that the validity of these titles has invariably been upheld by the authorities. Such practices are probably legal enough, but are worthy of the serious attention of the State Bar Association where it can be shown that fees are solicited with full knowledge that such filings are useless. It is difficult not to doubt the good faith of any attorney practicing in California who even accepts such business without informing his client of the facts, so well known to the profession generally is the history of these futile raids on our basic land titles.

So, though there is no reason for an inquiry by the Senate, the inquiry, if it comes, may accomplish some benefit, since the more the facts are advertised the better the public will be protected. Senator George of Georgia, who with little doubt has been misinformed, presented the resolution for the Senate inquiry, which if made probably will be in the hands of the Senator Bratton of New Mexico.

There will be no public uneasiness as to the result. The chance that there can be any title defects which have escaped the vigilance of the various title-guaranty companies is extremely remote indeed. If the Senate Lands Committee makes a prompt inquiry and a prompt report, its work will do good in preventing the future activities of squatters and of unscrupulous attorneys.

Mr. WHEELER. Mr. Chandler, I would like to ask you if you own any land in the San Fernando Valley or if you are recorded as the owner of any land there?

Mr. CHANDLER. No, sir.

Mr. WHEELER. Did you ever own any there?

Mr. CHANDLER. Yes, sir.

Mr. WHEELER. Do you have available, where it can be produced in the next few days, any of the documents or records showing what your title was, showing the title or copies of it.

Mr. CHANDLER. Well, I suppose I have the records. I have in my records certificates of title that I procured when I made the purchases of the land there.

Mr. WHEELER. Do they show your legal title?

Mr. CHANDLER. Yes.

Mr. WHEELER. Would you say that those certificates of title would be the only documents that you could produce that had really proven that you had ever owned that land?

Mr. CHANDLER. My deeds and the attorneys' opinions, I suppose.

Mr. WHEELER. Would it be agreeable to you to give us a copy of those documents? I would like to have them in evidence if the committee will permit.

Mr. CHANDLER. It was nearly 20 years ago, and if they are available, if I can find them, I will get them.

Mr. WHEELER. Then you sold that land?

Mr. CHANDLER. Yes.

Mr. WHEELER. When you sold it what did you give the purchaser as evidence of title?

Mr. CHANDLER. We furnished each purchaser with a certificate of title.

Mr. WHEELER. Anything else?

Mr. CHANDLER. We gave deeds, of course.

Mr. WHEELER. When you sold that land would you give this committee copy of those deeds and certificate of title under which you sold?

Mr. CHANDLER. They can be found in the public records.

Mr. WHEELER. Will you produce them, please?

Mr. HARTKE. If the committee please, I think there is a limit to which this should go. He said he gave certificates to the purchasers and he can not be asked to go around to the purchasers and get these certificates and deeds.

The CHAIRMAN. The matters are all matters of record certainly.

Mr. LAWLER. And the certificates of title would be in the hands of the purchaser himself.

The CHAIRMAN. Yes.

Mr. WHEELER. Then I have just one more question. Inasmuch as the committee investigating this whole situation demanded and received the original copies of the Mexican documents in which Mexico certifies there never was any title or any grant to this property here, it seems to me that the committee should insist upon finding out what Mr. Chandler or some of these others may have had in the nature of original titles in order to sell the land.

The CHAIRMAN. I might suggest that before the committee has finished it fully expects to go into the records which are available here in the office of the clerk of the register and will check up on matters of that kind, of course.

Mr. HARTKE. We will furnish anything the committee requires from the records without asking individuals to go out and get the deeds that were given to them.

Mr. WHEELER. All right, thank you. Mr. Chandler, what is the name of the company you are interested in that owns some stock in the Title Insurance & Trust Co.?

Mr. CHANDLER. The Chandler Security Co.

Senator BRATTON. The certificate of title which you acquired at the time of the purchase of the land, and the several certificates of title which you gave to the respective purchasers at the time you

conveyed the land, were they ordinary certificates of title that are used in the sale and purchase of land in California?

Mr. CHANDLER. Yes, sir.

The CHAIRMAN. Mr. O'Melveny?

TESTIMONY OF STUART O'MELVENY, FIRST VICE PRESIDENT OF THE TITLE INSURANCE & TRUST CO., LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

Mr. O'MELVENY. Stuart O'Melveny.

The CHAIRMAN. And your occupation?

Mr. O'MELVENY. I am first vice president of the Title Insurance & Trust Co.

The CHAIRMAN. I expect you understand what the occasion is for your appearance here this afternoon?

Mr. O'MELVENY. I only know that you sent for me to be present and that your wish was my command, Mr. Chairman.

The CHAIRMAN. We have your letter of this morning professing your readiness to appear in the event you were wanted.

Mr. O'MELVENY. Yes, sir.

The CHAIRMAN. Mr. Wheeler has certain questions that he desires to propound and which he has caused us to believe would be material to the matter which this committee has under investigation. We will ask you to submit, if you please, to the questions of Mr. Wheeler, or for anyone who may speak for him.

Mr. O'MELVENY. That is perfectly satisfactory with the chairman.

Mr. WHEELER. As an official and officer of the Title Insurance & Trust Co., you are familiar with its various branches of work?

Mr. O'MELVENY. Yes; that is my business.

Mr. WHEELER. You would know about any document that would be issued by your company, or rather you would know or not whether it was accurate or correct; at least, you would know the general forms or general procedure under which it was done?

Mr. O'MELVENY. I presume so, Mr. Wheeler. Your question is very hard to answer. If you will make it more specific I will do the best I can.

Mr. WHEELER. I will try to do the best I can in order to get the idea out that I am after. At least you would recognize the various forms issued and would know whether or not they had been sent through the United States mails?

Mr. O'MELVENY. I know generally the forms of evidences of title issued by the company, and I presume a great many of them are sent through the mails every day.

Mr. WHEELER. In do so it would sort of tend to the financial benefit of the company, would it not?

Mr. O'MELVENY. What, the sending through the mail?

Mr. WHEELER. That is part of the procedure in your business?

Mr. O'MELVENY. We do send a good many of them through the mail every day. I suppose it is a matter of convenience to have them sent in that way.

Mr. WHEELER. Then I am going to ask you if the company is, to your knowledge, in the habit of mailing these booklets out to any one at all, for instance [exhibiting booklet to witness].

Mr. O'MELVENY. No, sir; not in the habit of mailing them out, Many of them were prepared and mailed at one time but I do not think they have been mailed since.

Mr. WHEELER. Was that done for the purpose of advertising the company or in any way helping the business to make money?

Mr. O'MELVENY. I think it was done in explaining the different forms and evidences of title issued by the company, so that when you wished to order one of the different forms issued by the company, you would know the different forms applicable to the particular thing you wanted and so that you could order that you desired.

Mr. WHEELER. In your opinion, Mr. O'Melveny, do you think that this policy of Title Insurance would give me absolute protection were I to purchase a piece of ground and could I depend on it to recover my money should it develop that the title was invalid; and the Government should put me off the ground; would I have any protection under this policy if the Government should put me off the ground because the title was invalid?

Senator BRATTON. That seems to be wholly irrelevant. It is an abstract proposition involving the liability of this company upon one of its policies and unless it is confined to the grant we are now considering it is obviously foreign.

Mr. WHEELER. Just one more question. I would like to ask Mr. O'Melveny if he is the author of this little booklet known as The Romance of California Land Titles.

Mr. O'MELVENY. I did not write it.

Mr. WHEELER. It says in here, "By Stewart O'Melveny."

Mr. O'MELVENY. That was a matter of publicity. It was written by some one in the company as a matter of publicity and it was thought that it would attract more attention if published over my signature.

Mr. WHEELER. Then you authorized it?

Mr. O'MELVENY. Certainly I authorized it. I read it, looked it over and authorized it. I did not write it.

Mr. WHEELER. Were any of these books sent out by the company through the United States mail?

Mr. O'MELVENY. I do not know.

Mr. WHEELER. I wish to offer this booklet as an exhibit. It is entitled "The Romance of California Land Titles."

The CHAIRMAN. It may be received as Exhibit S, and will be placed in the record.

EXHIBIT S

THE ROMANCE OF CALIFORNIA LAND TITLES

(By Stuart O'Melveny, first vice president Title Insurance & Trust Co.)

Spanish days were glorious days; days of adventure, days of an easy life, for nature had abundantly endowed California with all that makes for an easy existence. Those were days of great plains, of fast horses—days of the dons.

California was Spain's province by right of discovery. It was occupied by the Spanish before the Eastern colonies had brought their long-suffered troubles to an end by the War of the Revolution. The religion of the Puritans finds its counterpart in the missions of California—those havens of spiritual and physical safety, established by the kindly Franciscan Fathers. The first mission, San Diego, was established in 1769, to be followed immediately by others until there were in all 21 missions, each just one day's travel apart, for it was the

custom of the fathers to walk from one to the other. The leader of these Franciscans, Fra Junipero Serra, many times walked the length of the State—plodding his way across the sun-splashed hills and through the shady valleys of California—to rest each night and give thanks to his God, in one of his missions.

The land was subject to grant from the Crown of Spain. Three kinds of grants were made—to individuals who were in the favor of the Court, to the missions as they were founded, and to the pueblos as they were formed.

The struggling colonies of the eastern coast had only just commenced their career as an independent nation—called United States—when Spain first made a grant of California land. This was a grant of the Rancho San Rafael to Don Jose Maria Verdugo. The rancho lay northeast of the pueblo of Los Angeles and comprised what is now Glendale, and the Eagle Rock district of metropolitan Los Angeles.

The dons receiving grants went onto the land, built their haciendas (estates), grazed their cattle, thus commencing California land ownership. These haciendas became centers of a social activity paralleling in their own small way the social life of old Spain.

While the ranchos thus flourished in the glory of the land wealth that was theirs, the pueblos presented a picture of idle indifference. They grew very slowly and were made up of a group of small adobe buildings and a church, all clustered around a Spanish plaza. The pueblo of Los Angeles—christened "El Pueblo de Nuestra Senora de Los Angeles"—the City of Our Lady of the Angels, was first located in 1769 by Governor Gaspar de Portola and later received its pueblo grant by royal decree of Carlos III, King of Spain.

In 1822 Mexico gained her independence from Spain and acquired California as a prize of conquest. Thereafter land grants were made at the pleasure of governors appointed from Mexico City. Then followed a period of restlessness, quarrel and conflict between the Mexican government and the mission churches, and by 1840 the great chain of missions was broken, many of the missions robbed and sacked, and the mission lands confiscated and regranted—regranted to those more interested in the financial and military support of the Mexican government than in the spiritual redemption of the Indians. The greatest of all the mission lands—the Rancho Ex-Mission de San Fernando—116,000 acres extending from mountains to mountains on all sides of the San Fernando Valley—was seized and held by the government until 1846. During that year armed invasion of California by the energetic Yankee was commenced and Governor Pio Pico, the last of the Mexican governors, desperate for funds with which to equip his army to combat the invasion, granted the great rancho to Don Eulogio de Celis for the sum of $14,000, or about 11 cents an acre. In this grant, the governor provided that if the Mexican government could raise the $14,000 within 90 days, the money should be refunded to de Celis and the ranch revert to the government. But the government of Pio Pico and of Mexico in California did not itself last the 90 days, much less raise the $14,000, and the expiration of that time found Pio Pico defeated and in full flight to his mother country.

During the war with Mexico, California witnessed many stirring encounters and skirmishes, the Mexicans maintaining chiefly a guerilla warfare on the ever-increasing tide of Americans. By the treaty of Guadalupe Hidalgo, entered into in 1848, at the close of the war, California became a part of the United States, and the terms of this treaty provided that bona fide Spanish and Mexican land grants be held inviolate. A land commission was created by special act of Congress to consider the claims of grant, determine their true owners, fix their boundaries, and confirm their titles.

Almost simultaneously the "gold rush" of '49 brought thousands to California. While the influx was particularly directed to the northern part of the State, it acted generally to enhance the value of all California land, and it also brought thousands of undesirables into the country. Many of these saw in the vague and uncertain Spanish and Mexican land grants opportunities for the filing of bogus and fraudulent land claims, and these were in litigation for years.

In 1850, when California became a State, our present system of recording was commenced. And it is interesting to note that the first two books of deeds in Los Angeles County are written entirely in Spanish.

Now the pueblo of Los Angeles, with a population of 1,610 souls, entered into a period of steady, slow development. Lieut. E. O. C. Ord, of the United States Army, was commissioned to survey and plat the pueblo proper, and Capt. Henry

Hancock, later major, United States Army, surveyed the outlying acreage within the original pueblo grant. From these two surveys we have Ord's survey, comprising most of the down-town business district of Los Angeles, and Hancock's survey of farm lots, which latter has long since ceased to be referred to on account of later resurveys into city lots. It was Ord who gave the name to Spring Street. Legend has it that he was in love with a beautiful Mexican senorita, whom he had christened his "Primavera" or "Springtime." When he was later commissioned to survey and plat the pueblo of Los Angeles, he named one of the principal streets for his sweetheart and called it Calle Primavera—or Spring Street. The original pueblo grant described a territory two leagues square extending from what is now Indiana Avenue on the east to Hoover Street on the west, Twenty-fifth Street on the south, and to a point about Fountain Avenue on the north. But on the north side, the Rancho San Rafael took a large portion of the land embraced by the grant, so the pueblo boundaries were not entirely square.

Under pueblo rights, each inhabitant was entitled to a deed from the city for the property which he was occupying, the deeds following the possession lines. But a great deal of the outlying lands were not occupied, and, the Spanish law no longer prevailing, the city sold these for revenue with which to build schools and to meet the city's expenses, realizing as much as $5 an acre for some of this "outlying" land.

Sometimes the sale of the land would not keep up with the expenditures and the city would be compelled to pay its debts with land. For instance, one O. W. Childs contracted to build a large zanja, or water ditch, for the city, for which service he received a plat of ground extending from Main Street to Figueroa and Sixth Street to Pico—the very heart of the present metropolis.

Little of the original pueblo property yet remains in the city; some parcels, however, were never conveyed. One of these is the old Plaza, another is Elysian Park, and still another is the 300-foot official bed of the Los Angeles River.

Not only did the city sometimes pay in land, but ranch holders often used land as a medium of exchange. One of the now most valuable undeveloped properties in Los Angeles County—the Rancho Topango Malibu Sequit—was exchanged, in 1848, in settlement of a grocery bill. Its value is to-day figured in many millions.

The records also show a transaction wherein one Ramon Valdez exchanged with one Ygnacio Machado a considerable portion of land "for the sum of 46 barrels of grape brandy to contain 150 quarts each, and of 25°, and of good quality, payable 8 barrels at the present time and the remainder to be in the year 1853."

Slowly the great holdings were broken up, first into many big ranches, then hundreds of small ranches, now thousands of small homes. But even now many parcels carry in their legal description a reference to the time when they were a part of a Spanish caballero's great ranch, such as "part of the Rancho Cienega o Paso de La Tijera," "Rancho Rodeo de Las Aguas" or "Rancho San Jose de Buenos Ayres." Many of the ranchos were beautifully named for a patron saint, such as Santa Anita, Santa Gertrudes, San Francisco, San Vicente. Some were given a poor start by such names as Rancho Los Coyotes, or Rancho El Escorpion.

In 1886 the transcontinental line of the Atchison, Topeka & Santa Fe Railway Co. was completed, and its entrance into a field previously dominated by the Southern Pacific was a signal for a fierce railroad war. Railroad fares from the East were slashed to but a fraction of the standard fare and thousands were transported to California at a heavy loss to the railroad companies. With a sudden increase in population and prosperity, land prices soared. The greatest land boom in the history of the country followed. Immense subdivisions were hurriedly opened up and sold out. Maps were prepared and filed in such a hurry that few were errorless. Many had two blocks of the same number. Some maps had more lots platted of a given width than the total area which they were subdividing could contain. Street center measurements were never given, ties to adjacent land were seldom given, and even the widths of streets dedicated were sometimes omitted. Great harbors were planned and pictured where harbors could never be. Small railroads were built to promote town sites, only to be torn up or abandoned when the lots were sold.

In the fall of 1888 the boom broke and the price of land suddenly dropped until it was only a fraction of the boom price. Thousands went back East and forgot their "now worthless California lots," leaving them to the mercy of

the tax title men. Fortunes were made, but few were kept, as the fever to pyramid the gains and make more and more kept most of the speculators in the race to the end. Deeds and mortgages were recorded with no apparent regard for accuracy of description and conveyancing was for the most part carelessly handled during this period of frenzied real-estate activity. The best guaranty of title was the integrity of the seller. Some small companies were organized for the purpose of issuing abstracts of title—the abstracts to be passed upon by the landowner's attorney.

In 1890 Mr. O. P. Clark, present secretary-treasurer of the Title Insurance & Trust Co., and the late Mr. O. F. Brant, for 28 years the company's general manager, took over the management of the Los Angeles Abstract Co. It was evident to these enterprising men that something must be done to improve the business of abstracting, and to this end the Los Angeles Abstract Co. and the Abstract Title Insurance Co. were merged in December, 1893, and the new organization began to issue certificates of title. Thus emerged the Title Insurance & Trust Co. with resources of $300,000.

The certificates of title contained an exact statement of the condition of the title as revealed by the records, although the company did not assume any legal liability for the accuracy of such statement.

To eliminate the many defects in titles, the company had new surveys made and was instrumental in having many deeds and other instruments executed to clear clouded titles. Legislative action came to the rescue in this important task, until to-day there remains little of the confusion and inaccuracy of those early years.

By the year 1895 it became evident that certificates of title did not offer to the landowning public full protection for their property, consequently Title Insurance & Trust Co. began issuing guaranties of title and policies of title insurance. It was in this year that the presidency of the company was assumed by Mr. William H. Allen, jr., who serves in that capacity to-day.

The guaranty of title stated in condensed form the condition of the title as shown by the records, but it went further than the certificate. It guaranteed the correctness of the statements it contained. The policy of title insurance went still further. It not only insured to the owner of property the condition of the title as disclosed by the records, but it also insured against forgery and other defects not disclosed by the records. Mortgagees or other interested parties may be named as the insured beneficiaries in guaranties and policies as they are written to-day.

It was in 1895 that the company also realized that real-estate transactions and transfers could be greatly facilitated by creating an agency to act as a go-between or stake holder for buyers and sellers, borrowers and lenders. Thus was created the modern escrow. "Escrow" was described by Blackstone in his commentaries, but it was left to the Title Insurance & Trust Co. to apply the escrow commercially to real-estate transactions—which it did in 1895—the first escrow, as we know it, in the United States. In 1897 a trust department was added, this company being the first in the southwest to offer trust services.

The year 1912 saw the company move from the old quarters at Franklin and New High Streets to its more imposing home in the limit-height Title Insurance Building at Fifth and Spring Streets. A large portion of the new structure was necessary to house the company with its valuable records and its family of some 250 employees. Although its headquarters have changed with the rapid expansion of the business, the executive personnel of the company has remained unchanged with the single exception that Stuart O'Melveny succeeded Mr. Brant upon the latter's death in 1922. Within a year we realized the necessity and importance of constructing a new home for the company. Such a home must be commodious, equipped with all modern improvements to meet the needs of a rapidly growing enterprise. It must have proper lighting and ventilating facilities, that work might be properly and efficiently completed and cafeteria accommodations and rest rooms for the comfort and convenience of its 700 employees. For, after all, modern business organizations are fundamentally units of human forces functioning in the completion of assigned tasks, rendering service to the community and helping to build a great commonwealth. For the customer also there must be every convenience and comfort; even garage facilities so that cars may be parked during the transaction of business. In all details of the structure there must be not only the beauty so suggestive of the traditional attractiveness of these southland environs, but the simplicity and the mass which are symbolic of

the company's conservatism and strength. Plans were drawn, redrawn, and drawn again, until finally excavation was commenced in January, 1927. Built of the finest materials obtainable, strengthened far beyond the demands of the most exacting of architects, the new Title Insurance Building extends for a distance of 242 feet along Spring Street—and rises to the limit of allowable height—one of the largest buildings in the city.

On the second floor are located the trust and escrow departments and on the third floor, the title insurance department. It is on this floor that some 500 employees are engaged in the searching of titles and the maintenance of the plant which makes this searching possible. On the fourth floor are the accounting and law departments, and other offices incidental to the operation of the company.

The executive offices are located on the tenth floor, the remaining area of which is devoted to the health and comfort of the employees. An emergency room has been provided for a doctor and nurse, rest rooms and recreation rooms for men and women, and the cafeteria which seats some 250 people.

The building houses the most completely equipped title plant in the world—the most complete and modern equipment for the production of title work. Yet withal, there is a refinement of detail and elegance of appointment that embody the spirit of welcome which is such an essential element of the business policy of this old company.

Mr. WHEELER. Did you send to Mr. William S. Summers, attorney for the homesteaders, the letter of which this is a copy [handing paper to witness.]

Mr. O'MELVENY. I am sorry I can not answer. I can not identify the letter, but if it is necessary and the committee desires it I will look in my correspondence and see if this is a copy of the letter.

Mr. WHEELER. Did you receive any letter from Mr. Summers in connection with this, to your memory?

Mr. O'MELVENY. I am sorry I can not answer absolutely. I remember receiving a letter from some one criticizing the book. I did not pay much attention to it, so I can not remember much about it. I can get the letter if it is material.

Mr. WHEELER. Are you at the present time in any way the record owner of any land in the San Fernando Valley?

Mr. O'MELVENY. No, sir.

Mr. WHEELER. Were you ever the record owner of such land?

Mr. O'MELVENY. No, sir.

Mr. WHEELER. You never sold or caused to be sold any of that land?

Mr. O'MELVENY. No, sir.

Mr. WHEELER. That is all.

The CHAIRMAN. That is all, Mr. O'Melveny.

FURTHER TESTIMONY OF H. N. WHEELER, LOS ANGELES, CALIF.

The CHAIRMAN. Through Mr. Sartori do you expect to follow the same line of questioning as you have with the others?

Mr. WHEELER. Yes, sir.

The CHAIRMAN. In what respect, Mr. Wheeler, do you feel that this is material?

Mr. WHEELER. Because I hope to show before this investigation is closed that the Title Insurance & Trust Co. appears as the record owner of a great deal of this land, and a number of these witness do, and that they have sold it; that some of the transactions have been consummated through the United States mail and that there

was no title to it; that the transactions was, from that standpoint, absolutely invalid and fraudulent. If I were to sell a piece of land to which I had no title and did it through the United States mails, they would pick me up quick enough. That can be shown.

Senator BRATTON. Mr. Wheeler, the committee feels that the proof et cetera revolve around the question of whether or not there is a title instead of whether there has been a number of subsequent and intermediate transactions, that is whether John Smith sold Jim Jones 10 acres in the San Fernando Valley last year and gave him a warranty deed with a certificate of title, because that does not appear to the committee to have even the remotest materiality to the inquiry now being conducted.

Mr. WHEELER. My only desire is to bring out the fact that there is no title to the grant and in order to do so we will have to have men who have held that ground and sold it produce whatever record they have, and have who is the record owner of it at the present time produce some sort of document, whatever you might call it.

The CHAIRMAN. Whatever record they might have is available, is it not, in the files of the county and in the records of the county?

Mr. WHEELER. I should think so; but should they not be called to produce it?

Senator BRATTON. While we feel that the case should be prepared for submission to the committee, what we desire to know is whether or not this land was granted, and if so, the circumstances under which it was granted and what was done toward confirming it. We are wholly disinterested in whether 10 acres were sold last year or two years ago, or to know the name of the grantor or the name of the grantee, and the committee feels that the time has come when we should confine this investigation to the issue, and not inquire whether Mr. Chandler sold 10 acres of land or Mr. O'Melveny was interested in 15 acres of it.

Mr. WHEELER. Then in line with that suggestion, I have here a certified copy of an application for confirmation of the San Fernando Valley as a grant.

Senator BRATTON. Let us have that in the record.

The CHAIRMAN. That will be listed as Exhibit T.

EXHIBIT T

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA

Be it remembered, that on this seventh day of October, Anno Domini One thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Eulogio de Celis for the place named Mission San Fernando was presented and ordered to be filed and docketed with No. 378 and is as follows, to wit: (Vide p. 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in this chronological order, to wit:

LOS ANGELES, *October 19, 1852.*

In case No. 378, Eulogio de Celis for the place named "San Fernando," the deposition of Pio Pico, a witness in behalf of the claimant taken before Com-

missioner Hiland Hall with documents marked "H. H. No. 1 and 2," annexed thereto, was filed: (Vide p. 4 of this transcript.)

LOS ANGELES, *October 21, 1852.*

In the same case the deposition of Nemecio Dominguez, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed: (Vide p. 9 of this transcript.)

LOS ANGELES, *November 5, 1852.*

In the same case the deposition of Augustin Alvera, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed: (Vide p. 11 of this transcript.)

SAN FRANCISCO, *December 13, 1852.*

In the same case the deposition of Manuel German, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed: (Vide p. 12 of this transcript.)

SAN FRANCISCO, *November 28, 1854.*

Case No. 378 was ordered to be placed at the foot of the third-class cases on the trial docket.

SAN FRANCISCO, *December 26, 1854.*

Case No. 378 was ordered to be placed at the foot of the fourth-class cases on the trial docket.

SAN FRANCISCO, *March 22, 1855.*

Case No. 378 was submitted on briefs and taken under advisement.

SAN FRANCISCO, *July 3, 1855.*

In the same case Commissioner S. B. Farwell delivered the opinion of the board confirming the claim: (Vide p. 27 of this transcript.) And the following order was made, to wit: (Vide p. 31 of thi stranscript.)

PETITION

Before the commissioners to ascertain and settle private land claims in the State of California, Eulogio Celis give notice that he claims a tract of land situate in the present county of Los Angeles known by the name of Mission of San Fernando bounded as follows: On the north by the rancho of San Francisco, on the west by the Mountains of Santa Susana, on the east by the rancho of Miguel Trinfa and on the south by the Mountains of Portesuelo, which tract is supposed to contain 14 square leagues.

Said land was sold to the said Celis by a deed of grant dated the 17th day of June of the year eighteen hundred and forty-six by Pio Pico, constitutional Governor of the Californias, thereto duly authorized by the supreme government of the nation and by a decree of the departmental assembly of April third, eighteen hundred and forty-six, said sale was made for the sum of fourteen thousand dollars, which was paid by the said Celis to the said Pio Pico who acknowledged the receipt thereof as will more fully appear by reference to the aforesaid deed of grant, copy whereof marked "A" is hereto annexed, together with a certified copy of the instructions from the Minister of War and Navy to the Governor of the Californias, marked "B" and a certified copy of the entry made in the archives of the former Spanish and Mexican Territory of Department of Upper California of the aforesaid and of grant marked "C," which said documents are hereto annexed.

Claimant avers that the aforesaid deed of sale contains the condition that the Government of Mexico shall have the right to anull contract by reimbursing to this claimant the aforesaid sum of fourteen thousand dollars with the current rates of interest and in case said sum is not reimbursed within said eight months said mission of San Fernando shall be his in full (fine?) property. And this claimant avers that said sum of fourteen thousand dollars was never reimbursed to him by the Mexican Government or by any person whatsoever.

Said mission of San Fernando was leased by the Government of Mexico to Andres Pico is December, 1845, for the term of (blank) years which lessee has been in the occupancy of the said property up to the present date.

Claimant further avers that he knows of no other claim to the aforesaid mission and he relies on the documents above referred to and witnesses he shall produce to substantiate his claims.

N. HUBERT,
Attorney for Claimant.

Filed in office October 7, 1852.

GEO. FISHER, *Secretary.*

DEPOSITION OF PIO PICO

OFFICE OF U. S. LAND COMMISSION,
Los Angeles, October 19, 1852.

On this day before Hiland Hall, one of the commissioners for ascertaining and settling private land claims in the State of California, came Pio Pico, a witness produced in behalf of the claimant in the case of the petition of Eulogio de Celis being No. 378 on the docket of the commissioners and was duly sworn.

The United States associate law agent was notified and attended.

In answer to questions by the counsel for the claimant the witness testified as follows:

My name is Pio Pico, age 51 years, and my residence is in the city of Los Angeles. I am a native of California and have always resided here. I was actually in the exercise of the office of Governor of California from the latter part of the year 1844 to the month of September, 1846.

In the month of June, 1846, I was exercising the office of Governor of Jose Matias (?) Moreno was discharging the duties of the office of secretary ad interim.

A paper now shown me purporting to be a grant from the Government of Mexico made by myself as governor of the Californias to Eulogio de Celis, dated the 17th of June 1846, was executed by me in my official capacity at the day it bears date, and the signature of Moreno, who was then acting as secretary, is his genuine signature.

Said paper is hereto attached and marked "No. 1 H. H."

I made the grant under and by virtue of my authority as governor and for the purpose of providing means to carry on the war then existing between the Government of Mexico and the United States.

I had authority to make the grant by virtue of instructions from the Minister of War and Marine of Mexico, bearing date Mexico, March 10, 1846, and which I now produce. It is a paper connected with my official duty and conduct, and I desire to retain it in my possession; paper marked "No. 2 H. H." hereto annexed is a true copy of said original, compared by myself, and also by the secretary of the board of commissioners. The original is a genuine paper furnished me officially.

I am well acquainted with the laws, usages, and customs by which the governors of California were governed in the granting of land and the issuing of titles.

The title paper before mentioned would have conferred on Celis, the grantee, a good and valid title to the land described if the government of the country had not been changed from that of Mexico to the United States.

The residence of Moreno, the former secretary, is in San Diego, but he has been absent on a voyage to Mazatlan and I do not know that he has returned.

The sum of fourteen thousand dollars mentioned in the grant to Celis was paid to me while I was acting as governor, and it was applied to the public purposes in the defense of the country.

The Government of Mexico did not furnish the government of California any means for defending itself; there was no funds in the hands of the local government. It was necessary that the government should procure the means of defence even by extraordinary sacrifices—there being no money at the command of the governor, it was necessary to sell the mission lands to raise it.

I know of no other means by which the money could have been raised.

The missions were in a decaying condition and going to ruin, the local government of California had assumed an authority over them, and it had been the intention of the government to dispose of their lands, either by sale or distribution, previous to receiving the special authority before mentioned.

The sum of fourteen thousand dollars for which the property was sold to Celis as before mentioned was considered at the time as a fair price for it by the government.

The money was not paid back to Celis according to the terms of the grant, nor any part of it.

Before the sale to Celis the land had been leased by the government to Juan Manzo and Andres Pico for nine years, and since the sale it has been occupied by the said lessees and they still occupy it.

In answer to questions by the associate law agent the witness testified as follows:

At the time of the sale I do not know whether the mission was indebted to Celis or not.

The sale to Celis was not at public auction but at private sale.

I do not recollect the precise terms of the decree of the departmental assembly of the thirteenth of April, 1846, referred to in the grant to Celis. It had reference to the authority given to the local government to provide the means to carry on the war and also to the leasing or selling of the mission lands.

I do not recollect whether it directed the sale of the mission lands to be made at public auction or not.

There was not any law in force at the time of the sale of the mission lands of the Government of Mexico prohibiting their sale. By the terms of the sale to Celis, he was bound to support a priest at the mission always. Celis has not yet entered into the possession of the land. I do not know whether the present lessees pay rent or not.

I believe they ought to pay not according to the tenor of the lease but whether they do or not, or to whom I do not know. I believe that no part of the land sold was set apart for the support of the priest or the maintenance of public worship—no part of the money received on the sale was divided among the Indians.

In answer to questions by the claimant, the witness on referring to the deed of sale to Celis says that he still thinks the grantee was bound to support the priest always as before stated.

PIO PICO.

Sworn and subscribed before me.

HILAND HALL, *Commissioner.*

Filed in office October 19, 1852.

GEO. FISHER, *Secretary.*

DEPOSITION OF N. DOMINGUEZ

OFFICE OF THE UNITED STATES LAND COMMISSION.
Los Angeles, October 21, 1852.

On this day before Hiland Hall, one of the commissioners for ascertaining and settling private land claims in California, came Nemicio Dominguez, a witness produced in behalf of the claimant, Eulogio de Celis, whose petition is No. 378 on the docket of the board, and was duly sworn; his evidence being given in Spanish, was interpreted by the secretary.

The United States associate law agent was notified and attended.

In answer to questions by the counsel for the claimant the witness testified as follows:

My name is Nemicio Dominguez; my age is 65 years, and I reside at Santa Barbara. I am a native of Santa Barbara in California.

I am acquainted with the mission of San Fernando. I own a tract of land called Virgines, which adjoins the mission.

The mission in 1846 was bounded on the north by the Rancho San Francisco, on the east by lands of Verdugas, on the south by the lands of Millus and by the river Los Angeles, and on the west by my own land, called Vergines, and Encino & Escorpion.

All the lands within those boundaries were claimed by the mission at that time. I believe about 13 or 14 leagues constituted the mission at that time.

In answer to questions by the associated law agent:

There are some Neophites, children of the mission, living on the land before described.

It is understood that they have a right to live there, having been born there and being children of the mission.

These Indians occupy 2 square leagues of land that was assigned them and the boundaries put up, and I, as one of the adjoining neighbors, know it was done, having been cited to be present at the time.

These boundaries were fixed when Jose Castro was the commandant general in the time of the revolution.

The Indians applied to have the boundaries fixed, and it was done. Andreas Pico now occupies the missions, as I understand, under a lease for nine years which will expire in about two years more or less.

NEMICIO (his x mark) DOMINGUEZ.

Sworn and subscribed before me.

HILAND HALL, *Commissioner.*

Filed in office October 21, 1852.

GEO. FISHER, *Secretary.*

DEPOSITION OF A. OLVERA

LOS ANGELES, *November 5, 1852.*

On this day, before Commissioner Hiland Hall, came Agustin Olvera, a witness in behalf of the claimant, Eulogio de Celis, petition No. 378, and was duly sworn, his evidence being interpreted by the secretary.

The United States associate law agent was present.

In answer to questions by the claimant's counsel, the witness testified as follows:

My name is Agustin Olvera; my age is 32, and I reside at Los Angeles.

A paper is now shown me purporting to be a grant to Eulogio de Celis of the mission of San Fernando, dated 17th of June, 1846. The body of said grant is in my handwriting. It was written by me during the time Pio Pico was governor and I think it was at the date of the document. It was written I believe in the office of the governor.

In answer to questions by the associate law agent, the witness testified as follows:

At the time I write the document I was secretary to the departmental assembly and a member of it, and I frequently assisted in the governor's office.

I do not know whether the sale was at public auction or not.

Said paper is annexed to the deposition of Pio Pico, heretofore taken in this case.

AUGUSTIN OLVERA.

Sworn and subscribed before me.

HILAND HALL, *Commissioner.*

Filed in office November 5, 1852.

GEO. FISHER, *Secretary.*

DEPOSITION OF M. GERMAN

LOS ANGELES, *November 17, 1852.*

On this day before Commissioner Hiland Hall came Manuel German, a witness in behalf of the claimant, Eulogio de Celis, petition No. 378, and was duly sworn, his evidence being given in Spanish and interpreted by the secretary.

The United States associate law agent was present.

In answer to inquiries by the counsel for the claimant, the witness testified as follows:

My name is Manuel German; my age is 59 years, and I reside in Los Angeles.

I know the mission of San Fernando; I know the boundaries. They are the rancho of the Berdujos(?) on one side, the rancho of San Francisco on another; the rancho of Virgines on another side. The river of Angelus is another boundary.

MANUEL (his x mark) GERMAN.

Filed in office December 18, 1852.

GEO. FISHER, *Secretary.*

Sworn and subscribed before me.

HILAND HALL, *Commissioner.*

TRANSLATION OF DEED OF GRANT

The undersigned constitutional governor of the department of California, in virtue of the powers vested unto him by the supreme Government of the Nation, and in virtue of a decree of the honorable departmental assembly of April 8d of the present year, to raise means for the purpose of maintaining the integrity of the Territory of this department for the sum of $14,000, which he receives, sells unto Don Eulogio de Celis and his heirs the ex-mission of San Fernando, with all its properties, estate, lands, and movables, with the exception of the church and all its appurtenances, which remains for public use.

Said purchaser obligating himself to maintain on these lands the old Indians on the premises during their lifetime, with the right to make their crops, with the only condition that they shall not have the right to sell the lands they cultivate and any other which they possess without anterior title from the departmental government, for all of which the aforesaid Señor Celis shall be acknowledged as the legitimate owner of the aforesaid ex-mission of San Fernando to use the same as to him shall seem best, guaranteeing unto him, as this government does guarantee, that he is well possessed of the aforesaid estate with all the prerogatives granted by law to purchaers, with the only condition that the above-mentioned purchaser shall not take possession within the space of eight months from the date hereof, within which delay the government shall have the right to annul this contract by reimbursing to the aforesaid Señor Celis the sum of $14,000 with interest at the current commercial rates, but if this reimbursement is not operated within the aforesaid eight months this sale shall be valid.

The above-mentioned purchaser binds himself to warrant to the father minister of the aforesaid establishment his subsistence and clothing with all possible decency, together with the rooms assigned to him or those which he justly requires.

And for the establishment of this fact and the security of the purchaser the present document is issued and shall be acknowledged and respected by all the authorities of the department for its better accomplishment.

And in faith of which the undersigned and secretary of the department grant their authority and affix their signatures in the city of Los Angeles on this ordinary paper, for want of stamped paper, the 17th of June, 1846.

PIO PICO.
JOSE MATIAS MORENO,
Secretary pro tempore.

Let entry of the above be made in the respective book.

MORENO.

Filed in office October 7, 1852.

GEO. FISHER, *Secretary.*

DEPOSITION OF PIO PICO

(Translation)

MINISTER OF WAR AND MARINE.
SECTION OF OPERATIONS PRINCIPAL.

To the GENERAL COMMISSIONER OF CALIFORNIA:

I this day communicate as follows:

The preparations which the United States are making and the approach of their naval forces toward our ports leave no doubt that war with that power is about breaking out, and his excellency, the President pro tempore, is resolved to sustain the rights of the nation, he wishes that in all the ports of the Republic where the enemy may present himself a vigorous defense be made, capable of giving honor and glory to the national flag.

For that object and until the supreme government appropriates and sends you the necessary means he relies upon your patiotism and fidelity to dictate the measures which you may judge necessary for the defense of that department for which purpose you and his excellency are invested with full powers and I have the honor to insert the same to you for your cognizance, hoping

that you on your part will lose no efforts to preserve entire the rights of the nation.

God and Liberty, March 10, 1846.

FORNEL.

To His Excellency the Governor of the Department of the Californias:

This is a true copy of the original which remains in my possession and to which I refer.

Angeles, September 30, 1852.

PIO PICO.

I certify the foregoing to be a true and correct translation of the certified copy of the original in possession of Pio Pico, late Governor of the Department of the Californias, which copy I have compared with the original.

Office of the Board of Land Commissioners for California.

Angeles, October 8, 1852.

GEO. FISHER, *Secretary.*

Filed October 7, 1852.

GEO. FISHER, *Secretary.*

[Translation of communication from Minister of Justice]

Minister of Justice and Public Instruction.

Most Excellent Sir: His Excellency the President has received information that the governor of that department has ordered that the property belonging to the missions thereof be put up for sale at public auction, which your predecessor had ordered to be returned to the respective missionaries for the direction and administration of their temporalities. Therefore he decreed proper to direct me to say that the said governor will please to report upon these particulars, suspending immediately all proceedings respecting the alienation of the aforementioned property till the determination of the supreme Government.

I have the honor to communicate it to your excellency for the purposes indicated protesting to you my consideration and esteem.

God and Liberty. Mexico, November 14, 1845.

MONTES DE OCCA.

His Excellency the Governor of the
Department of the Californias,
Port of Monterey:

A true and correct translation of a traced copy in case No. 348, filed April 10, 1855. Witness my official signature this 14 April, 1855.

GEO. FISHER, *Secretary.*

Filed in office April 14, 1855.

Eulogio de Celis *v.* The United States. No. 378

For the ex-mission of San Fernando, in the county of Los Angeles, containing about 13 square leagues.

OPINION OF THE BOARD

(Delivered by Commissioner S. B. Farwell)

This claim is based upon a grant issued to the claimant by Governor Pio Pico on the 17th day of June, 1846.

The grant purports to have been made in consideration of the payment of the sum of $14,000 in money.

Pio Pico testifies that he executed the grant at the date that the same bears and that it was made under special instructions of his Government for the purpose of raising the necessary funds to enable the department to prepare for a defense against the attack of the Americans and that the sum of $14,000 was actually received by him from the grantee in consideration thereof and that the funds were used by him for the benefit of the nation in the defense of the same.

The genuineness of the grant is clearly established and the circumstances under which it was made, so, clearly explaining as to have no doubt but it was done in good faith.

The grant contains a clause reserving the right of the Government to annul the same at any time within eight months from the date thereof by refunding

to the grantee the consideration money, together with the usual rate of interest thereon, which rate, if the transaction had been between individuals changed the nature of the grant to that of a mortgage. But to apply the doctrine in this case would be in effect to compel the grantee to remain a mortgagee, without power to foreclose the mortgage against the Government inasmuch as the Government stands upon its sovereignty not acknowledging the rights of individuals to have their actions of law against it, only in cases where provisions are made by special statute.

We think the petitioner in this case is entitled to a confirmation and a decree will be entered accordingly.

Filed in office July 3, 1855.

GEO. FISHER, *Secretary.*

DECREE OF CONFIRMATION

Eulogio de Celis *v.* The United States. No. 378

In this case on hearing the proofs and allegations it is adjudged by the commission that the claim of the said petitioner is valid and its is therefor decreed that his application for a confirmation thereof be allowed.

The land of which confirmation is hereby given is called the ex-mission of San Fernando, situate in the county of Los Angeles, and to be located; the boundaries are known and recognized on the 17th day of June, 1846.

Bounded on the north by the rancho called San Francisco, on the west by the mountains, Santa Susana, on the east by the ranch Miguel, and on the south by the Punto (?) Portesuelo.

R. AUG. THOMPSON,
S. B. FARWELL, *Commissioners.*
GEO. FISHER, *Secretary.*

Filed in office July 3, 1885.

ORDER

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the southern district of California, it is hereby ordered that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States District Court for the Southern District of California, and the other be forwarded to the Attorney General of the United States.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing 31 pages, numbered from 1 to 34, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses, upon which the same is founded, on file in this office, in case No. 378 on the docket of the said board, wherein Eulogio de Celis is the claimant against the United States, for the place known by the name of Mission San Fernando.

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office) at San Francisco, Calif., this 21st day of November, A. D. 1855, and of the independence of the United States of America the eightieth.

[SEAL.] GEO. FISHER, *Secretary.*

IN THE DISTRICT COURT OF THE UNITED STATES, SOUTHERN DISTRICT OF CALIFORNIA

The United States, appellant, *v.* Eulogio De Celis, appellee. No. 343. (Exceptions to Survey.)

Ex Mission of San Fernando.

Now comes the said appellants by J. R. Gitchell, United States district attorney for the southern district of California, and excepts to the final survey of the premises claimed in this cause, and made and approved by the Surveyor General

of the United States. And the said United States specify the following lines upon the map of said survey to which exceptions are taken, to wit, line 16 commencing at a point on said map marked "Black Walnut SF 16," lines 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 44. Also line No. 1 commencing at a point on said plat of survey marked "Beginning post SF 1" and ending at a point marked "Oak tree SF 2."

J. R. GITCHELL,
United States District Attorney.

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF CALIFORNIA, *ss:*

J. R. Gitchell, United States district attorney for the southern district of California, being duly sworn, says that the above and foregoing exceptions to the survey of the premises claimed in said cause are true as he is informed and believes.

J. R. GITCHELL.

Sworn and subscribed to before me this 12th day of April A. D. 1861.

G. L. MIX, *Clerk.*

To Eulogio De Celis or his attorney:

Take notice that the foregoing exceptions to the final survey in this cause have been filed in the district court of the United States for the southern district of California, and that the same will be brought on for hearing within 30 days after service of this notice upon you, or as soon thereafter as counsel can be heard.

April 12, 1861.

J. R. GITCHELL,
United States District Attorney.

UNITED STATES OF AMERICA,
Southern District of California, ss:

I, G. L. Mix, clerk of the United States District Court in and for the Southern District of California do hereby certify that the within and foregoing is a full, true, and correct copy of the original exceptions filed in this cause on the 12th day of April A. D. 1861, as the same appeals on file and of record in my office.

In witness whereof I have hereunto set my hand and affixed the seal of this court this 22d day of April, A. D. 1861.

[SEAL.] G. L. MIX, *Clerk.*

Served by me personally on Andres Pico according to law this 30th day of October, 1861, in the city of Los Angeles.

HENRY D. BARROWS,
United States Marshal, Southern District of California.

Not served because the party, Andres Picos, on whom instructions were given to serve the within process by United States district attorney could not be found in the southern district of California.

Los Angeles, June 26, 1861.

JAMES C. PENNIE,
United States Marshal.
By J. F. BURNS, *Deputy.*

(Indorsed.) Filed October 31, 1861.

G. L. MIX, *Clerk.*

I, Walter B. Maling, clerk of the United States District Court for the Northern District of California, do hereby certify that the foregoing and hereto attached 24 pages, numbered from 1 to 24, both inclusive, contain a full, true, and correct copy of the transcript of the record of the proceedings (that part of the transcript which is written in the English language), and of the opinion of the United States Land Commissioner and the exceptions to survey, in the case of the United States of America *v.* Eulogio De Celis, District

Court No. 343 and numbered on the docket of the land commission No. 378, as the same now remain on file and of record in my office.

I further certify that as the original of the foregoing transcript is written in longhand and in some instances not easily decipherable, errors in copying certain words may exist in this copy.

In witness whereof, I have hereunto set my hand and affixed the seal of the said United States District Court, Northern District of California, at San Francisco, Calif., this 28th day of July A. D. 1926.

[SEAL.] WALTER B. MALING, *Clerk.*
By C. M. TAYLOR, *Deputy Clerk.*

Mr. WHEELER. Mr. Chairman, may I reserve the right to take copies of that?

The CHAIRMAN. Certainly. With relation to the documents of which you want to get a copy, I would suggest that before you turn it over to the reporter that you make the copy of it for yourself and then furnish it to the reporter, because it will not be possible for you to withdraw it after it has been submitted.

Mr. WHEELER. Very well, Mr. Chairman. There is just one other little document and then I am through. That is a book known as The Conspiracy. An Exposure of the Owens River Water and San Fernando Land Fraud, written by W. P. Stilman. It is marked here, "No. 1." I suppose that means edition No. 1. I wish to offer this for the record.

The CHAIRMAN. That may be received as Exhibit U, and will be placed in the committee's files.

Mr. WHEELER. That is the extent of my argument here to-day, Mr. Chairman.

Mr. HARTKE. I would like to ask Mr. Wheeler some questions if I may.

The CHAIRMAN. Very well. Mr. Wheeler has already been sworn.

Mr. HARTKE. Mr. Wheeler, it is our desire to get at such facts in connection with these matters that you are willing to give, and in line with the suggestion made by the committee to Mr. Johnson this morning, I want to say now that we do not want you to answer any question that you feel a reluctance about answering, and we do not want you to answer if there is any question in your mind about any of them.

Mr. WHEELER. May I say just one thing in that connection?

Mr. HARTKE. Surely.

Mr. WHEELER. There are some questions which you may ask me that, because of my connection with this fight at the present moment, it will be improper for me to answer. Otherwise, I will be glad to answer any question I can and to help you in any way possible to get at the facts.

Mr. HARTKE. Are you the custodian of the records of the association referred to this morning?

Mr. WHEELER. What association do you mean?

Mr. HARTKE. The one that was referred to this morning, the Homesteaders' Protective Association, or whatever it is.

Mr. WHEELER. No, sir; I am not.

Mr. HARTKE. Who is the custodian of those records?

Mr. WHEELER. I do not know at this moment. I have never been a member of that association nor had any connection with it.

Mr. HARTKE. Have you ever known who was custodian of them?

Mr. WHEELER. Such records as they had I think were in the custody of their secretary, whose name was Walters.

Mr. HARTKE. What is the official name of that association?

Mr. WHEELER. I think they were known as the Homesteaders' Protection Association, or something of that sort. I really do not know that outfit.

Mr. HARTKE. Where did it have offices?

Mr. WHEELER. To my knowledge, it has no offices.

Mr. HARTKE. Where are your offices?

Mr. WHEELER. 571 I. W. Hellman Building, the offices of Mr. William S. Summers.

Mr. HARTKE. Was there any name adopted with reference to any Homesteaders' Association?

Mr. WHEELER. Do you mean the committee? We have a committee of 100, organized from several hundred homesteaders, and that office is the headquarters of that committee.

Mr. HARTKE. That committee is organized and represents how many homesteaders?

Mr. WHEELER. To my knowledge, I would say somewhere around 800 or over.

Mr. HARTKE. Who organized that group, Mr. Wheeler?

Mr. WHEELER. I did.

Mr. HARTKE. Did that group file application as a result of the help of you and your associates?

Mr. WHEELER. You mean under that committee?

Mr. HARTKE. Under that committee or otherwise.

Mr. WHEELER. The committee has been just recently organized and the homesteading that has been done has been entirely outside and before that committee was organized.

Mr. HARTKE. How long have you been connected with this work?

Mr. WHEELER. Approximately four years and three or four months.

Mr. HARTKE. Are you remunerated by this organization?

Mr. WHEELER. No, sir.

Mr. HARTKE. You have no financial interest in it at all?

Mr. WHEELER. You bet I have.

Mr. HARTKE. What is it, Mr. Wheeler?

Mr. WHEELER. I am getting 160 acres of ground down on the Palos Verdes Estates that I am told is worth half a million dollars, and for the work I am doing for the committee in the office I do not have to pay any attorney any fees; in other words, I get that clear without any fees.

Mr. HARTKE. And you spend all of your time in this way?

Mr. WHEELER. I certainly have.

Mr. HARTKE. For the last four years?

Mr. WHEELER. Not entirely for the last four years. I have been carrying on some other work; but the last year and a half I have.

Mr. HARTKE. Do the other applicants pay attorneys' fees in this connection?

Mr. WHEELER. I do not get that.

Mr. HARTKE. Have the other applicants paid attorneys' fees in this connection?

Mr. WHEELER. Some have and some have not. When I say "Some have not," I mean a great many people have filed homesteads on

the promise that they would pay, sometimes in bad checks and sometimes in notes which were never paid, and sometimes I have done it in a spirit of helping them out.

Mr. HARTKE. Has Mr. Summers remunerated you or paid you any money in this connection?

Mr. WHEELER. How do you mean that?

Mr. HARTKE. Have you received any money from Mr. Summers in connection with the carrying on of this work?

Mr. WHEELER. Yes.

Mr. HARTKE. To what extent?

Mr. WHEELER. I can not give you that. I do not know that I even have a record of it.

Mr. HARTKE. Is the record kept of the receipts that are taken in in the office?

Mr. WHEELER. Yes; since I took charge of it.

Mr. HARTKE. Who has those records?

Mr. WHEELER. I have.

Mr. HARTKE. Will you produce those records?

Mr. WHEELER No.

Mr. HARTKE. You will not produce them?

Mr. WHEELER. No, sir. Those records are not of any benefit in ascertaining the validity of any land titles and are not in line with Senate Resolution 291. They are strictly private, personal records having to do with our office, and until some reason is produced why I should show these records I will refuse to show them.

Mr. HARTKE. Those are the records that you had in mind this morning, are they not?

Mr. WHEELER. No. This morning you spoke of a list of homesteaders, and I will be glad to furnish that as quick as the secretary in the office can make up one.

Mr. HARTKE. In order that I may get this clear, that list of homesteaders will not include the list of fees which they paid?

Mr. WHEELER. No; for the reason that a great many of them pay no fees whatever.

Mr. HARTKE. You keep a separate list of homesteaders and a separate book of accounts for fees and money taken in from people?

Mr. WHEELER. More than that. I keep a triplicate record of everyone who files a homestead through our office; and naturally I have my financial records, my books. I would have to have them, of course.

Mr. HARTKE. Will you tell us what your accounts consist of, what books?

Mr. WHEELER. I think for the moment that is in line with my refusal of a litle while ago to give that information unless it is called for by the committee.

Mr. HARTKE. In that same connection, may I ask you if you keep an account——

Senator DALE. Will you wait just a moment, please, Mr. Hartke?

Mr. HARTKE. Certainly. I am sorry, Senator.

The CHAIRMAN. The committee is of mind that the question which has been propounded is quite material to the question which the committee has under inquiry. Will you repeat that question?

Mr. HARTKE. I will ask the reporter to repeat it.

(The reporter thereupon repeated the pending question as follows:)

Mr. HARTKE. Will you tell us what your accounts consist of, what books?

Mr. WHEELER. I have a cash book which records every bit of money received. I have a separate account that I would list as my bank ledger. That is what my accounts consist of.

Mr. HARTKE. Is that all, Mr. Wheeler?

Mr. WHEELER. That is all, as far as money is concerned. I have many records and books on locations.

Mr. HARTKE. Please state what other books you keep, and other records.

Mr. WHEELER. I have an alphabetical list of every homestead filed, using the contract like a card system in the files. Then I have a serial number on each homesteader who is filed, using the same system in the files. Then I have a book which is carried in the office and used by the secretary in which the name and address and so forth of every individual who file on a homestead is recorded.

Mr. HARTKE. Is that all you have?

Mr. WHEELER. As to records, I would say that is all in books. Then I have maps. Each time a homestead is filed the number is put on the quarter section that is shown on the map that that party files on, which completes the record.

Mr. HARTKE. Will you produce those, if requested to do so by the committee?

Mr. WHEELER. Yes, sir.

Mr. HARTKE. Mr. Wheeler, will you please explain the course of procedure that is adopted by this organization, or committee, in carrying through an application for homesteads from its beginning down to the final work on it?

Mr. WHEELER. The beginning—there have been a great many beginnings, but there have not been so many people who have filed homesteads; in fact, I have had some of these attorneys, title companies, and officials come into my office and ask to see the records in regard to these titles.

Mr. HARTKE. Will you please, if I may ask you, confine yourself to an individual who has filed an application, who has made a homestead entry. Just state how such a person came into your office and what work was done there and what was done in connection with that transaction.

Mr. WHEELER. Very well; I can do that.

Senator DALE. Pardon me for interrupting, but may I ask a question just there, please?

Mr. HARTKE. Certainly, Senator.

Senator DALE. As I recall your answer, Mr. Wheeler, you said some of these attorneys. Just what did you mean by that?

Mr. WHEELER. Well, I mean by that some of the attorneys that are very antagonistic to us, who are associated with the various title companies and real-estate subdividers, and with the crowd that we have had to fight in order to carry on this investigation and get to where we have gotten with it.

Senator DALE. I wish you would make that a little clearer, as to the crowd to which you refer.

Mr. WHEELER. I would say the banks of Los Angeles, the title companies of Los Angeles, and the big real-estate subdividers of Los Angeles.

Senator DALE. Very well. I am sorry to have interrupted you, Mr. Hartke.

Mr. HARTKE. That is perfectly all right, Senator. In that connection I would like to know the names of those attorneys.

Mr. WHEELER. You mean who called at the office?

Mr. HARTKE. Yes.

Mr. WHEELER. I still have the business cards of a great many of them down in the office, and I will be very glad to produce them and turn them over to the committee.

The CHAIRMAN. They will be placed in the files of the committee and marked Exhibit V.

Mr. HARTKE. Now, getting back to the things that are done in connection with the filing of a homestead entry and the different steps following that, state what you would do.

Mr. WHEELER. If you were to come into my office and ask for the facts, I would go through the evidence, the Government documents, the records and maps of the ground, and all that. Then I would propose that you go down to the Security Trust & Savings Bank and get one of their little folder maps of the San Fernando Valley, which map I understand is a photograph or a reproduction from the official records of the surveys of the San Fernando Valley. Then, in checking up our office records, I would ascertain as to whether or not anyone had filed a homestead on certain quarter sections in that valley as shown by our records. I might mark off on the map four or five places that, according to our records, had not been homesteaded. I would give you that map, and, if you felt that you wished to really file a homestead entry, it would be necessary for you to go and see that ground, because, under the homestead law, in the application which you file you swear that you have seen the ground and are familiar with its general outline. The application says, "Having personally examined same." You would come back to the office. You would show me which one of those pieces you liked the best, and, if that piece had not been filed on in your absence, you would then proceed to make up your application for a homestead, giving that quarter section as shown by the map and by your contract with the attorney, and you would then pay your retainer fee, unless you talked me out of it. Then you would take this homestead application and go over to the United States Land Office and file it.

Mr. HARTKE. Is that all that you would do?

Mr. WHEELER. That is all as far as filing is concerned. Later you would bring your receipts in that you got from the land office or telephone the numbers in so that we might attach the serial numbers to your appeals, briefs, and so forth, that would be sent to Washington, D. C. to carry your case before the Department of the Interior, for the reason that when you filed your homestead application you would be told by the United States Land Office, in an official rejection of the land that you had filed on, that the land was part of the Mexican grant and you would of necessity be compelled to carry your case before the department and, as this contract says, "Before such departments and tribunals as may be necessary." That means up until and

including the time it would take for you to get onto the ground, and so far we have carried them.

Mr. HARTKE. Have you ever carried any to successful termination?

Mr. WHEELER. Termination will not come until this investigation is completed.

Mr. HARTKE. Have any of these 800 people, or any of them who have paid you any money obtained any land as a result of their homestead claim?

Mr. WHEELER. None of them have and none of them will until the investigation is complete and some of the departments of the United States Government are compelled to act under the law as it is and not as they wish it were.

Mr. HARTKE. Will you state to the committee in what respect any of the departments do not act in a proper, legal manner?

Mr. WHEELER. In many respects.

Mr. HARTKE. Will you explain that to the committee?

Mr. WHEELER. When an application to file a homestead is made, it is made for certain purposes, granting that as far as any records or knowledge can be produced showing that the land is public domain, open to homestead entry and having never been withdrawn from public entry.

Mr. HARTKE. Have any of the grants here involved been regularly opened for homestead entry?

Mr. WHEELER. Yes, sir; on July 7, 1846, the act of Congress under which we took this country over from Mexico, and paid $15,000,000 of the people's money, says this:

> This land that came to us from Mexico consisted of two kinds of land, private land and public land; that the public land shall be taken and sold, not given away or lost, but sold and the money derived therefrom put into the Treasury and used to pay off the national debt for the benefit of all the people.

I maintain there are 121,000 acres in San Fernando Valley regarding which that has never been done.

Mr. HARTKE. May I ask whether or not you are familiar with some of the Supreme Court decisions that have been rendered in cases involving title to these lands?

Mr. WHEELER. I am familiar with one Supreme Court decision that was rendered in which it says that the Governor of California had no power to make a valid sale or grant of these missions, naming some of the missions.

Mr. HARTKE. Were those decisions called to the attention of the homesteaders when they filed their claims?

Mr. WHEELER. Many of them were called, and not only to those, but to the law and decisions in which the Supreme Court says that in order to have a valid Mexican grant the grant must be of record in the archives in Mexico. At the same time I produce for the benefit of various homesteaders the document for Mexico in which Mexico certifies that there is no such grant of record. Therefore, on July 7, 1846, that ground, which was alleged to have been covered by that grant, must of necessity have been public domain, and nothing has ever been done with that land since, as regards the title to it.

Mr. HARTKE. When you say "we do this," whom do you mean by "we"?

Mr. WHEELER. Just what is your question, please?

Mr. HARTKE. Whom did you mean by "we"? You say "we explained to them; we do this."

Mr. WHEELER. Any one that is in the office. Quite often a number of homesteaders, when they learn the exact facts, will go tell their friends and have their friends file homesteads.

Mr. HARTKE. Are they on the committee you have organized——

Mr. WHEELER (interrupting). Some of them are on the committee and some are not.

Mr. HARTKE. They originally get this information from you and other people in the office?

Mr. WHEELER. Yes, sir; and from the various legal documents and records.

Mr. HARTKE. On any of those occasions have you called attention to the fact that in all of these controversies, in all of these cases carried to the supreme court, the titles were sustained?

Mr. WHEELER. In many, many cases I have shown homesteaders—and especially when I could get an attorney in the office, because I would rather have an attorney than a person who does not understand the law, because in going through these cases with an attorney it is much easier to show them the facts—I have always tried to show them both sides of the case, where the courts have tried to affirm or any commission has tried to affirm, and then I have tried to show them the decision of the supreme courts which would tend to prove an attempt of confirmation of something which was invalid and which was shown to be null and void, and I have succeeded in doing that with a great number of them.

Mr. HARTKE. Do you call the attention of people to the case of Los Angeles Farming & Milling Co. *v.* Thompson?

Mr. WHEELER. A great many people have read that because it is given in the Senate's argument on file here.

Mr. HARTKE. Do you explain the facts and the decision in this case to these people before they file their application?

Mr. WHEELER. To a great many.

Mr. HARTKE. But some you do not?

Mr. WHEELER. Some do not bother that much; some do not stay and talk that long.

Mr. HARTKE. This contract that has been referred to, which I think is Exhibit Q, which purports to be a receipt by you for $500, and to which is attached a form of application for homestead entry, you will note, contains this provision, Mr. Wheeler [reading]:

> That I do not apply to entry the same for the purpose of speculation, but to obtain a home for myself, and that I have not directly or indirectly made, and will not make, any agreement of contract, in any way or any manner, with any person or persons, or corporations, or syndicates whatsoever, by which the title which I may acquire from the Government of the United States will inure in whole or in part to the benefit of any person except myself.

Now, was that had in mind when this contingent interest was arranged for?

Mr. WHEELER. It certainly was in mind, and that is why the contract says that applicant agreed or agrees to pay, as a contingency, a sum of money, not land or any proceeds from the land or anything of that kind, but a sum of money which they may have, which they may have in the bank before they file their homestead applica-

tion. It has no connection whatever with the homestead or the ground, except that the value of the ground on which they file determines how much they are to pay the attorney.

Mr. HARTKE. Can you estimate how much money has been paid into your office here by homesteaders in pursuance of this plan?

Mr. WHEELER. That is hard for me to estimate, except from the time that I took charge.

Mr. HARTKE. Which was when?

Mr. WHEELER. It was about—no, it wasn't a year ago—yes it was, just about a year ago.

Mr. HARTKE. During the last year how much has been paid in, would you estimate?

Mr. WHEELER. I would say in the neighborhood of $12,000. I can not tell without checking it on the books.

Mr. HARTKE. That has been in progress since 1922?

Mr. WHEELER. I think that was the first filing on the Irvine Ranch, yes.

Mr. HARTKE. Do you recall talking to a Mr. McDaniel, in your office last Saturday?

Mr. WHEELER. I have talked to so many people on last Saturday that I do not believe I recall the name.

Mr. HARTKE. Do you recall talking to a man who said he was the owner of 35 acres in the San Fernando Valley?

Mr. WHEELER. I do not remember that amount of acreage; no, sir.

Mr. HARTKE. Mr. McDaniel, will you please stand?

(A gentleman thereupon stood up in the court room.)

Mr. HARTKE. Do you remember that gentleman?

Mr. WHEELER. Yes; I remember that gentleman.

Mr. HARTKE. I will ask you whether or not, on last Saturday morning, in your office, this conversation took place between you and Mr. McDaniel: That you told Mr. McDaniel that he could file an application for homestead on 1 or 2 or 3 or 4 tracts of land in the San Fernando Valley which were very valuable, and you could practically guarantee that he would get a patent to that land and a clear title to it?

Mr. WHEELER. I did not say that.

Mr. HARTKE. Do you remember what you said to him in that connection?

Mr. WHEELER. I remember very distinctly telling him that if he wanted the list of the facts and the evidence and to see the documents and read the supreme court's decision that I would be very glad to go through them in detail with him, but that if he came up there to create a disturbance and for that purpose only, I would ask him to leave the office, because he showed very clearly that that was his reason in coming to the office. Several people, I think some of them are present, will testify to that.

Mr. HARTKE. Was any mention made of a thousand dollars?

Mr. WHEELER. I told him that the retainer fee that he would have to pay to our office to have us represent him in the case before the department and to carry it on through to consummation would be $1,000.

Mr. HARTKE. Who do you mean by "us," Mr. Wheeler?

Mr. WHEELER. The office with which I am connected.

Mr. HARTKE. Who do you mean by "us," please?

Mr. WHEELER. You mean how do I mean us?

Mr. HARTKE. No. Who do you mean by the pronoun "us"?

Mr. WHEELER. The fee would be paid to Mr. William S. Summers and I would sign the contract as trustee for the homesteader and for Mr. Summers. In a vague way, you might say that would mean an explanation of "us."

Mr. HARTKE. It did not include any others besides Mr. Summers and yourself?

Mr. WHEELER. No, sir. The contract is made with Mr. Summers and no other name is mentioned in there.

Mr. HARTKE. Is that the form of contract I just showed you in Exhibit Q?

Mr. WHEELER. I am sorry I did not have time to read the contract blank that you gave him clear through, but I have filed with the committee the various blanks used in our office for these contracts, and they are in the record as Exhibit R.

Mr. HARTKE. At that time was any discussion had of the proposed application of this J. G. Martin and Mrs. Lepeletier?

Mr. WHEELER. I do not remember the names.

Mr. HARTKE. You don't remember that they were prospective applicants, friends of Mr. McDaniels and you were to file a claim and be given a thousand dollar retainer——

Mr. WHEELER (interrupting). I do not remember the fact that they were up there and I do not remember the names.

Mr. HARTKE. Did you in that conversation ascertain that Mr. McDaniel was the owner of land in the San Fernando Valley?

Mr. WHEELER. I believe I asked him if he did own any land that he could produce title to and I suggested that if he would produce valid and legal title to any piece of ground in the San Fernando Valley—I put it this way: That I would make a bet with him of a thousand dollars he could not produce any.

Mr. HARTKE. After he said he was the owner of land isn't it a fact you said in substance you would have him arrested unless he would release and relinquish claim to this land?

Mr. WHEELER. I never made any such statement as that.

Mr. HARTKE. What did you say in reference to that, if anything?

Mr. WHEELER. I made no reference to arresting him, unless it was for disturbing the peace.

Mr. HARTKE. Did you make any reference to arresting him up there in the office?

Mr. WHEELER. No, I did not. That is what I should have done, though.

Mr. HARTKE. Now, I will ask you whether or not on March 26, you had a conference with Mr. Kindig and Mr. Morgan in your offices?

Mr. WHEELER. I remember Mr. Kindig very well. Mr. Morgan might have been the other gentleman, but I did not get his name.

Mr. HARTKE. When was the last conference you had with them, Mr. Wheeler?

Mr. WHEELER. I have had several conferences with Mr. Kindig, in which he asked me to show him the documents and the records of the grants.

Mr. HARTKE. I asked you when the last one was, please.

Mr. WHEELER. I do not know, but I think it was about ten days or two weeks ago.

Mr. HARTKE. And the one before that, when was that had?

Mr. WHEELER. That must have been a month earlier.

Mr. HARTKE. Do you remember whether or not, at the second to the last conference you had with them, you told these gentlemen the fact, or in substance, that the title companies had bribed the Washington officials to prevent the homesteaders from perfecting their claims in this matter. Do you remember whether or not you told them that in substance?

Senator DALE. Just a moment, please.

Senator BRATTON. Mr. Hartke, is that offered as a basis for any subsequent proceeding?

Mr. HARTKE. No; it is not. It is entirely on the question of this resolution, Senator.

Senator BRATTON. The committee feels that it might be made the basis of subsequent action.

Mr. HARTKE. I appreciate that; and if it does, I do not want to go into it.

Senator BRATTON. We wish to say that Mr. Wheeler is at liberty to answer or decline to answer as he sees fit. We think it might subject him to incrimination.

Mr. WHEELER. I would like to answer that, and I would like to answer it in this way: I do not remember exactly what I said to the gentlemen at that time, but the fact that bribes have been given and bribes have been taken is going to be shown. It will not be shown here unless Mr. Summers is able to attend, which I do not know for sure yet; but it will be shown at a later hearing, perhaps in Washington, D. C.

Mr. HARTKE. Now, let us get at that specifically. You know that of your own knowledge, of course, or you would not state that?

Mr. WHEELER. I think I have answered all I intend to answer at this time unless compelled to answer further by the committee.

Mr. HARTKE. Will you give us the names of any individuals who have been given bribes in connection with this matter?

Mr. WHEELER. They will be turned over to the committee, together with evidence of it, at a time when a hearing can be held and the witnesses presented.

Mr. HARTKE. Let me withdraw that question and ask this one: Do you know now the names of any individuals who have at any time given or offered any bribes in connection with this matter under investigation?

Mr. WHEELER. That is a question which I refuse to answer.

Mr. HARTKE. Do you know the names of any individuals who received bribes in connection with this matter?

Mr. WHEELER. That also I refuse to answer.

Mr. HARTKE. Do you know how the names of those people can be ascertained?

Mr. WHEELER. That I refuse to answer.

Mr. HARTKE. Do you have any record data which proves or tends to prove that any bribes have been given in connection with this matter?

Mr. WHEELER. The answer to that question will be made to the Senate or the committee at the proper time. I do not think this is the time, so I refuse to answer that.

Mr. HARTKE. Can you give the names of any individuals who can establish any fraud, undue influence, or corruption in connection with these matters?

Mr. WHEELER. I can; but this is not the place to give it, and this is not the time to give it.

Mr. HARTKE. You say you can do that?

Mr. WHEELER. I can; yes.

Senator BRATTON. You say this is not the place to give it. Why?

Mr. WHEELER. Because the witnesses are not present; some of the evidence is not present, and I have been requested by Mr. Summers not to go into that thing at this time and place, and I must respect his request.

Senator BRATTON. We were informed the whole proof would be available here in California. That is a part of the business of the committee out here, because we had been told the proof would be available here.

Mr. WHEELER. I am sorry, but I think you were also told that some of it would be furnished in Washington, and this is some of that part.

Senator BRATTON. It is the desire of this committee to complete this investigation fully and expeditiously and not continue it month after month and year after year.

Mr. HARTKE. Mr. Chairman, our position is this, if I may be heard on that. We want this matter investigated thoroughly and brought to a finality. We do not want it left open so that it can be contended by these people that this matter is still undecided or that there is any question about these titles. We feel that this land has been improved, that the people on it have spent their money in good faith, in buying this land and their homes and everything, and that they are entitled to have the matter put at rest; and if there is the bribery, and if there is the corruption, if there is the fraud here that has been charged, or intimated at least, certainly now is the time to produce it, and it should be produced before this committee which is conducting the investigation. We feel, since we are here prepared to meet the situation for the chamber of commerce, that this testimony should be produced in all fairness to all parties concerned.

The CHAIRMAN. I think in all fairness it ought to be announced by the committee that the committee has no intention whatever to permit this matter to be materially delayed; that we are just as anxious as any of the rest of you can be to reach a quick determination and make a report upon this subject to the Senate, and that it be done as quickly as possible. Under the resolution we are limited to the close of the next regular session of Congress, and of course we will perhaps have action as much in advance of that date as we possibly can. I had hoped—the committee had hoped—that in coming here at this time we would place ourselves in close contact with the communities in which the witnesses were residents, and not only could we save a great deal of inconvenience to a great many witnesses but we could also save for the Government considerable money that would be required in subpœnaing witnesses from California to Wash-

fngton. So, Mr. Wheeler, I sincerely hope that whatever measure of information or evidence it is possible to produce indicating that fraud has entered into the grants, into the sale or lease of these grants, may be offered out here to save that great expense this coming summer or next fall if it must go over to that time—the expense of subpœnaing these witnesses all the way to Washington.

Now, do you feel that you have gotten into the record at this time all of the information that would be required from the witnesses here in California——

Mr. WHEELER. No, sir.

The CHAIRMAN (continuing). In any other action that shall be carried on in Washington?

Mr. WHEELER. No. There were some witnesses that I wanted. There will be some witnesses called; but on the criminal side of this, the bribe side of it, I am not going to start in unless I can prove it, and I can not prove it. I do not have the documents; I do not have the witnesses available. Mr. Summers, no later than half an hour ago, requested me not to do it, because he wants to do it at the proper time and place.

Senator DALE. Mr. Wheeler, without in any way even intimating that there has been any fraud, or bribery, so far as any knowledge that you may have is concerned, if such a thing did take place, when was it? I do not mean any specific case, but approximately when was it, if such a thing did take place?

Mr. WHEELER. I realize, Senator, that if I answer that question as to the knowledge I have, I will be then compelled to start in and produce the evidence and I do not have it.

Senator DALE. No; that is not the reason I asked the question. I will explain why I had that question in mind. I had the statute of limitations in mind.

Mr. WHEELER. Oh, I see. May I ask at this point just how long the statute of limitations would operate in a bribery or criminal action of that kind?

Senator DALE. Now, you see, you have put me in an embarrassing position. I was seeking to get that information and then I was going to look up the statute afterwards.

Mr. WHEELER. I am sorry, Senator. I did not mean it that way. The only answer I can make is just what I said before. I am not prepared to submit the evidence or to call the witnesses I did intend to have called.

Senator DALE. I got the impression that these intimations respecting fraud referred to a date some two or three years ago.

Mr. WHEELER. More than that, Senator. In some cases it goes back, I think, to 1924 or maybe 1923. There are some instances of it there, I believe, in 1925 and again in 1928. But the documents and witnesses to prove that will have to be produced and I do not have them—all of them.

Senator DALE. Of course, you can see that if the committee has to wait a year or two longer——

Mr. WHEELER. No, Senator.

Senator DALE (continuing). That the statute of limitations might run.

Mr. WHEELER. But the purpose of this investigation and the purpose of my testifying here is to show just this—the Government of

the United States at this time holds legal title to this land, or does it not? I think I can prove that point with just the evidence that is here and that is listed. The criminal side of it is something that is beyond me, not being a lawyer and not having all the facts. I want to say, however, that Mr. Summers will be able to handle that thing in a short time and wishes to do so. It is an unfortunate thing that he is sick, but that is something I can not help and he can not help.

The CHAIRMAN. In a hearing conducted by the committee a year or more ago the representation was made that homesteaders at one time made application for a list and the numbers of lands that were open for homestead entry; that this request was submitted to the Department of the Interior, and that the Secretary or a clerk in that department responded with the information which was requested. What do you know of that?

Mr. WHEELER. I know that the photostat of the original letter written by George R. Wickham, in which that was given, I believe, is available here. That evidence is here and I will be glad to submit that or anything along that line that we have here.

The CHAIRMAN. That this correspondence was misleading and led the applicant for homestead entry to believe that this land was open to entry?

Mr. WHEELER. Yes. That was the reason why they first filed on homesteads.

Senator BRATTON. Now, this committee is interested in this matter, aside from Judge Summers or any of the other private interests. This statement is contained in a brief filed by Judge Summers [reading]:

A short time thereafter Irvine announced that the hour of danger had passed, that he had secured control of the land department and that application for homesteads would be rejected. A short time after Irvine made the statement the applications to homestead were rejected by the local land office, and thereafter the Commissioner of the General Land Office, Mr. Spry, was in the city of Los Angeles and conferred with a number of men greatly interested in alleged Mexican grants that are known to have been patented, that the land described has become public domain of the United States, and after this conference the commissioner is declared to have said at the Federal Building, "Not a damn homestead application will be allowed," and that "he would see the homesteaders in hell before the United States ever got an acre of the land." Witnesses to the foregoing, A. C. Routhe, R. D. Morris, D. B. Smith, and Robert A. Armstrong.

Do you know A. C. Routhe?

Mr. WHEELER. Yes. I was looking to see if he was here.

Senator BRATTON. Do you see him in the court room?

Mr. WHEELER. No; I do not.

Senator BRATTON. Is Mr. Routhe present?

Mr. WHEELER. He was supposed to be present.

Senator BRATTON. Do you know R. D. Morris?

Mr. WHEELER. Yes, sir.

Senator BRATTON. Who is he?

Mr. WHEELER. Mr. Morris is one of the men who is associated with our offices.

Senator BRATTON. He is in your offices?

Mr. WHEELER. Yes, sir.

Senator BRATTON. Is he present?

Mr. WHEELER. I do not see him.

Senator BRATTON. Do you know D. B. Smith?

Mr. WHEELER. I do not.
Senator BRATTON. Then, you do not know where he can be reached?
Mr. WHEELER. No; I do not know him.
Senator BRATTON. Do you know Robert A. Armstrong?
Mr. WHEELER. Yes, sir.
Senator BRATTON. Is he present?
Mr. WHEELER. I do not think so.
The CHAIRMAN. Were you expecting Mr. Armstrong to be present?
Mr. WHEELER. No; I was not. I did not intend to call these witnesses because of the explanation I gave a moment ago.
The CHAIRMAN. Well, I think the committee will call them. If Mr. Morris is in your office, will you arrange for him to be present?
Mr. WHEELER. To-morrow morning.
The CHAIRMAN. This afternoon. Can you get word to him?
Mr. WHEELER. I think I can; yes.
The CHAIRMAN. Do you know V. E. Clarke?
Mr. WHEELER. Yes; I do.
The CHAIRMAN. Who is he?
Mr. WHEELER. He was here yesterday, but he told me that to-day he had to go somewhere to attend to some of his own business and would not be back here until to-morrow.
The CHAIRMAN. Is he a homestead entryman?
Mr. WHEELER. He is a homestead entryman. He is not in the cases that we have here, but he has a homestead entry in the Canada de los Alisos.
The CHAIRMAN. Do you know Florence B. Mackee?
Mr. WHEELER. Yes; I believe I do.
The CHAIRMAN. Has she filed an entry for homestead?
Mr. WHEELER. She filed a homestead, I believe, first on the Irvine ranch or the Lomas de Santiago, but she later relinquished her claim there because she learned that her ground was not as good as she could get up here, and she refiled on a homestead in the San Fernando Valley.
The CHAIRMAN. Do you know Daniel Gartling?
Mr. WHEELER. No; I do not. Most of those were before my connection with the case. That is one reason why I do not know all the facts.
The CHAIRMAN. Do you know personally of Commissioner Spry making the statement, identically or in substance, as has just been quoted?
Mr. WHEELER. No; not in any personal way at all, except just hearsay from other people who were there. May I suggest that I have a photostat of Commissioner Spry's letter, in which he states that he thought it necessary for him to broadcast the fact that the homesteaders were not likely to get any homesteads? That letter is in evidence.
The CHAIRMAN. Do you know Gertrude M. Caldwell?
Mr. WHEELER. Yes, sir.
The CHAIRMAN. Who is she and where is she?
Mr. WHEELER. She is an attorney, I think, and I believe a practicing attorney now in Los Angeles.
The CHAIRMAN. Do you know John M. Cooper?
Mr. WHEELER. No; I do not know him.
The CHAIRMAN. Do you know Henry E. Collins?

Mr. WHEELER. No; I do not, but there are parties here in the room that do know him.

The CHAIRMAN. And Mr. Clinton Johnson is the same Mr. Johnson who was testified on yesterday?

Mr. WHEELER. Yes.

The CHAIRMAN. The committee has reached the conclusion that they will call as many of these witnesses as are available and will examine them and we would like to have them as soon as they can be had.

Mr. WICKHAM. Mr. Chairman, if I may——

The CHAIRMAN. It was our plan to hear you immediately after we get through with the witness now on, Mr. Wickham.

Mr. WICKHAM. I would like to ask one question before he leaves the stand, if it is proper.

The CHAIRMAN. It is quite proper; yes.

Mr. WICKHAM. Mr. Wheeler, on yesterday you referred to the commissioner's annual report for the year 1887.

Mr. WHEELER. Yes, sir.

Mr. WICKHAM. And made a statement something to this effect: That you were informed that a certain pencil mark that had been placed in the book had been placed there by me.

Mr. WHEELER. Yes.

Mr. WICKHAM. Who told you that or where did you get that information?

Mr. WHEELER. Mr. Clinton Johnson, the gentleman sitting at the end of this table.

Mr. WICKHAM. He told you that?

Mr. WHEELER. Yes.

Mr. WICKHAM. May I ask Mr. Johnson a question before Mr. Wheeler leaves the stand?

Mr. HARTKE. And before he does leave the stand——

The CHAIRMAN. Perhaps we had better permit this question to be propounded and dispose of it.

Mr. WICKHAM. Mr. Johnson, you heard Mr. Wheeler just make that statement?

Mr. JOHNSON. I did.

Mr. WICKHAM. Is it true that you told him that?

Mr. JOHNSON. I did not tell him that you made that pencil mark. I told him that Ben McLendon told me that you made that pencil mark.

Mr. WICKHAM. So it comes from Ben McLendon then.

Mr. JOHNSON. Yes.

The CHAIRMAN. Have you any further questions, Mr. Hartke?

Mr. HARTKE. Yes, Mr. Chairman.

Senator BRATTON. Then let us expedite them as much as possible.

Mr. HARTKE. Yes, Senator. Mr. Wheeler, you told Mr. Kindig that bribery had been committed in connection with this matter, didn't you?

Mr. WHEELER. Yes.

Mr. HARTKE. And you said it was being done at this time.

Mr. WHEELER. How do you mean?

Mr. HARTKE. That bribery was being committed now, right at the present time, is that right?

Mr. WHEELER. I don't know that I put it that way.

Mr. HARTKE. Just what did you say in that connection?

Mr. WHEELER. I don't remember just exactly what I said.

Mr. HARTKE. But you did charge that bribery had been committed in connection with this matter, is that right?

Mr. WHEELER. Yes.

Mr. HARTKE. Did you know that of your own personal knowledge?

Mr. WHEELER. I know that that can be shown by the evidence and witnesses.

Mr. HARTKE. Just answer me please. You know that of your own personal knowledge, you know that that is a fact?

Mr. WHEELER. You mean when the bribe was passed?

Senator DALE. Wait a moment, Mr. Wheeler. I do not think the witness would have to answer that question.

Mr. HARTKE. It is understood that he does not answer if he has any reluctance.

Senator DALE. Of course, it was generally understood that Mr. Wheeler was at liberty to decline to answer that.

Senator BRATTON. That is a question which in the opinion of the witness would incriminate him?

Mr. HARTKE. Yes.

Senator BRATTON. It might subject him to prosecution, and that is within the limitation of the rule.

Mr. HARTKE. That is not our intention.

Mr. WHEELER. I can very plainly see there would be prosecution aplenty, whether I can prove it or not. For the time being I will have to refuse to answer that question, because I am not through with this thing, and until I am through with this thing and the work is done I am not going to be tied up by any petty thing like that.

Mr. HARTKE. Do you consider a bribe in this matter a petty thing?

Mr. WHEELER. I consider the charge that would be attempted to be brought against me a rather petty thing in comparison with the size of this fight.

Mr. HARTKE. In fairness to you, let me say that my only thought is to get at the facts in this matter. If you know of any bribery, so far as we are concerned, we would like to have the committee know it. If you can give the committee any facts on that particular question, please do so. If you can not, that is all there is to it.

Mr. WHEELER. May I say this, in fairness to you and your associates and the people you represent, that it would not be the proper thing for me to do at this time. The proper thing to do is to do it when the evidence can be produced.

Mr. HARTKE. There is an insinuation and intimation that we think ought to be cleared up. If the witness has any direct knowledge we would like to have it brought before the committee now. The committee is here for this purpose.

Senator BRATTON. Regardless of what you may have told others when you were not testifying before the committee, do you now know of your own knowledge of any bribery involved involving Government officials or others in connection with this land grant?

Mr. WHEELER. Not being a lawyer, I would say that I do not just understand the question. I would say that I know in this way, from the documents that I have seen, Senator, that it would tend to indicate that there had been considerable bribery committed; but of

my own personal knowledge I have not the documents or the proof and I do not know it.

Senator BRATTON. All right. Give us the names of persons who have stated the facts to you upon which you have reached the conclusion that bribery has occurred.

Mr. WHEELER. Well, it was not all from witnesses. Some of it was from documents and letters.

Senator BRATTON. Very well.

Mr. WHEELER. And some of that is already in the record here.

Senator BRATTON. Give us the names of persons who talked with you from whom you gained the impression and belief that Government officials have been bribed in connection with these grants.

Mr. WHEELER. I would say one of them was A. A. Wilhelm, who is in the room.

Senator BRATTON. He is in the room?

Mr. WHEELER. Yes.

Senator BRATTON. What is his business?

Mr. WHEELER. I think he is an investigator or inspector for the Department of the Interior.

Senator BRATTON. That is the man about whom you testified yesterday?

Mr. WHEELER. Yes, sir.

Senator BRATTON. Who else?

Mr. WHEELER. I would say B. B. Smith, registrar and receiver of the Los Angeles Land Office.

Senator BRATTON. Who else.

Mr. WHEELER. Some of the information I have gathered from Mr. Johnson, Mr. Morris, and some of the others associated with the fight before I came in.

Senator BRATTON. Who were the others?

Mr. WHEELER. Mrs. Caldwell gave me some of the details.

Senator BRATTON. What did Mr. Wilhelm tell you upon which you based the conclusion and belief that Government officials had been bribed?

Mr. WHEELER. Mr. Wilhelm made this statement, after having looked at the evidence and the documents, which documents showed there has never been a grant made—he made the statement that even if it was a fraud, speaking of the San Fernando Valley, "You can not get any where with it because the Land Department has you blocked and the Senate will not investigate it." That among other things led me to think that if the evidence and records were clear, if the Land Department had taken the attitude that they would just stand pat and they were not going to deliver any homesteads and were not going to permit us to have investigations before the Senate, then my natural inference would have been that somebody was bribed.

Senator BRATTON. I am asking you what Mr. Wilhelm told you on which you based your belief in your process of reasoning—what else did he tell you that gave you to believe that bribery had occurred?

Mr. WHEELER. He made this statement, along in his talk. He said we would have a hell of a time making the title companies pay anything they did not have to. Why should he take the side of the title companies?

Senator BRATTON. What else did he tell you?

Mr. WHEELER. Some of it I don't remember without looking at some of the documents. I have the depositions here signed by four officials and myself.

Senator BRATTON. Well, from memory, can you recall anything else that he told you that led you to believe that bribery had taken place?

Mr. WHEELER. During the conversation with those who were present that day, he started out, not with a spirit of trying to gather evidence, not with a spirit of ascertaining the facts, but he started out to tell these homesteaders that I was a crook, that what I was doing was a confidence game, that Mr. Summers, attorney for this crowd, was at one time a very highly respected man, but that he had become—I think he used the word "degenerate." In other words, Mr. Wilhelm went so far in his attitude of spreading or trying to spread what I would call misinformation, instead of trying to gather in information, that I could not help but believe that Mr. Wilhelm was influenced by more than just patriotic duty in his job.

Senator BRATTON. What else did he do that you took into consideration in forming the belief that bribery had occurred?

Mr. WHEELER. I do not think of anything else right now.

Senator BRATTON. Turning now to Mr. Smith, what Mr. Smith do you have in mind?

Mr. WHEELER. I mean, Smith, at the head of the Land Offices in Los Angeles.

Senator BRATTON. What are his initials?

Mr. WHEELER. B. B. Smtih.

Senator BRATTON. Let me turn back to Mr. Wilhelm. When and where did he make the statement you have just detailed?

Mr. WHEELER. It was made in Pasadena, at a place called Clark's Top Shop. It was in the office of this shop on the date as shown by the exhibit. I do not remember exactly.

Senator BRATTON. About when?

Mr. WHEELER. It was a year and a half ago.

Senator BRATTON. You never met him there but the one time?

Mr. WHEELER. I never met him but the one time.

Senator BRATTON. Turning now to Mr. Smith, in charge of the Land Offices, Los Angeles, what did he tell you to cause you to believe that somebody had been bribed?

Mr. WHEELER. On many different occasions up at the Land Office, when some of my personal friends, and others, wished to file homesteads, I would go up there with them, principally to see that the clerks in the Land Office did not tell them some story or other and bluff them out. They did that. Some of them were frightened like that and I did it after some of them were frightened out.

Senator BRATTON. My question was, what did Mr. Smith tell you?

Mr. WHEELER. Well, I am coming to that. People would go to the Land Office and walk up to the counter to file their papers, and they would be told that the land was not Government land, that it was a private grant, a Mexican grant or Spanish grant—they used various expressions—and they would be told that these attorneys down there were just a bunch of crocks getting their fees and they would be told

that the land had never been surveyed, that it had been patented, and that it was not open to homestead entry. Things along that line.

Senator BRATTON. Well!

Mr. WHEELER. Mr. Smith went further than that. The last time I was in the land office I happened to have a couple of people there who had business at the counter. When we left the land office Mr. Smith made this statement—of course, I realize that he doesn't like me and doesn't like what I am doing, but I don't see why he should do it—but anyway, as we walked out the door, he said to everybody at large in the room, "Isn't that a fine looking egg at the door there," or words to that effect. I turned around and walked back to the counter and asked Mr. Smith if he had spoken to me. He said, "I am going to turn you over to the United States Government; I am going to turn you over to the United States marshal." I said, "All right; that is agreeable with me," and he said, "You come with me; I am going to turn you over to the Government." And I said. "All right; here I am available," and I started to go into the United States marshal's office. Mr. Smith said, "You come with me." And he started down the hall the other way. I motioned to the two people who had been in the land office with me and we walked down into the office of Mr. McNabb, the United States attorney. Mr. Smith asked for Mr. Peterson, who is deputy United States attorney in this district. Mr. Peterson was not available. Mr. McNabb came to the counter and I suggested to Mr. McNabb that Mr. Smith had made a number of statements which I had objected to, and that he had taken the attitude of trying to bluff us out, and I thought the proper time and place to call his bluff was right there in the presence of the United States attorney for this district. I suggested to Mr. McNabb that I was ready to go into his office or to go before the Federal grand jury, or anything of that kind, and to show to that body or to him, by documentary Government evidence, and so forth, that the San Fernando Valley was actually public land that that it had never been anything else. Now, I thought that was in the spirit of all fairness. I told Mr. McNabb I did not think it was Mr. Smith's duty to make slurring remarks about people who came to the counter to do business. That as I understood the routine of the land office, everyone who filed homesteads and paid a fee of $16, and if I am right, $16 helps a good deal to swell the fund that they would receive. I am not sure that that is right, but that is my understanding of it. I told Mr. McNabb I would be glad at any time to attend a hearing and give all the evidence I could and proof I could that we were right and that Mr. Smith was wrong. I then left Mr. McNabb and Mr. Smith and suggested if they called me at any time that it would be a pleasure for me to come there and I left.

Senator BRATTON. Has Mr. Smith said anything else to you that indicated to your mind that Government officials have been bribed?

Mr. WHEELER. Not at that time. At that time his attitude there would seem to indicate that he was very keen to protect the present holders of the title, the title companies, rather than to take just the hard-boiled side of the Government.

Senator BRATTON. When was it you had this conversation with Mr. Smith?

Mr. WHEELER. It must have been about three months ago.

Senator BRATTON. You say he said something else to you at that time to indicate to your mind that Government officials had been bribed. Did he say anything to you on any other occasion that impressed you in that manner?

Mr. WHEELER. On one occasion.

Senator BRATTON. When?

Mr. WHEELER. It was several months before that. I can not give the exact date. Mr. Smith told me, in speaking of these homesteads—I think he just made the remark that they had been filing homesteads for a number of years and never gotten anywhere with them, and I think I said I had filed a homestead on the Palos Verdes estates and I believed I was going to get somewhere with it. He said I never would get it. I could not understand why a case of that kind should not rest on its merits or on the evidence presented, rather than have the clerks and officials of this land office get up and fight so hard to protect the title companies' interest. I thought he ought to be fighting for the Government instead of for the other side.

Senator BRATTON. What else has he said to you that caused you to believe that bribery had occurred?

Mr. WHEELER. I don't remember the exact words at this time of anything else that Mr. Smith has said directly to me.

The CHAIRMAN. Then that is all, Mr. Wheeler. Do you have any other witnesses here that you wish to put on at this time?

Mr. WHEELER. Is Mr. C. R. Harris here?

Mr. HARRIS. Here.

Mr. WHEELER. Mr. Harris, I believe, would like to testify, and he has a story that is very interesting if he may be permitted to tell it.

The CHAIRMAN. In connection with the San Fernando grant?

Mr. WHEELER. In connection with the general situation, which applies to all the cases, but more specifically to the Irvine case.

TESTIMONY OF C. R. HARRIS, CONSULTING ENGINEER, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Do you wish to question Mr. Harris, Mr. Wheeler?

Mr. WHEELER. I am not competent to do that, because I do not know Mr. Harris's story. I do not know the details of it as well as he does.

The CHAIRMAN. State your full name, please.

Mr. HARRIS. Charles R. Harris.

The CHAIRMAN. And your residence.

Mr. HARRIS. 912 North Margarita Avenue, Alhambra.

The CHAIRMAN. What is your occupation?

Mr. HARRIS. Consulting engineer, with offices at 501 Haskin Building.

The CHAIRMAN. You have information in which you think the committee would be interested in connection with these land grants?

Mr. HARRIS. I did not volunteer to give that information, but I have been requested to do so, and I am prepared to do so at your pleasure.

The CHAIRMAN. Will you proceed and relate what you believe might be of interest to the committee in this connection?

Mr. HARRIS. Senator, this is a long story.

The CHAIRMAN. Are you a homesteader?

Mr. HARRIS. I am a homesteader on the Lomas de Santiago grant, commonly known as the Irvine ranch, and one of the pioneers in the movement.

The CHAIRMAN. Now, what have you to tell us relating to the Lomas de Santiago grant or other matters that we would be interested in in our first consideration of the San Fernando grant—the question of fraud, bribery, and all that goes with that?

Mr. HARRIS. Well, it is more a matter of coercion and intimidation, and might apply to all the grants, I suppose.

The CHAIRMAN. I see.

Mr. HARRIS. And to the parties endeavoring to protect their rights in those grants.

The CHAIRMAN. Then you may proceed, Mr. Harris.

Mr. HARRIS. It is a long story, but I think if I can just give you three or four paragraphs of a letter written to Mr. L. C. Wheeler, of the Department of Justice, under date of July 22, 1925, a copy of which letter I have here, it will give you sufficient knowledge of what the occurrence was, when it happened, and so forth. If you want the whole story it is a long one and I think these two paragraphs which I will refer to here will be sufficient. If you will permit me to read those and then wish additional data or information, I will be pleased to supply it.

The CHAIRMAN. Very well, read the paragraphs that you believe significant.

Mr. HARRIS (reading):

On May 19, at 8 o'clock p. m., I received a telephone message at my residence, 1425 Alta Vista Boulevard, Hollywood—I have since moved to Alhambra—from a party introducing himself as Mr. Browning, stating that he lived in Beverly Hills, and was driving out Sunset Boulevard, and asked me if I would meet him one square from my home; that he would like to get some information concerning the homesteaders on the Irvine Ranch. At that time a new lighting system was being installed on Sunset Boulevard and the street at the point indicated was dark. I met Browning a few moments later at the point designated. He was driving a 7-passenger sedan. He asked me to enter his car for a talk, stating he would return me to that point. Browning then drove west on Sunset about a half a mile. There the car stopped and three men entered. They were introduced as Harper, Walker, and Sanders, or Sanderson. The car then proceeded west to a dark and secluded spot, where it was stopped and I was questioned substantially as follows:

Mr. Harris, are you one of the locators on the Irvine Ranch? Are you associated with Johnson, McLendon, and others? Were you instrumental in getting others to locate on the land? Do you fully understand what you are doing? Do you know that three or four hundred thousand dollars were collected from the locators by Johnson and McLendon? What did you pay for the privilege of locating? Do you know that those asking others to join in homesteading this land are equally guilty with those heading the movement? Do you know that similar movements have been attempted before and failed? Do you know of the latest decision from Washington in this matter? Do you know that this agitation is going to be crushed now for all time, and if any other move is made drastic action will be taken against all of you? There are $100,000,000 back of this movement to forever silence these attempts to grab lands and disturb titles.

These questions were largely put by Mr. Harper. At this point, Mr. Walker abruptly asked the following question:

"Mr. Harris, were you not at one time indicted by a Federal grand jury?" My reply was, "No; I have been in active business for 48 years and have never been indicted and have no recollection of ever having been sued or suing anyone. In fact, I have never had a personal court case in my life."

I admitted I was a locator and had advised some of my friends to locate. These men then declared I was as guilty as any of the parties who were indicted, and could be indicted and convicted with the originators of the conspiracy.

In substance, they told me that the locators had to abandon all efforts to get the lands they had located or filed on, and if they did not other drastic means would be adopted and carried out against them at once.

They asked me if I knew about the indictments that were returned against the leaders. Then they declared these indictments were still pending—that the leaders would be tried and convicted, and if we, as locators, did anything more or made any further effort to get the lands, we would also be indicted and convicted.

After this, two of the parties left the car and walked away together. They were gone for some little time and then returned, and all the parties got in the car and drove back to the point where I got into the car, at which point I got out. They then drove away in the direction of down town or the business part of the city.

That is the experience I had on that so-called joy ride, gentlemen.

The CHAIRMAN. That experience was at what time again?

Mr. HARRIS. May 19, 1925.

The CHAIRMAN. And your letter to the department was dated when?

Mr. HARRIS. July 22, 1925.

The CHAIRMAN. Have you had any response from the Department of Justice in answer to that letter?

Mr. HARRIS. No; I have not. I talked with Mr. Wheeler in person about this matter and the request was at the time that I put it in writing and submit it, which was done. I have had no communication from him from that time to this.

Senator BRATTON. Where is Mr. Wheeler located?

Mr. HARRIS. Mr. Wheeler is in the Department of Justice.

Senator BRATTON. Where?

Mr. HARRIS. In the Federal building in this city.

The CHAIRMAN. Is he an assistant district attorney?

Mr. HARRIS. I think he was at the time. I do not know whether he is still there or not.

Mr. WHEELER. Mr. L. C. Wheeler is in the county district attorney's office, chief of the investigations.

Senator BRATTON. Mr. Harris, were those men strangers to you at the time?

Mr. HARRIS. They were. They gave their names but I did not recognize them.

Senator BRATTON. You have not seen them or heard of them since?

Mr. HARRIS. Yes. A day or two later there were some happenings which I have related in this letter, covering the matter of some information which I sent to them, which I secured from Judge McLendon and Judge Summers. There was no further occasion when I was intimated, if you would call it intimidation.

Senator BRATTON. Were the men really named Brown, Harper, Walker, and Sanders or Sanderson?

Mr. HARRIS. My impression is they were not. But at the time, as I stated, on Sunset Boulevard a new lighting system was being put in.

It was a dark night, the automobile was a closed one and I did not get a very good impression of them.

Senator BRATTON. You say that you sent some word to them two or three days later? How did you know the persons with whom you should communicate?

Mr. HARRIS. I sent them word by Mr. Hartigan, who really gave me the first information in connection with this matter as described by this long communication. He gave me a statement of what might be expected of some of the homesteaders.

Senator BRATTON. Who gave you that?

Mr. HARRIS. A man by the name of Hartigan, John T. Hartigan.

Senator BRATTON. What is his business?

Mr. HARRIS. Mr. Hartigan was, as I understand, a writer or newspaper reporter.

Senator BRATTON. For what paper?

Mr. HARRIS. I do not know. I think he was a free lance for various publications; more of a general writer than a reporter.

Senator BRATTON. Do you know where he is now?

Mr. HARRIS. I do not. I might briefly state how I came in contact with Mr. Hartigan. At that time I was chairman of the committee of ushers and ushering in the Temple Baptist Church, located at Fifth and Olive Streets. I was also chairman of the house committee and of the board of trustees. I had met Mr. Hartigan at various times in the lobby, and I had supposed, in fact his statement was that he was a member of our church organization, and had at various times intimated that he would like to be appointed to the staff of ushers. One day in the lobby I heard him make the statement that the locators on the Irvine Ranch were in for a jolt in the near future. A bit later, when I had opportunity, I called him aside and I said, "Mr. Hartigan, what do you mean by that statement you made?" And he then went on and gave me some details of what was going to happen; in other words, matters similar to those that had happened to several of the early locators—Mr. Johnson, Judge McLendon, Mr. Clarke, and others—when they were arrested in connection with this matter.

He told me quite a startling story. He did not say who the parties were that were going to do this; but I said to him, "Now, it might be well for those parties not to attempt such drastic things as arresting homesteaders or putting them in jail, or put them under heavy bond," such as he intimated they were going to do. I said I believe they would be committing an act which might make them responsible, and I would suggest that they have some information on the matter. I then went to the office of Mr. Johnson and Mr. McLendon, who were the pioneers in this movement on the Lomas de Santiago, or Irvine Ranch, and I got some data there, which I have copies of here, covering what might be done to people that were endeavoring to coerce, intimidate, or persecute others, and I gave it to Mr. Hartigan, who seemingly was a stool pigeon for these individuals. And that was delivered to him—I am a little ahead of my story there. That was not delivered until after the evening I was invited to take the automobile ride. Then I sent that data to them, and Mr. Hartigan asked me to meet him at the Transportation Building, I think it was the following day—I have

all the dates here—and he spoke at that time that the probabilities were that there wouldn't be anything drastic done just now or in the near future; and the matter gradually ran along until, I guess, it was forgotten, or, at least, they decided they would not take the action which they had stated they were going to take. They evidently wanted to impress me with the fact, knowing that I was one of the locators and had been more or less in the offices of the person who was looking after these homestead applications, thinking if they could discourage me in the matter that I might discourage others, and that would probably end the matter of the homesteading.

Senator BRATTON. Did you give Mr. Hartigan some documents or written instruments to be passed on to these gentlemen, who told you they were Brown, Harper, Walker, and Sanders or Sanderson?

Mr. HARRIS. I did.

Senator BRATTON. Did he tell you afterwards whether or not he had delivered it to them?

Mr. HARRIS. He said he had.

Senator BRATTON. Did he ever tell you who they actually were?

Mr. HARRIS. No; he did not. He simply carried the message. It was through Mr. Hartigan—who, by the way, I want to say now was probably an imposter of the first water, as I discovered later, that he was not a member of the Temple Baptist Church; he gave me a phony address. I looked up his town address and wrote a letter there to determine whether he was the individual he represented himself to be, and the letter came back.

Senator BRATTON. Well, what did these gentlemen tell you, in the automobile that night, would be done to the homesteaders?

Mr. HARRIS. Well, wasn't that covered?

Senator BRATTON. Well, tell us in substance what they said.

Mr. HARRIS. They said if we persisted in these matters we would probably be arrested and put under bond and prosecuted for disturbing the titles and making application for land which we had no right to do. He also stated that there would be drastic action taken against the office of the parties that were managing this homestead matter?

Senator BRATTON. Drastic action of what character?

Mr. HARRIS. Well, he said the office would probably be raided, the data confiscated, and those that had not been arrested and put under bond would be at that time or a later date. That included myself as one, of the homesteaders, and others who might expect to get the same treatment.

Senator BRATTON. Were any other threats except indictment and arrest and prosecution made?

Mr. HARRIS. No; there was nothing. I was treated very courteously on the trip out. I was offered refreshments, the kind that they carry in the vest pocket and the hip pocket, which I did not partake of. Everything was very pleasant so far as that went.

Senator BRATTON. You never learned who the parties actually were?

Mr. HARRIS. No; I never did.

Senator BRATTON. And you are not able to tell the committee, now?

Mr. HARRIS. I can not. It is just a matter of giving those names, which probably were fictitious.

Senator BRATTON. Now, Mr. Harris, you have a copy of that letter addressed to Mr. Wheeler?

Mr. HARRIS. I have.

Senator BRATTON. You already have stated that you have a copy of the communication delivered to Mr. Hartigan, which was passed on to Brown, Harper, Walker, and Sanders or Sanderson. Do you have any other written data in connection with the same matter that you consider relevant?

Mr. HARRIS. No; I think not. The report here to Mr. Wheeler practically covers the entire transaction.

Senator BRATTON. Will you be good enough to hand it to the reporter?

Mr. HARRIS. With pleasure, sir.

Senator BRATTON. It will be received and marked "Exhibit W."

EXHIBIT W

LOS ANGELES, CALIF., *July 22, 1925.*

Mr. L. C. WHEELER,
Department of Justice, Los Angeles, Calif.

DEAR SIR: You requested me to give you a statement of facts relative to certain homestead locations made on part of the so-called Irvine ranch in Orange County, Calif., and facts, if any, I have that relate to the indictment against Ben McLendon, Clinton Johnson, and others, by reason thereof.

In keeping with this request, please note the following:

The indictment, I am informed, bears date September 7, 1923. Some of the conditions surrounding it are known to me; but I was not called before the grand jury and do not know any of the witnesses who were called.

I am one of the locators on the property within the inclosure known as the Irvine ranch. I located on 160 acres NE. ¼ sec. 30, T. 5 S., R. 18 W., and have several friends and relatives who did likewise. Being known as a locator is probably the reason I was brought into a controversy under circumstances as explained to your Mr. Cassidy somewhat in detail on the 10th instant. The substance of what I then stated is that—

On May 17, 1925, I overheard a statement made by Mr. Harry T. Hartigan that some of the locators on the Irvine ranch property were due to get a jolt very soon. This induced me to make inquiry, and Mr. Hartigan told me that certain parties were prepared to take action which would greatly embarrass the originators of the movement to homestead the lands, as well as the locators. The substance of what Mr. Hartigan told me is:

That certain persons and interests had made plans to make a raid or drive on a large number of the homestead locators who filed on the Irvine ranch, as well as on the originators of the movement; that they were to be arrested and jailed, and bail would be set so high that it would be impossible for them to furnish it.

The arrests were to be made and indictments sought on the ground of fraud, collusion, conspiracy, bribery, securing money under false pretenses, and illegal use of the mails. The offices of the principals, and as many others as necessary, were to be raided. Safes and safe-deposit boxes were to be attached and opened and their contents, together with office files, were to be examined and held as evidence to substantiate the charges and support the arrests. This move was to be swift, thorough, and drastic, and was to be made to strike terror to the hearts of all the locators and all others interested in the homestead locations. The purpose was to force all parties who had applied for homesteads to abandon them, and for the further purpose of making any others who might think of making locations abandon the idea for all time. It was declared that if any further attempt were made on the part of the locators to have their locations recognized, the raid, arrests, and prosecutions would begin at once.

The plans that Mr. ——— stated had been adopted, and the threats that had been made, were of such a startling nature, I asked him to carry a message to the parties who had given him this information. I asked him to

tell them they were evidently uninformed as to conditions, and ask them if they were not afraid they might get into serious trouble. This message was given to the parties, they were not aware of the fact that I knew the details of their plans.

On May 19, during the day, I received word through Mr. ——— that the parties wanted to interview me at an early date. On the strength of this, I called on Mr. Clinton Johnson, one of the locators, and conferred with him.

On May 19, at 8 o'clock p. m., I received a telephone message at my residence, 1425 Alta Vista Boulevard, Hollywood, from a party introducing himself as Mr. Browning, stating that he lived in Beverly Hills, was driving out Sunset Boulevard, and asked me if I would meet him one square from my home; that he would like to get some information concerning the homesteaders on the Irvine ranch. At that time a new lighting system was being installed on Sunset Boulevard and the street at the point indicated was dark. I met Browning a few moments later at the point designated. He was driving a 7-passenger sedan. He asked me to enter his car for a talk, stating he would return me to that point. Browning then drove west on Sunset about a half mile. There the car stopped and three men entered. They were introduced as Harper, Walker, and Sanders (or Sanderson). The car then proceeded west to a dark and secluded spot, where it was stopped and I was questioned substantially as follows:

Mr. Harris, are you one of the locators on the Irvine ranch? Are you associated with Johnson, McLendon, and others? Were you instrumental in getting others to locate on the land? Do you fully understand what you are doing? Do you know that three or four hundred thousand dollars were collected from the locators by Johnson and McLendon? What did you pay for the privilege of locating? Do you know that those asking others to join in homesteading this land are equally guilty with those heading the movement? Do you know that similar movements have been attempted before and failed? Do you know of the latest decision from Washington to this matter? Do you know that this agitation is going to be crushed now for all time, and if any other move is made drastic action will be taken against all of you? There are $100,000,000 back of this movement to forever silence these attempts to grab lands and disturb titles.

These questions were largely put by Mr. Harper. At this point Mr. Walker abruptly asked the following question:

"Mr. Harris, were you not at one time indicted by a Federal grand jury?" My reply was, "No; I have been in active business for 48 years and have never been indicted and have no recollection of ever having been sued or suing anyone. In fact, I have never had a personal court case in my life."

I admitted I was a locator and had advised some of my friends to locate. These men then declared I was as guilty as any of the parties who were indicted, and could be indicted and convicted with the originators of the conspiracy.

In substance, they told me that the locators had to abandon all efforts to get the lands they had located or filed on, and if they did not, other drastic means would be adopted and carried out against them at once.

They asked me if I knew about the indictments that were returned against the leaders. Then they declared these indictments were still pending—that the leaders would be tried and convicted, and if we, as locators, did anything more or made any further effort to get the lands, we would also be indicted and convicted.

After this, two of the parties left the car and walked away together. They were gone for some little time and then returned, and all the parties got in the car and drove back to the point where I got into the car, at which point I got out. They then drove away in the direction of down town or the business part of the city.

On Monday morning, June 1, I received a telephone call from Mr. Browning, requesting an interview and asking for evidence to show that he and his associates were making a mistake and that they were liable to get into trouble. I informed him that I would meet him at either his or my office, or would go with him to Mr. Johnson's office; but I would not consent to meet him or talk with him under conditions similar to those on the evening of the 19th of May.

During the day I had a message from Mr. ———, telling me that indications were that immediate steps would be taken to carry out the threats that had

been made, and asking me to meet him on the third floor of the Transportation Building, Seventh and Los Angeles Streets. I called at Mr. Johnson's office and had a conference with him and Mr. Summers, and thereafter I delivered the message given by them to me to Mr. Browning and his associates. Later I received word from Mr. ——— that the parties who had formerly shown such an aggressive disposition and made such positive threats as to drastic action had decided not to do anything for a few days.

On Thursday, June 4, I met Mr. John S. Pratt, of the Attorney General's Office, Washington, D. C., in Mr. Johnson's office, and in the presence of Mr. Johnson and Mr. Summers I gave Mr. Pratt the substance of my experience as related hereinabove.

Respectfully yours,

——— ———.

Mr. WICKHAM. Mr. Harris, did you ever call at my office prior to May 19, 1925, and ask me for information about the Lomas de Santiago Rancho?

Mr. HARRIS. I think I did.

Mr. WICKHAM. At this time, I would like to ask you who sent you there or how you came to come to my office.

Mr. HARRIS. I do not know as any one sent me there. I found out that you had resigned from the department in Washington and had an office in Los Angeles. I went there, I believe, to ask you some questions about land matters.

Mr. WICKHAM. Do you remember stating that you were contemplating filing a homestead on the Lomas de Santiago Ranch and asking me whether I thought you could get the entry allowed, and eventually get title?

Mr. HARRIS. My impression is—this is Mr. Wickham?

Mr. WICKHAM. Yes.

Mr. HARRIS. My impression is I told you I had filed. If you will give me the date on that; I have the date of filing, but I have no record of coming into your office.

Mr. WICKHAM. Is my name mentioned in that paper there?

Mr. HARRIS. It is not.

Mr. WICKHAM. Did you make an affidavit before the United States Attorney, wherein you positively identified me as the mysterious Mr. Harper, to whom you have referred in this paper?

Mr. HARRIS. I have no recollection of making any such affidavit.

Mr. WICKHAM. If you did make such an affidavit, and it can be produced, would you say at this time that that statement is true or untrue?

Mr. HARRIS. Well, if I made an affidavit I would say that statement was true.

Mr. WICKHAM. Do you identify me at this time as the mysterious Mr. Harper, that you stated in that document filed with the United States Attorney, tried to intimidate you?

Mr. HARRIS. Did I—just repeat that question.

Mr. WICKHAM. My recollection of your statement in the affidavit, if it was in that form, or in letter form possibly, before the United States Attorney, was that you identified me positively as this Mr. Harper.

Mr. HARRIS. I do not recall——

Mr. WICKHAM (interrupting). See if that is not in that paper, that you identified this Mr. Harper from the fact that he used a term—I have forgotten the word, but we will say "Mossback" for

lack of a better description or definition—and in this statement or affidavit you said that I used that term when talking to me concerning Mr. McLendon, at my office. That this Mr. Harper also used the same word and therefore, you were positive in your identification that I was the so-called and mysterious Mr. Harper, who had called on you and taken you for this ride.

Mr. HARRIS. I have no recollection of ever furnishing any more than this written statement to Mr. Wheeler in the Department of Justice. If you will furnish an affidavit of that kind I will be pleased now to identify it.

Mr. WICKHAM. I am asking you if you can identify me as that Mr. Harper.

Mr. HARRIS. Well, in view of the fact that you have opened the question, I will say this, that I did call on you quite a while before that time and during that outing, that automobile ride, and expression was used by the so-called Mr. Harper, who did most of the questioning at the time, that Ben McLendon was an old fossil, "that old fossil Ben McLendon."

Mr. WICKHAM. I see that was the term that was used.

Mr. HARRIS. A few days after that I called at your office, and in discussing the land situation you made that same remark, that Ben McLendon was an old fossil. That is the reason I had for connecting you as being possibly one of those men.

Mr. WICKHAM. Do you remember that the identification was complete and not simply possible?

Mr. HARRIS. I do not think I ever said it was complete. The identification was taken on the fact that that expression had been used during this automobile ride and was made by you in your office a few days later.

Mr. WICKHAM. Do you think I am Mr. Harper at this time?

Mr. HARRIS. Well, I would not recognize you or identify you, because I did not identify or recognize anyone very clearly on that ride.

Senator BRATTON. Mr. Harris, you would recollect the similarity in the voices, perhaps?

Mr. HARRIS. Well, I do not want to misjudge anyone. I had not expected to bring up that matter now, but after Mr. Wickham brought it up I made the statement which I have made, which came the nearest to identifying anyone of the group of four that asked me out for that ride on that evening. There wasn't very much room for identification. The street was dark, the automobile was a closed one, and we stopped farther out on Sunset Boulevard in a very secluded spot.

Mr. WHEELER. May I ask the witness a question?

The CHAIRMAN. Yes.

Mr. WHEELER. Mr. Harris, would you mind giving the committee some of the statements that were made to you by Mr. Allen in regard to the Irvine Ranch homesteaders, the Palos Verdes homesteaders, and so forth, say two years ago, and in the last year or two as giving just a little idea of Mr. Allen's interest in the matter?

Senator BRATTON. Who is Mr. Allen?

Mr. WHEELER. Mr. Allen of the Title Insurance & Trust Co. I think he is listed there as president.

Mr. HARRIS. Mr. Allen is a personal friend of mine of many years' standing. We have compared notes a good many times on the homestead activities and the various people homesteading on these ranches, and he at various times intimated that we would secure our homesteads on the Lomas de Santiago, but he was very definite in his statement that we would not on any of the other ranchos.

Mr. WHEELER. May I ask this: At one time did he say something to the effect that you fellows had won your homesteads on the Irvine ranch and the Palos Verdes, but we are going to block you on the San Fernando Valley, or words to that effect?

Mr. HARRIS. No; I don't know as he included the Palos Verdes. His statements had always been quite definite that while one ranch might be secured——

Senator BRATTON (interposing). Whatever he said was just an expression of opinion, wasn't it?

Mr. HARRIS. Yes; of course.

The CHAIRMAN. You may be excused, Mr. Harris. Mr. Wheeler, did you have any other witnesses that you wanted heard this afternoon?

Mr. WHEELER. There are some witnesses that I wish to be called. Mr. Lucien C. Wheeler, head of the investigating bureau for the county; Robert C. Stewart, head of the legal staff; Captain Finlanson, whom I think is now in the civic service; Lieutenant McCarron; Dick Lucas, formerly a police officer, of the City of Los Angeles, and now in jail on a fraud charge. Three of those officers came into my office and tried to work the intimidating game on me. I had them there for about an hour or an hour and a half and I would say they left there very much crestfallen. Captain Finlanson said this, "Legally you fellows are right, but morally it is all wrong and I don't think it ought to be done." I had statements at that time that would seem to indicate that they came down to my office to see if they could not intimidate me and frame some kind of charge on me and stop the work that I was doing in educating the public here, if you want to put it that way, in using the evidence obtained by Government records. I would like to have them here, but it is late now and they are not here.

The CHAIRMAN. You have stated quite briefly what they did.

Mr. WHEELER. That just about covers it; yes, sir. There is one thing I want to add to that. I was told afterwards that Mr. O'Melviny had gone to Mr. Harry Chandler, and through Mr. Chandler he had gotten Mr. Asa Keyes, former district attorney of this county, to send these men down to my office and see if they could not stop me.

Mr. HARTKE. I would like to ask you, Mr. Wheeler, who told you that.

Mr. WHEELER. I do not make any answer now except this, that this is not the time and place to say who told me that.

Senator BRATTON. Then, Mr. Wheeler, you ought to withdraw the statement. It is palpably improper to make a statement that you were told a thing that reflects upon certain citizens and then, when you are asked to say who told you that, to say that it is not the time or place to say who told you.

Mr. WHEELER. That is right. It would be improper in that way. I will have to get the witnesses here to substantiate it. I do not

want to give their names before I can have the witnesses. If I could get the witnesses here to-morrow, will that be all right?

Senator BRATTON. And in the meantime you withdraw the statement that was made there?

Mr. WHEELER. Yes; if you please.

The CHAIRMAN. Now, Mr. Wickham.

STATEMENT OF GEORGE R. WICKHAM, ATTORNEY, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Mr. Wickham, state your full name.

Mr. WICKHAM. George R. Wickham.

The CHAIRMAN. And your present occupation.

Mr. WICKHAM. Lawyer.

The CHAIRMAN. You were formerly connected with the Department of the Interior?

Mr. WICKHAM. I was.

The CHAIRMAN. Between what dates?

Mr. WICKHAM. Between 1921 and 1924. My appointment was confirmed by the Senate May 20, 1921, and I took office on the 12th of June, 1921, and resigned on November 30, 1924.

The CHAIRMAN. You are conversant with the contention that has been made here relative to certain information that you gave out as an official of the Department of the Interior?

Mr. WHEELER. Yes, sir.

Mr. WICKHAM. For the purpose of stating this in concrete form, I have taken the time to prepare a statement and if the committee will listen to it in that form I think I can give them a chronological statement as to the whole proceedings.

The CHAIRMAN. Very well, you may proceed, Mr. Wickham.

Mr. WICKHAM. During my term of office as Assistant Commissioner of the General Land Office, I had occasion to meet one Ben McLendon. Our meeting was, I believe, in the latter part of August, 1922, at which time Mr. McLendon called on me at my office in Washington. He introduced himself as having been directed to me by Mr. Alexander Mitchell, former receiver of the Los Angeles land office. Further conversation with Mr. McLendon led me to understand that Mr. Mitchell had simply advised him as to whom the personnel of the officers of the General Land Office were, and as I happened to be from Los Angeles, Mr. McLendon decided to call on me.

I received Mr. McLendon in a cordial manner, invited him to be seated, and listened to his story. He advised me he was seeking some information relative to the Irvine Ranch in Orange County, Calif. The Irvine Ranch takes its name, apparently, from general knowledge, the said Irvine Ranch was a part of either the Rancho Lomas de Santiago or Rancho San Joaquin, or perhaps both, these ranchos being private land grants, or Spanish land grants as the term is often used. Mr. McLendon proceeded to inform me, in his resourceful manner, of a "gigantic fraud" which had been perpetrated upon the United States in the issuance of patent for this rancho or ranchos.

During my days as a law student in Los Angeles, prior to my admission to the bar, I had studied law in the office of the late Frank E. Dunlap. Mr. Dunlap at one time represented, as attorney, a group of homestead applicants who sought to convince the Land Department of the United States that a hiatus existed between these two private land grants or ranchos. Having done the stenographic work on Mr. Dunlap's briefs, and more or less discussed the case with him, I had retained in mind a number of legal points which served as the basis for Mr. Dunlap's case. Upon being appointed to the General Land Office in Washington, I read considerable of the older annual reports of the Commissioner of the General Land Office, maintaining at the time a card index of citations of record matters of either a historical or legal interest.

In a casual discussion of these so-called "gigantic frauds" with Mr. McLendon, as he termed them, I took a deep interest in what he was saying, for, I deemed it my duty as an officer of the Land Department of the United States, if he could show and convince me of the perpetration of such frauds on the United States, to lay the matter in an appropriate proceeding before my superior officers, to wit: The Commissioner of the General Land Office and/or the Secretary of the Interior. However, after listening at some length to Mr. McLendon, during which he was continually referring to "international law," I could see that he was not very convincing in his allusions to the subject of fraud. I suggested to him, by way of argument, and for argument sake only, that the United States was bound by the Statutes of Limitations—then six years from the discovery of the fraud—in which it could bring an appropriate proceeding for the annulment or cancellation of patent based upon fraud. Mr. McLendon then boldly made an assertion that the matter of this "gigantic fraud" had never before been brought to the attention of the proper officers of the Government, whereupon, in an endeavor to show him to the contrary, I stepped to the book case and drew therefrom a report (official bound published volume) of the Commissioner of the General Land Office—(William A. J. Sparks, commissioner) for the year, 1886 or 1887, I have forgotten which.

In this report Commissioner Sparks made charges of fraud in connection with a number of private land grants, among which was the Lomas de Santiago grant. This report, I suggested, would tend to show that the proper officers of the Government did know of a so-called "gigantic fraud" many, many years ago, and that the statute of limitations could be used against Government action at such a late day in seeking to cancel and annul the patent. This report of Commissioner Sparks I did not admit to say bore any evidence of truth in respect to fraud, but pointed out to Mr. McLendon that a subsequent report by a successor in office of Commissioner Sparks had determined, after investigation, that Commissioner Sparks's charges of fraud in connection with land grants were not well founded. Mr. McLendon asked me to give him the citation to Commissioner Sparks's report, and as I had a typewriter beside my desk I inserted a memorandum sheet and struck off the citation memorandum. I also gave him a memorandum of the subsequent report, which characterized the Sparks's charges as not being well founded.

Mr. McLendon then inquired if the land office had certain maps of a grant, as I remember it, in or close to the present Los Angeles City. Instead of phoning to the map room I suggested, as a matter of courtesy, that perhaps he would like to go with me to the map room and look the maps over himself. He gladly accepted this invitation, whereupon we went to the ground floor (my office being on the fifth floor). We saw the clerk in charge, who showed Mr. McLendon the maps he desired. Mr. McLendon seemed pleased that these maps were available and asked if he might secure copies thereof. I informed him that such maps and plats were a part of the public records, and he might obtain copies thereof upon payment of the legal fees therefor. He then ordered several copies of several maps, whereupon Mr. McLendon and myself returned to my office. Shortly thereafter—perhaps half an hour—the plats ordered were sent to my office, and Mr. McLendon paid the clerk the fees therefor, which, as I remember it, amounted to about $3 or $3.50.

Since severing my connection with the Land Department I have learned that Mr. McLendon made certain statements that "a certain official in the General Land Office" (doubtless meaning me) gave him access to the secret archives of the General Land Office. The only archives which Mr. McLendon saw in the General Land Office, so far as I know, were the plats on file in the map room, and these maps are not "secret" or "confidential" in any sense of the word but are a part of the public records, to which any person may be lawfully granted the right of inspection or to have copies made upon payment of the legal fees therefor. Any inference or statement by Mr. McLendon or any other person, directly or indirectly, by inference or otherwise, the tenor of which would be to the effect that Mr. McLendon received any "secret" or "confidential" information from my hands, or to which any person would not be lawfully entitled to receive, is an infamous and unmitigated falsehood.

When the hour of noon arrived Mr. McLendon, having previously invited Mr. Charles D. Hamel and Mr. George A. Ward to lunch with him, invited me to join the party. Mr. Hamel was at the time connected with the Bureau of Internal Revenue, and Mr. Ward was connected with the Reclamation Service, and I had known these men for some time. I consented to lunch with all of them as a party. Each party paid his own luncheon costs. The lunch-table conversation did not discuss private land grants or other public-land matters but was what might be termed "a social luncheon get-together of Californians."

Later in the day, Mr. McLendon came again to my office, stating he had understood that many years ago, along in 1900 or 1901, one Earl Rogers, well-known attorney of Los Angeles (now deceased), had represented a group of homestead applicants for lands in the Lomas de Santiago Rancho, and that he would appreciate it if I could procure for his inspection the files in the old cases, so he might examine Mr. Roger's briefs. After some search, the files were located, and brought to my office, whereupon after hurriedly scanning the pages of the brief, he stated he would like to make some notations from the applications, but as he was in a hurry to get away, he requested me to advise him by letter directed to his Los Angeles address, the name, date of application, and land sought by each appli-

cant. Perhaps I might have been justified in declining this information, placing the denial upon the ground of insufficient office help. However, the policy which the Commissioner of the General Land Office and myself were endeavoring to carry out, was one of courtesy to the public, and as Mr. McLendon had, apparently, come a great distance for the information, and further that the information he requested was simply a part of the public records, and to which he would be legally entitled to such information, I called a stenographer, dictated the letter, and instructed the stenographer to take the stack of homestead applications—some 110 in number, if I remember correctly—and tabulate in the letter the data which Mr. McLendon requested. I have for many years used a closing paragraph, both before entering upon Government duties, during my term of office, and since that time, when replying to inquiries requesting information, as follows: "Trusting that this information will answer your purposes, I remain." The closing paragraph to the letter to Mr. McLendon, was, therefore, but the using of what might be termed a "stock" closing paragraph, and it never occurred to me at the time that anyone would ever endeavor to transpose that closing paragraph into anything other than that which intended, viz. a courteous closing paragraph. I shall say more of this letter later.

Mr. McLendon then advised me he would like to consult Lester's Land Laws, a publication long since out of print. He said he had searched the libraries in Los Angeles, but had been unsuccessful in his quest for the book. Upon ascertaining that he did not immediately wish to see the book, I suggested to him that several months before I had been appointed to office in Washington I had purchased a second-hand volume of this book, and that if he wanted it I would be glad to let him use it. He was greatly pleased at this generosity, and I volunteered to give him a note to my brother, E. B. Wickham, or V. H. Koenig, a former office associate, requesting either of them to look for the book and loan it to Mr. McLendon.

Mr. McLendon also stated that a number of old maps were destroyed in the earthquake and fire in San Francisco in 1906 which destroyed all records of the United States Surveyor General's Office. He asked a civil question as to where duplicates might be obtained. I suggested that the General Land Office would have all maps which had been on file in the United States Surveyor General's Office, but he insisted that these maps, to which he referred, were not strictly United States maps—or publications of the Federal Government. Thereupon and without it ever having been disclosed to me what particular maps he was looking for, I suggested that perhaps the State surveyor general at Sacramento would have the maps he wanted. He appeared to think that suggestion a good one, and asked me if I knew anyone at that office, and I replied that I knew both the surveyor general and his deputy quite well. At Mr. McLendon's suggestion, I placed a memorandum sheet in the typewriter, and struck off the name of W. S. Kingsbury, State surveyor general, and A. W. Sanborn, deputy, advising Mr. McLendon, at the time I handed his the memorandum, that he would find both of these men very fine gentlemen, courteous in every respect, who would assist him to the extent of their ability in locating any public record on file in their office.

I have mentioned these memorandums and letter at some length, because at a hearing in Washington before the Senate Public Lands Committee it was insinuated, perhaps charged, that myself, as Assistant Commissioner of the General Land Office, had advised Mr. McLendon that the lands described in said letter were open to public-land entry by homesteaders. These memorandums were introduced as evidence.

Such insinuation and/or charge is positively an unmitigated falsehood. At no time did I ever, by word of mouth or letter, even remotely suggest that the lands set forth in the letter to Mr. McLendon were public lands. Any rational construction of my said letter, I believe, will show otherwise. In said letter it is said:

> Referring to your personal call of August 29, requesting the names of certain homesteaders who in 1906 filed upon certain lands within the Lomas de Santiago and San Joaquin Ranchos in Orange County, Calif., together with the descriptions of the lands filed on by said homesteaders, I have the honor to submit herewith such information as you have requested * * *.

It would be my opinion that if the lands were within these ranchos, they would not be public lands subject to entry. And in closing the letter, as heretofore stated, I simply used what I might term a short, courteous, "stock," closing phrase.

As a matter of fact, during my conversation with Mr. McLendon I repeated several times that the statute of limitations, in my opinion, precluded Government action in the courts to set aside patents, and I told him strongly that until a patent was actually set aside by a court of competent jurisdiction the Land Department has no jurisdiction over the property. I gave Mr. McLendon courteous advice concerning the rules of practice before the Department of the Interior, telling him that when an application is rejected by the local or district land office an appeal would lie to the Commissioner of the General Land Office, and a further appeal would lie from the latter's decision to the Secretary of the Interior.

I informed Mr. McLendon that as an officer of the Interior Department exercising judicial functions, I could not render any advance opinion what would be decided in a case coming before the office. I further told him that the determination of homestead applications in conflict with private land grants were a matter for the signature of the commissioner himself and not the assistant commissioner.

I told him, moreover, that the practice in the Land Department was not unlike the courts—a decision of the higher tribunal being always binding on the lower tribunal. I advised Mr. McLendon that so far as I could determine, he had not made any showing of fraud, but if he could show fraud, to set it forth in detail in any applications coming before the office, or in the way of evidence supplementing the applications. I called his attention to the prior decisions of the Secretary of the Interior holding that no public land existed within the Rancho Lomas de Santiago, so far as I recollected the tenor of those decisions, and that he should remember that the decision of the Secretary of the Interior was binding on the General Land Office. That if the General Land Office should reject any applications, he might take an appeal to the Secretary of the Interior, and there argue fully and completely his many alleged points on international law.

I have to say emphatically that Mr. McLendon had access to and received copies of only the public records of the land office, which he, or any other citizen, might be entitled to as a matter of right. I might add, by way of comment, that had I suspected that the letter which I wrote to Mr. McLendon giving therein the data which he requested was to be used for the purpose which was shown in the prior hearing before the Senate Public Land Committee, to wit:

Of endeavoring to so transpose the meaning of that letter so as to make it appear that myself, as Assistant Commissioner of the General Land Office, was advising Mr. McLendon that the lands set forth therein were "public lands, open to entry," I certainly would have taken extraordinary pains to have couched the language thereof as to be unmistakably certain and definite, and to have included words of warning that intending homesteaders should beware of unscrupulous attorneys and land locators seeking to part them from their money under the guise that such lands were open to their homtstead entries. However, it occurs to me that the statement in my letter aforesaid, referring to the fact that the lands were within the Lomas de Santiago and San Joaquin Ranchos, was a sufficient warning that the lands were not vacant, open, and unappropriated public lands of the United States.

I might say further that it has been the policy of the Land Department for over a century, that when the General Land Office is replying to a letter of inquiry, or responding to a personal call for information, to confine the reply thereto as to matters of official record—to direct the reply to the particular point or points on which the inquirer seeks such information, and to avoid indulging in theories or hypotheses or conclusions. In other words, the General Land Office, and in my opinion rightly so, must and has, always assumed that an inquirer seeks information from that Bureau in good faith and for legitimate purposes. It has never taken the contrary assumption—to wit, that the inquirer is a crook, and that the information is desired for illegal and illegitimate purposes. Therefore, it may be readily appreciated, that letters enamating from that office always endeavor to be short, specific, giving answer to the inquiry propounded, and to close the letter, without indulging in a maze of conjectures as to why and for what purpose the inquirer desired the particular information.

I deeply resent that my name should have been mentioned at the prior hearing before the Senate Public Lands Committee, and particularly in the manner that it was, without an opportunity to have replied thereto. Most certainly do I dislike to have had the testimony at that hearing, to have had the stamp of approval of a public printing and broadcast over the country as an official document of the United States Senate, accusing me of wrong doing, and no opportunity to have included therein, my denial and explanation as herein given. I am referring to the prior report, gentlemen.

The CHAIRMAN. You understand, Mr. Wickham, do you not, that at the hearing held nearly two years ago none of the testimony taken was sworn to?

Mr. WICKHAM. I did not understand that.

The CHAIRMAN. None of it was.

Mr. WICKHAM. I will finish this in just a second.

I should deeply appreciate it therefore, if the Senate Public Lands Committee, when finally disposing of this case, would make special mention of this statement, as tending, in some measure, at least, to have shown that in my own opinion and clear conscience, my acts referred to at a prior hearing were legitimate, open, and in accordance with the proper performance of duty as a public officer.

I ask therefore further that this statement be made a part of the record in refutation of the insinuations and charges against me, and my acts in an official government capacity, and for whatever other uses it may serve.

There is just one thing I want to add to that. The statement was made by Mr. Wheeler and Mr. Johnson that I referred Mr. McLendon to this report of the Commissioner of the General Land Office for the year 1887. I did, but I wanted it for the purpose in showing that the Statute of Limitations applied. It is a matter of official record, but as to my making any notation in that paricular book, I think the evidence recorded at the prior hearing will show the absurdity of my having made any such notation in that book. I called his attention to it from the book in the library of the office of the assistant commissioner. One of the pieces of evidence that he is introducing here is the receipt from the Superintendent of Public Documents where he went away without such book, after I was supposed to give him the notation, so I never made any notation in his book. Another thing that has been brought out here, and without knowing just the page, the statement is made somewhere in the hearing that Mr. McLendon came back from Washington and told this group of people that the commissioner and the assistant commissioner had both assured him, or words to that effect, that their entries would be allowed.

As a matter of fact, Mr. McLendon met the Commissioner of the General Land Office in this way: I took him in and introduced him to Governor Spry. He stayed there about five minutes. I do not recall at that time that he ever mentioned the term "Spanish grants" at all or indulged in any statements about that. He did make statements about some coal lands up in Alaska; that was the substance of his conversation with the commissioner concerning public lands. Governor Spry at no time ever talked to Mr. McLendon concerning these matters, at least while I was in the office. When he was there on that first visit he at no time talked with Governor Spry about the Lomas de Santiago Rancho. He did all of his talking with me. There is another statement I want to clear up, and in doing so I might be classified as a character witness. I served under Governor Spry in office from 1921, when I went there, until I resigned in 1924. I think I know the governor just about as well as anybody from my contact with him. I might say that during all the time I have known him I have never known him to use any such language as was given here in this affidavit, to the effect that he would see them in hell, or some place—I forget the exact language used this afternoon—but I merely want to say as long as I have known him, I have never known him to use such language as imputed to him here to-day.

The CHAIRMAN. Anything further, Mr. Wickham?

Mr. WICKHAM. No; except that I want to deny specifically the testimony of Mr. Harris to the effect that I ever appeared anywhere under any other name than that of George R. Wickham. I never went out and saw him under the name of Harper or any other name. The United States attorney asked me about that affidavit. I remember it very distinctly, the way he made that statement. He came down to my office and asked me about filing on land in the Lomas de Santiago Rancho, and I told him I did not think there was a chance in the world that he would ever get anything. He asked me if I knew McLendon, and I told him I did. I may have referred to McLendon as an old fossil. I don't remember the exact language that I might have used; but at no time did I ever use any intimidation against Mr. Harris or any other person in connection with these Spanish land grants. I have advised many people who have come into my office and asked me about them that I did not think there was a chance in the world for them to get them. Some of them have gone ahead and turned over their money any way, notwithstanding my advice, but I know I have kept a few of them from turning over money to this association.

The CHAIRMAN. When did you first have knowledge of this experience about which Mr. Harris told us this afternoon?

Mr. WICKHAM. Probably—Oh, 30 days after his statement to the United States attorney, or thereabouts. If I recall correctly, the United States attorney has an affidavit on file by me denying it right at the time. There is also in the United States district attorney's office, which was given along about March, 1925, if I recall it, a statement very substantially similar to this one.

The CHAIRMAN. Are there any further questions?

Mr. WESTERVELT. I would like to ask the witness a few questions, if I may.

The CHAIRMAN. Certainly.

Mr. WESTERVELT. What was the date of this call by Mr. McLendon upon you in Washington?

Mr. WICKHAM. The latter part of August, 1922. I do not remember the exact date.

Mr. WESTERVELT. Did you have any previous acquaintance with Mr. McLendon?

Mr. WICKHAM. I never had seen the gentleman before in my life.

Mr. WESTERVELT. Have you had any acquaintance with him since then?

Mr. WICKHAM. I met him once or twice afterwards when he was in Washington.

Mr. WESTERVELT. Do you now recall what you discussed on those other occasions?

Mr. WICKHAM. We possibly discussed some of the features of the land grant. I do not remember that.

Mr. WESTERVELT. You do not recollect the other occasions very clearly. When did you prepare the statement which you have read just now?

Mr. WICKHAM. I prepared part of it Monday evening and part of it early Tuesday morning.

Mr. WESTERVELT. Have you had your attention particularly drawn to the matter in the five or six years in the meantime or was that the first time that you prepared your statement on last Monday evening?

Mr. WICKHAM. No; I prepared a similar statement along in March of 1925 and gave it to the United States attorney.

Mr. WESTERVELT. Did you have that in your possession when you prepared the one you have just now read?

Mr. WICKHAM. I did and took part of it from that.

Mr. WESTERVELT. Do you know how long it took to prepare the one from which you took this one which you have read this afternoon?

Mr. WICKHAM. Well, doing my own typewriting, I probably prepared it in around an hour or maybe less.

Mr. WESTERVELT. Now, can you state to the committee how long after the conversation with Mr. McLendon, of which you have given us the full description, the conversation in the Washington Land Office, that conversation which you had with Mr. Harris, the conversation in which he said you referred to McLendon as an old fossil, and you say you do not remember whether you did or not?

Mr. WICKHAM. Well, I think that conversation must have taken place along about May of 1925, with Mr. Harris.

Mr. WESTERVELT. How long would that be? What was the date you said you had an interview with McLendon in Washington in 1922?

Mr. WICKHAM. In August of 1922.

Mr. HARRIS. May I ask the witness a question, Mr. Chairman?

The CHAIRMAN. Yes, Mr. Harris.

Mr. HARRIS. Mr. Wickham stated that I furnished Mr. Wheeler, of the Department of Justice, an affidavit mentioning his name. His name does not appear in the letter which I wrote to Mr. Wheeler and I have no recollection whatever of having made an affidavit wherein his name was mentioned. Now, if that affidavit is not on file, I would like to have that statement taken from the record. If he can show it to me, or prove to this committee that there is a statement of that kind or affidavit of that kind on file, then well and good; but I am confident in my own mind that there is no such affidavit on file in the Department of Justice, and it is an injustice to me to have that statement go on file if it is not there. I will ask to have Mr. Wickham prove the matter by furnishing that affidavit.

Mr. WICKHAM. I will make a request of the United States attorney to ascertain if it is there. If it is not, we will probably have to subpœna it so we can insert it in the record.

The CHAIRMAN. You will make such inquiry?

Mr. WICKHAM. I will, to see if it is on file there. It may have been transmitted to Washington.

Mr. HARRIS. I will be very glad to identify the affidavit if it is mine.

Mr. JOHNSON. May I ask the witness a question?

The CHAIRMAN. Yes.

Mr. JOHNSON. Mr. Wickham, here is a letter, apparently a photostat of a letter written to Ben McLendon at the New Ebbitt Hotel, Washington, D. C. I was with McLendon when he received that letter.

Mr. WICKHAM. Yes.

Mr. JOHNSON. We were in Atlanta, Ga., prior to the receipt of that letter and had notice from Los Angeles by telegraph that the rejections of the filings on the Lomas de Santiago had been received, and

this letter recites that no action has been taken. We had that information two weeks before we left Atlanta for Washington.

Mr. WICKHAM. The only thing I know about this letter here is—this letter is a letter which came into the office, dated December 19, 1922. I did not write that letter or dictate it. I simply signed that letter, among probably a great many thousand other letters. It appears to be written in Division K by one D. C. I don't even remember who he was.

Mr. JOHNSON. It looks like an attempt to let the time elapse for puttting in the appeals, to hide information that the appeals had been called for until the time had elapsed——

Mr. WICKHAM. I do not know what the conditions were here.

Mr. JOHNSON. We would like to have this incorporated in the record.

Mr. WICKHAM. I signed the letter. It bears my signature.

The CHAIRMAN. Let it be incorporated in the record at this point.

GENERAL LAND OFFICE.
Washington, December 19, 1922.

(In reply please refer to Los Angeles 035363 "K" DO)
Address only the Commissioner of the General Land Office.

In re: Homestead application 035363.

Mr. BEN MCLENDON, *Washington, D. C.*

MY DEAR SIR: This office acknowledges receipt of your letter dated December 19, 1922, relative to homestead application Los Angeles 035363, filed October 23, 1922.

In reply you are advised that no action has been taken in this case, but the same is now before the division having charge of the adjudication of such cases, and a decision will be made in conformity with the facts in the case in the very near future.

Very respectfully,

GEO. R. WICKHAM, *Assistant Commissioner.*

Mr. JOHNSON. I would like to furnish a copy of one of the rejections received about two weeks before this letter was written.

Mr. WICKHAM. Was that one of these rejections in the cases where McLendon submitted the applications or some others? I see this particular letter refers to homestead application Los Angeles 035363.

Mr. SMITH. That can be located in the local land office.

The CHAIRMAN. That is all, Mr. Wickham. Do you wish to be heard on this matter Mr. Lawler?

FURTHER STATEMENT OF OSCAR LAWLER, ATTORNEY, REPRESENTING THE ANGELES CHAMBER OF COMMERCE

Mr. LAWLER. I think it might be of assistance to the commitee to complete the record on the San Fernando grant.

The CHAIRMAN. That is what we should like, yes.

Mr. LAWLER. I think I can do that very briefly. I will try, at any rate.

The application addressed to the land commission has already been put in. I assumed that that is correct. I have not had a chance to check it, but we will so assume. I have a copy certified by the county recorder of the patent, which shows the usual recital, that it is pursuant to a decree issued out of the proper court, following the finding by the commission, and that the matter had taken the usual course under the statutes. The committee will probably recall that in all these proceedings, after, I think it was 1853 when the

amendment was adopted to the act of 1851, the appeal was automatic, so that the case was made by the appeal, and then the Attorney General was required to give notice within six months, if I remember correctly, as to whether or not he intended to pursue it, and if he did not do so or if he dismissed the appeal by affirmative action, the decree of the lower court became final. That created the cause from which these very aggravated charges, many of them justified, were made to Stanton who was then Secretary of War during Lincoln's administration, based upon an examination of the records of California.

Therefore, it was deemed proper that in needed congressional legislation the district courts in these matters should not be permitted to stand upon the decree of the California courts and the Attorney General should not be required to take affirmative action in reference to appeals, but that the record should come up to him and then the duty be cast upon him of either dismissing the appeal or going on with it. I think in this instance the appeal was dismissed. I might say that the recorder has made a photostatic copy of the map attached to the patent. Unfortunately it is not attached to the certified copy and if the committee prefers I will have an order made to make another copy and attach the photostatic copy of the map to it. You will understand, when you come to look at the map that it is made on a double page of these old records which are now kept in the vault because of their character. You will see that this is not actually in the survey [exhibiting map] but that is due to the fact that it is on two pages and the map was split in order to place it on the record. This is a certified copy of the patent and a photostatic copy of the map with its traverses as they appear upon the original as it appears in the record of this county, of the grant of Ex Mission San Fernando to Eulogio de Ciles, and that I would ask to go in, and that, in connection with the application makes the record complete.

The CHAIRMAN. That will be filed with the committee as Exhibit X.

Mr. WHEELER. Mr. Chairman, may I ask a question here?

The CHAIRMAN. Mr. Wheeler.

Mr. WHEELER. Mr. Lawler, do the parties you represent claim this is the best title?

Mr LAWLER. Of course patent passing is the best title——

Mr. WHEELER. This patent issued under the act of 1851 is the best title?

Mr. LAWLER. Certainly. I do not want to say that all the parties I represent claim that. I am here because the Title Insurance & Trust Co. asked me to come here and aid the committee in any way I could with any information that might be available. I stated to the committee yesterday that I did not want to misrepresent the facts that I represented anybody in this matter except as I have stated.

Now, Mr. Chairman, and members of the committee, as was indicated in a case in the Supreme Court of California, the case of Los Angeles Farming & Milling Co. *v.* Thompson, which was an action in ejectment and a test case arising out of a vast number of homesteaders attempting to locate upon this property—the lower court, Justice Vandyke, sitting on this very bench many years ago—and he was one of our most revered and learned members of the

court, who afterwards served for many years on the supreme court bench, and whom we all remember with the deepest reverence and affectionate regard—he was the judge who tried it in the lower court. It went to the supreme court of the state and the judgment was affirmed. It is reported in 115 California 594. I presume the committee would not wish the record encumbered with more than a reference to the decision. It is available and anyone who desires to read it can do so.

In that decision in that case reference is made to a fact which we deem to be pertinent, although it may be very largely cumulative, but the record shows that this Rancho San Fernando had been—I don't remember the year but it was many years ago—owned by two parties, that Mr. Porter owned the north half and Lankershim and Van Nuys owned the south half. Mr. Porter, whenever settlers came upon his ground and settled there, picked up their belongings and hauled them away. Mr. Van Nuys was a different type of man and did not take the law into his own hands. Porter never got into the courts, but Van Nuys did. It is stated and shown that it cost Mr. Van Nuys upwards of $50,000 to finally carry this litigation through to its final termination. After the ownership of Porter and Van Nuys—I think it was called the Los Angeles Homestead Association—they were tenants in common and there was a suit in partition between those parties in which this patent and these records were all, of course, introduced and used, and that is referred to in the record a good deal, which went to the Supreme Court of the United States in the case of the Farming & Milling Co. *v.* Thompson. Again the record was reviewed and the property was divided between these two parties, a certain number of acres going to each.

In that case various questions were raised which are suggested here and as a reading of the opinion in One hundred and eightieth United States Reports, page 72 will demonstrate. I do not want to encumber the records, but I think it might not be inappropriate, if the committee desires it, but I have here a copy of the map in that suit which shows the land with a line drawn directly through the property, the south half being marked "San Fernando Homestead Association," and it is merely an exact reproduction of the patent map and shows that it must have been made by other surveyors many years after the patent map was made and indicates with remarkable accuracy how closely subsequent surveyors were able to follow the surveys originally made. And by the way, it indicates another thing about which there is a great deal of confusion, and that is this: Inside of the Rancho San Fernando there is, excluded therefrom, the Rancho Encino. The name means, "the oaks," and was so called because of the great many beautiful oak trees. It is very near the Ventura Boulevard. The Rancho Encino was granted prior to the San Fernando and the San Fernando covers a very much larger area, and the map shows one grant inside the other, with the smaller grant having been made first, so that the latter grant was subordinate to it.

We ask that this map of that partition be filed, and it is merely to show that any reflections upon the survey were quite unwarranted, in view of the decisions of the court with reference thereto.

The CHAIRMAN. It may be filed with the committee as Exhibit Y.

Mr. LAWLER. There is just one other thing. So far as I can see, the matter of any subsequent subdivision of this property or its sale to anyone else is material only in this wise, and that can be better determined from looking at it. I do not think it would be possible to locate a homstead of above 40 acres on any part of this very large area without covering some beautiful home, either some farmer farming his own area or perhaps some residence of very large proportions built by some one who has purchased the land for a home. Many of them are very beautiful. The land is intensively improved. I think the gentlemen will all admit that, so that anyone going out there and looking at it and contemplating going to the land office and locating upon it would know that he was attempting to acquire title to a piece of property that some one else at least felt that he was honestly entitled to and had paid his money for, as well as for its development.

There has been a statement made which perhaps is a matter of supererogation, which we take the liberty of calling attention to it because I am impressed in some respects with Mr. Wheeler's misapprehensions, which I think are largely innocent mistakes, but he has stated very emphatically that May 13 was the date after which grants could not be made. And for that reason this grant in the San Fernando, which was made on a date in June, and the same is true of other grants, is susceptible or subject to fatal affliction on that account and largely for his information and for the information of the committee, I will read only a few lines from one case which I think will clear that up.

Mr. Justice Field, whom we all remember as the greatest jurist that California ever produced, if not the greatest that the Nation ever produced, said in many of these cases in which he was involved as a member of the Supreme Court of California and before going to Washington—and after going there he said in the circuit court out here as a circuit justice with the late Ogden Hoffman, who was one of our greatest jurists also—and, by the way, in the volume of Hoffman reports will be found a list of all these grants, every one of them, both those approved and disapproved, which contains some eight hundred and odd grants, and I think it is practically the only place in which all of these things can be found. That has been reprinted in the last volume of the Federal cases, which is a reprint of the old Federal court reports, with which the members of the committee are at least familiar.) But in this case of U. S. *v.* Yorba (68 U. S. 412), Justice Field says this:

2. The invalidity of grants issued by the Mexican Governor of California, after the 13th of May, 1846, is asserted upon the declaration of Mexico, through her commissioner, who negotiated the treaty of Guadalupe Hidalgo, that no such grants were issued subsequent to that date. It is true that such declaration was made and embodied in the project of the treaty originally submitted to our Government. But as the clause containing it was stricken out by the Senate, it can not be affirmed that the treaty was assented to by the United States on the faith of the declaration. Even if the case were different, and the treaty had been concluded in reliance upon the truth of the declaration, that fact could not affect the rights of parties who, subsequent to the 13th of May, 1846, obtained grants from the Governors of California, whilst their authority and jurisdiction in the country continued. The rights, asserted by the inhabitants of the Territory to their property, depend upon the concessions made by the officers of the former government having at the time

the requisite authority to alienate the public domain, and not upon any subsequent declaration of Mexican commissioners on the subject.

The authority and jurisdiction of Mexican officials are regarded as terminating on the 7th of July, 1846; on that date the forces of the United States took possession of Monterey, an important town in California, and within a few weeks afterwards occupied the principal portions of the country, and the military occupation continued until the treaty of peace.

The political department of the Government at least appears to have designated that day as the period when the conquest of California was completed, and the Mexican officials were displaced; and in this respect the judiciary follows the action of the political department.

Mr. WHEELER. May I ask this one question, where you say the Senate took out the clause—that is article 10, you mean?

Mr. LAWLER. Yes; I am reading from the decisions of the Supreme Court of the United States.

Mr. WHEELER. And I am reading from the treaty, which says that article 10 was struck out and in place of it an amendment was made, and in the amendment it stipulates that after May 13, 1846, there were no grants made.

The CHAIRMAN. Mr. Wheeler, kindly permit Mr. Lawler to finish his statement, and then you will be given an opportunity.

Mr. LAWLER. Another suggestion which has been made and which is a matter of history is entirely inaccurate, perhaps unintentionally so, that there was no authority for the commission to proceed. It is true, using that term in its literal sense, that without any grant at all or evidence that there had been a grant, that the commission would not have had authority to proceed; but in the history of California there is recited a great many documents, and I think the record will likewise show, some of them grants in this part of the country—showing that in many, many instances, because of the very infirm and informal method of keeping records, that they were lost utterly and they were obliged to resort to oral proof; and the court in several instances referred to the fact that in such circumstances, of course, they would require much more strict proof than where a party produced some written evidence upon which to predicate his claim. The historical works are replete with repeated references to the absence of records in many instances. The case to which Mr. Wheeler calls attention or referred to, if I remember correctly—and I am quite sure I do—was one in which there was a direct appeal from the proceedings before the commission, and in that particular proceeding it appears that Pio Pico acted in the sale of the San Gabriel Mission property without authority; that being so, of course, the grant was rejected.

Now, in the Thompson case, that is, the San Fernando grant case, that very question was presented again and, of course, this being a collateral attack, as any attack would be now, and it being contended that the grant was without authority, very briefly, the language of the court was this:

To support the assignment of error, it is urged that the Governor of the Californians had no authority to make the grants, and therefore the decree of confirmation was without that authority of law and was also absolutely void and a mere nullity. It is hence further contended that the patent based on and reciting the decrees was void on its face. The ultimate basis of the contention is that the court of private land claims had no jurisdiction to confirm the grant, because the Governor of the Californians had no power to convey the public lands for a money consideration.

That is the suggestion made here at at least suggested by counsel.

That is to say, the grant being void it could not be the basis of a claim to lands by virtue of any right or title derived from the Spanish or Mexican Government. This conclusion is attempted to be deduced from the words of section 8 of the acts of Congress of March 3, 1851, creating the Board of Land Commissioners. The section provided that each and every person claiming land in California by virtue of any right or title derived from the Spanish or Mexican Government shall present the same to said commissioners when sitting at the board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claim; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same from such evidence and from the evidence produced in behalf of the United States, and to decide upon the validity of the said claim.

There is one other suggestion which it seems to me we might bear in mind here and which is not as fully understood as it might be if developed. The map itself is declared by the court to be a part of the judicial function; that is to say, not the mechanics of making that map, but the fact that the map is made as a part of the judicial proceeding gives the court complete control of it. That was very effectively decided in a late case involving an island in the bay of San Pedro. I have forgotten the number of the report, but I could give it to you without trouble. It illustrates the effectiveness of these maps and the control of the courts over them.

There, in the survey of the San Pedro ranch, what was called the inner bay exception was included; that is, the survey went completely around the harbor and then excepted therefrom that portion included within the inner bay and the exception was shown upon the map. In the inner bay was the island of Mormon, upon which Lemuel Banning homesteaded, or to which he succeeded either by direct proceedings or relinquishment of title from some other person under the homestead or other public land laws of this country. A controversy arose between the owners of the grant and Banning with reference to the title of that property. The plaintiffs in that case were the claimants under the grant, the owners of the grant, and they claimed, because that was included within the bay afterwards and it was not so designated in the inner bay exceptions, that they were the owners of the property. The court there said that the survey itself and the map not showing that this island was included in the grant rather than in the inner bay exception, that the remedy of these parties, if they saw fit, or if at the time they were not satisfied with the map, was to call the attention of the court thereto, to the end that there might be a correct survey made, and that not having done so the final decree was just as effective as if the property had had the specific designation that it was excluded from the grant. That is the case of DeGuijer *v.* Banning (167 U. S. 723). In that case they refer to a number of other cases, which have repeated in substance the same thing, that the map is a part of the decrees and shows that the land is not only correctly located but it is correctly delimited, and that all persons, after the time for appeal had elapsed, are bound thereby. Any such attempt to assail it is a collateral attack and has the same effect as such an attack on any other judgment.

Those are things which, by the members of the committee, will be well understood; but, as a matter of interest, I call your attention to something that will illustrate perhaps better than anything else the condition which existed in this country—and I have no doubt in Sen-

ator Bratton's State also—the manner in which these surveys were made under the original proceedings by the Mexican and Spanish authorities. I have before me a certified copy of the grant to the Rancho Palos Verdes, down beyond San Pedro, and out near the water, covering those hills. Of course, the name means green hills.

The general procedure I think perhaps you are familiar with, but it was this: A Spanish or Mexican citizen would make application for a piece of property. Usually he wanted pasture land and he would say he lived on it or intended to live on it. Then the proper proceedings would be taken to call the attention of the authorities to the fact that this was a deserving man. Then the disena would be made and the other evidence of title given. This disena was practically a survey. You will see from examining it how crude it is. You will see it is a mixture of both plane table and attempted topography, and in this particular situation you will find that in the description of the property, if you happen to look at it, it says to the lands along a certain line to the lands of Dominguez. I have been down there, and this land has been in litigation many years—and there is one monument called the Los Barillos, which was, as a matter of history, some barrels that were set alongside the road at which the stages used to stop and water their horses. There were two or three barrels. I think on one occasion when I went down there and tried to find a corner of the ground—this has been many years ago—we counted some 18 or 20 corners or monuments which had been put up by as many different surveyors in trying to locate exactly Los Barillos, which had disappeared because the horses had gone out of existence and the convenience of watering them was no longer necessary. It is stated in the survey of this property that when the surveyor came here he had to hunt several days to find three men who were able to sign their names. I do not mean our survey, but the survey by the Mexican authorities. Some time in 1822 when a survey was wanted a man on horseback would have a sharp stick to which was attached to leather rope, 40 varus in length.

He planted the stick at a place where the water met the shore, he placed the stick in the hands of one man, and the man would take the other end of the rope with the stick tied to it and he would go out in a certain direction until the rope was taut, and he would plant the second stick and so on until they reached a given point in the hills. That was done because land was the cheapest commodity they had and they were simply attempting to generally locate a man upon it. It is not surprising, as the years have passed, that there have been many disputes over these surveys, but in recent years, they have gotten things in this county in as good if not in better shape, than in almost any other part of the country, because the heirs of those who have owned these properties of very great value have subdivided them and improved them and thus have made it absolutely necessary that the titles should be meticulously accurate. I think there is much misunderstanding about this situation and I feel that many of these people are entirely innocent and honest; that if in their minds there could be a correction of the serious misapprehensions of facts that have arisen, the whole thing would be dissipated and the committee would be relieved of much of its labors and other people relieved of much annoyance.

Now, if there is anything at all that we can furnish to you we shall be glad to do so. I think Mr. Vernon has prepared what seems to me a very complete record, or at least a complete statement of the law relating to these titles and if there is anything else that we can do for you gentlemen, we will be very glad to do so. Reference has been made to the book written by Mr. J. A. Graves. He is one of our most interesting characters and one of our most revered lawyers and I think if you start his book you will not lay it down until you have finished it. In regard to the Lomas de Santiago grant, I think the report in 4 Sawyer covers the question involved here, and the opinion by Mr. Justice Field is a very able and exhaustive one. If there is anything else we can do to assist the committee or relieve these people of what we respectfully say is a misapprehension, we will be glad to do it and we are at your command. I think there is no difference in any of these grants so far as the legal matters are concerned.

The CHAIRMAN. So far as what?

Mr. LAWLER. So far as the law is concerned and I think there is very little difference in so far as the facts are concerned up to the time that the patent has been issued.

Senator BRATTON: I think we have a fairly good concept of the legal questions involved and, as a member of the committee, I agree with what counsel says, that the principles are practically similar, if not identical.

Mr. LAWLER. I have some hesitancy in making any suggestions, in view of the knowledge of the Senator from New Mexico of these matters, who perhaps knows a great deal more about the whole subject than we could ever think of knowing.

The CHAIRMAN. If that is all at this time, the committee will take a recess until 9.30 o'clock to-morrow morning.

(Whereupon, at 5.15 o'clock p. m., the committee recessed until Thursday, April 4, 1929, at 9.30 o'clock a. m.)

MEXICAN LAND GRANTS IN CALIFORNIA

THURSDAY, APRIL 4, 1929

UNITED STATES SENATE,
SUBCOMMITTEE OF COMMITTEE ON
PUBLIC LANDS AND SURVEYS,
Los Angeles, Calif.

The subcommittee met pursuant to the call of the chairman, at 9.30 o'clock a. m., in Department [illegible], Court House, county of Los Angeles, Los Angeles, Calif., Senator Gerald P. Nye presiding.

Present: Senator Nye (chairman), Dale, and Bratton.

Present also: The various representatives of the parties appearing before the subcommittee.

The CHAIRMAN. The committee will be in order. Mr. A. C. Routhe.

Mr. JOHNSON. Mr. Chairman, Mr. Routhe was on the telephone this morning. He stated that he had a case in court and that he would be in here some time during Thursday with reference to John Cooper, whose name you have on the list, [illegible] in the Washington Building. The same thing applies to Lewis D. Collings.

The CHAIRMAN. Lewis D. Collings?

Mr. JOHNSON. [illegible] Lewis D. Collings.

The CHAIRMAN. They will be here some time during the day.

Mr. JOHNSON. They have not been notified, to my knowledge, but they can be reached [illegible] and they would be glad to come.

The CHAIRMAN. [illegible] Smith? Robert A. Armstrong? V. E. Clarke?

Mr. CLARKE. Here.

The CHAIRMAN. Florence B. Makee? Daniel Gartling?

Mr. JOHNSON. I think Mr. Gartling is dead, or I so understand.

Senator BRATTON. How long has he been dead?

Mr. JOHNSON. For several months.

The CHAIRMAN. R. D. Morris?

Mr. JOHNSON. I believe I can furnish the telephone number of Mr. Armstrong, but I doubt if he could be reached there before night.

Senator BRATTON. What is his business?

Mr. JOHNSON. He is a chemist and metallurgist.

Senator BRATTON. Mr. Wheeler, can you tell us Mr. Morris's whereabouts?

Mr. WHEELER. I sent word to Mr. Morris this morning, but I left the office before I knew whether or not he received it. But I think he will be here within the next 30 minutes or so.

BEST AVAILABLE COPY

The CHAIRMAN. Then we will call Mr. Clarke.

The CHAIRMAN. Mr. Clarke, will you please take the stand and be sworn?

TESTIMONY OF VERNON E. CLARKE, REAL-ESTATE BROKER, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

Mr. CLARKE. Vernon E. Clarke.

The CHAIRMAN. And your occupation?

Mr. CLARKE. Real estate.

The CHAIRMAN. What is that?

Mr. CLARKE. Real estate broker.

Senator BRATTON. In a brief filed with the Senate some months ago we were told that you could furnish the committee with information regarding threats made against the homesteaders who filed applications to make entries?

Mr. CLARKE. Yes, sir.

Senator BRATTON. Upon some or all of these grants and the coercion exercised or exerted by different departments of the Government against homesteaders. Directing your attention to that thought, tell us what you know about the subject matter, and let me preface the question by asking you whether you are a homestead entry man?

Mr. CLARKE. Yes, sir.

Senator BRATTON. On which grant?

Mr. CLARKE. On the Canada de los Alisos.

Senator BRATTON. When did you make your application?

Mr. CLARKE. On the 13th day of July, 1922, or thereabouts.

Senator BRATTON. Were you working in concert with others at that time?

Mr. CLARKE. No, sir.

Senator BRATTON. Entirely independently of others?

Mr. CLARKE. I located upon this particular piece of ground upon information partly furnished by Ben McLendon and partly as a result of my own investigations of the public records in the county of Los Angeles, and upon information that has come to me over a course of years.

Senator BRATTON. Mr. Clarke, with that preliminary statement, tell us in your own language what you know about the coercion and intimidation on the part of any Government official or department against homestead entrymen or threats that have been made against them.

Mr. CLARKE. In the first place when locations were made in the land office at the time I made mine and at subsequent dates, when I happened to be present, I heard the various clerks make defamatory remarks about those who were reputed to be promoting the homesteading or securing people to apply for homesteads or placing of people on homesteads in this particular vicinity.

Senator BRATTON. Now, let us be specific about that. Whom did you hear make such statements and what did they say?

Mr. CLARKE. I do not know their names, but I can identify them. They repeatedly said if these matters did not cease those people who were attempting to homestead on that property down there would get into trouble; not only that, but Joe Burke sent a message to me and others from one James L. Clay, an attorney, to the effect that if the homesteaders for these particular lands, that they would be punished and they would all land in jail.

Senator BRATTON. When was that?

Mr. CLARKE. May I refer to my memorandum?

Senator BRATTON. Yes.

Mr. CLARKE. If I may refer to this memorandum, I can give the committee the thing in the exact words.

Senator BRATTON. The question now is the time.

Mr. CLARKE. On September 17, 1923, at 11.40 o'clock a. m.

Senator BRATTON. Was that message delivered to you by Mr. Clay?

Mr. CLARKE. Yes.

Senator BRATTON. Where is he now?

Mr. CLARKE. I don't know where he is.

Senator BRATTON. How long has it been since you saw him?

Mr. CLARKE. Oh, probably a year and a half.

Senator BRATTON. Is he a practicing attorney here in the city of Los Angeles?

Mr. CLARKE. Yes.

Senator BRATTON. And he is available to the committee?

Mr. CLARKE. I think so.

Senator BRATTON. Now, what did this gentleman tell you?

Mr. CLARKE. Burke said that the whole bunch located on that land down there will get into jail if they don't stop pressing their cases; that it is nothing but a fraud location on the land and intimated if we would quit it would be all right for us.

Senator BRATTON. That is substantially what Mr. Clay told you?

Mr. CLARKE. Yes.

Senator BRATTON. As being the message coming from Mr. Burke?

Mr. CLARKE. Yes.

Senator BRATTON. Very well, what else?

Mr. CLARKE. You mean referring to Government officials?

Senator BRATTON. Yes.

Mr. CLARKE. Mr. Smith himself advised me against going into the matter.

Senator BRATTON. Well, we are talking now about threats or coercion. What did he say that you regarded as a threat or as coercive methods?

Mr. CLARKE. Well, he suggested that we might get into trouble.

Senator BRATTON. When was that?

Mr. CLARKE. Well, I don't remember the exact date, but at the time I made my location or subsequent to the time I made my location.

Senator BRATTON. At the land office?

Mr. CLARKE. At the land office; yes.

Senator BRATTON. What else can you tell us, Mr. Clarke?

Mr. CLARKE. That is as far as I can go concerning public officials.

Senator BRATTON. Very well.
Mr. CLARKE. But as to others on the outside?
Senator BRATTON. All right.
Mr. CLARKE. Some time—I don't remember the exact date, but I think it was the 7th day of September, probably as early as the 6th day of September, 1923—I first went to William Allen, jr., president of the Title Insurance Co., with whom I had at least an acquaintance, and with whom I had done business previous to that time, and I considered that we were in a measure friends; and as a friend of mine I went to him and suggested that it might be well for such an institution as he had—that he was the head of—to get his board of directors and advisers and get around a table and find some way of solving this problem and averting undue publicity. Previous to that date I had gone to one of the newspapers in the city of Los Angeles, the News, and referred to the land commissioner's report of 1885, 1886, and 1887. I think I said—told them who I was, and I said, "If it is possible, don't let any of that stuff get out, because if it does get out it will rip California open so she won't ever get over it for the next 50 years."

With that interview and with that spirit of friendliness and helpfulness I went to Mr. Allen as a friend and asked him if they would get around the table with those who were competent to assist in straightening that matter out. He said to me, "What suggestions do you have to make?" My reply was that I had no suggestions to make other than that "I believe I know the source or the men that can greatly assist you in straightening these affairs out without publicity." Mr. Allen took the matter under advisement and met with his board of directors, more particularly Mr. Sartori of the then Security Trust & Savings Bank, former Senator Thompson, I think, all of whom are directors, and on the next morning, I think it was about the 7th of September or thereabouts of 1923, I met with Mr. Allen and Mr. Thompson by appointment, and Mr. Allen said to me, "However inclined I am to assist you in that matter, I am in a position where I have to listen to my board," and then the statement was made to me, after I had suggested to them the proportions of this matter and the ability that they would have to meet their requirements in granting titles with only a limited capital in comparison with the value of the land that was involved, and the disastrous results that would obtain, and he turned around and said to me, "Do you recall an incident when a certain man was in my office with the deputy sheriff of this county and what we did to him?" and I said, "I recall what you said you did to him." And he said, "Well, we are going to do just exactly to you and your associates what we did to him, namely, put him in jail." My reply to Mr. Allen was, "You are going to drag your long gray hairs on the ground before you put me in jail, because we have the facts in the case."

Now, in addition to that, on the 8th day of September, 1923, I went to O. E. Monet, vice president of the Bank of America, I think it was called—it was later absorbed by the Bank of Italy or merged with the Bank of Italy—was, I believe at that time, as I remember it, considering taking over the trusteeship of the Palos Verdes, and I went to see Mr. Monet, then president of the Citizens Trust & Savings Bank. There were many times when we had conferences together and favors were done both ways. I considered him my

friend and as a friend of mine I went to him and spoke of these conditions with the idea that he should take means to protect himself in the matter. And he laughed at me and ridiculed me and said to me, "Why don't you and the friends you have, why don't you people come with us so that you will make some real money?" And my reply was that I din't like shady deals and if I knew it I didn't intend to be mixed up with that kind of a deal. Then he said to me, as his parting words, "All you folks are without money and without political power and you are despised by the powers that be."

Senator BRATTON. Any others? Do you know of anything else in the nature of threats, Mr. Clarke?

Mr. CLARKE. I do not recall.

Senator BRATTON. In the memorandum filed with the committee this statement is made that applicants to homestead were notified over the telephone, by signed communications, and in other ways that unless they filed relinquishments and quit any effort to secure this land as homesteads that all kinds of punishment would be meted out to them. Were you ever notified over the telephone?

Mr. CLARKE. Not personally.

Senator BRATTON. Or by any signed communications that you would be punished if you did not relinquish?

Mr. CLARKE. No; but on that subject I was subjected to jibes from various people all over town.

Senator BRATTON. This additional statement is made. Some of them were threatened with death, and your name was given to the committee as a witness who could substantiate those statements. Now, do you know of anything, in addition to what you have told us, that would even tend remotely to sustain that statement?

Mr. CLARKE. Remotely?

Senator BRATTON. Yes.

Mr. CLARKE. Yes, sir.

Senator BRATTON. Or directly?

Mr. CLARKE. When you say remotely, that was included in the jibes I got from various people as I went around town.

Senator BRATTON. All right. Who threatened you with death?

Mr. CLARKE. Personal?

Senator BRATTON. Directly or indirectly?

Mr. CLARKE. Nobody personally ever threatened me with death that ever came to my immediate knowledge, but they threatened to throw me in jail.

Senator BRATTON. In the manner and on the occasion which you have detailed?

Mr. CLARKE. Not only that; those are only the cases I made a memorandum of. I am pretty well known in town, and, if I paid attention to everything that everybody said, a great deal of my time would be taken up with that kind of stuff.

Senator BRATTON. Leaving aside the immaterial detail [illegible] committee frankly anything else in the nature of thr[illegible] against you, either as to prosecution, incarceration, or [illegible]sonal violence.

Mr. CLARKE. Well, the facts of the case are—I don't remember the exact date the indictment was returned, but I was included in an indictment some time previous to the 8th day of September, 1923.

Senator BRATTON. Were you one of the persons indicted?

Mr. CLARKE. Yes; and they held us on a $10,000 bond for two years without even an opportunity to plead our case; and as far as I know I had nothing whatsoever in any way to do with anything that was charged in the complaint.

Senator BRATTON. Also, in connection with the indictment, the committee has been told that when the United States attorney, Mr. Burke, was engaged in conversation about that case that he stated in substance that some persons who were indicted knew too damn much and that they were going to be kept in jail.

Mr. CLARKE. That is what they intended to do with me.

Senator BRATTON. Now, wait a moment. That is an expression of opinion. Tell us what you know about Mr. Burke making that statement, or that in substance.

Mr. CLARKE. That was simply communicated to me.

Senator BRATTON. And you know nothing about it personally?

Mr. CLARKE. He did not make that to me personally, but he sent the message.

Senator BRATTON. That is what you told us about?

Mr. CLARKE. As I have outlined.

Senator BRATTON. Were you under indictment at the time that attorney—what is his name?

Mr. CLARKE. Clay.

Senator BRATTON. Were you under indictment at the time Mr. Clay gave you the message you have already told us about?

Mr. CLARKE. Yes, sir.

Senator BRATTON. Who else was included in the indictment?

Mr. CLARKE. Ben McLendon, W. R. Price, Clinton Johnson, and a lady attorney by the name of Caldwell.

Senator BRATTON. Gertrude M. Caldwell?

Mr. CLARKE. Yes; I think so.

Senator BRATTON. Was William R. Price included?

Mr. CLARKE. Yes, sir.

Senator BRATTON. Where is Mr. Price?

Mr. CLARKE. He has passed away.

Senator BRATTON. He is dead?

Mr. CLARKE. Yes.

Senator BRATTON. Mr. McLendon is dead?

Mr. CLARKE. Yes.

Senator BRATTON. Gertrude M. Caldwell lives here in Los Angeles?

Mr. CLARKE. I have not seen her for a year and a half.

Senator BRATTON. The indictment was finally dismissed without trial or other proceedings?

Mr. CLARKE. Yes. I have a certified copy of the dismissal.

The CHAIRMAN. Do you wish to ask the witness any questions, Mr. Wheeler?

Mr. WHEELER. Not at this time. I do not know the details of the old cases back there and the witnesses themselves can tell the story better than I can draw it out by questions.

The CHAIRMAN. Do you know of any other information that you want to lay before the committee in connection with your homestead claim?

Mr. CLARKE. I want to make reference to documents that are necessary to be made a part of the record. In other words, I do

not want to lose my right to the matter by having them passed over at this time.

The CHAIRMAN. That opportunity will be given later, Mr. Clarke.

Mr. CLARKE. This whole matter has placed me in such a financial position that I must give undivided attention to business affairs at this time in order to avoid financial difficulties.

The CHAIRMAN. Do I understand you have some documents that you want to offer in connection with your homestead?

Mr. CLARKE. I simply want to make a statement in behalf of myself in relation to this homestead.

The CHAIRMAN. Proceed at this time, Mr. Clarke, and we will get it out of the way. Your homestead is on what grant?

Mr. CLARKE. The Canada de los Alisos. It isn't on the grant itself it is on the interstitial portion between the Canada de los Alisos and another grant south of that.

The CHAIRMAN. Has patent been issued on that?

Mr. CLARKE. Patent was issued on the other, on the portion that was claimed under the original grant, but the lines were slipped down to cover an extra mile south of the line, and this particular homestead carries a description that I can furnish the committee.

The CHAIRMAN. And included in the patent that issued is the land which is described in that homestead application?

Mr. CLARKE. No; not in the original grant.

The CHAIRMAN. In the patent?

Mr. CLARKE. I will simply refer to this copy of a file that was sent in to the land commissioner, that is the first file that was sent in. I do not have the copy of the second file, but I wish here to refer to all the documents that have been filed in this case and similar cases and have them subpœnaed and made a part of the record. These documents are now in the hands of the General Land Commissioner and the Secretary of the Interior.

Senator BRATTON. Give us the title of the case and its serial number.

Mr. CLARKE. In the matter of the application of homestead of Vernon E. Clarke, serial No. 035126. There were some maps that were filled with this, a copy of which I do not have now, but they are in the hands of the land commissioner.

The CHAIRMAN. It is probable that the entire record in that matter would be in the custody of the Commissioner of the General Land Office?

Mr. CLARKE. Yes.

The CHAIRMAN. And it is your desire that it be considered by the committee?

Mr. CLARKE. Yes; not only in these two but on all other grants that are issued at this time. I do this for the simple reason that through some inadvertence counsel did not refer to it, that is the notification that I got from the Department of the Interior on December 12, 1922, where they returned the check to me and informed me that the case was closed. I did not attach the check and return it through the proper channels, and I will ask that you make all of these records a part of your investigation.

The CHAIRMAN. Very well. Is that all, Mr. Clarke?

Mr. CLARKE. That is all, thank you.

The CHAIRMAN. Is Mr. Routhe now in the room, or any of the other gentlemen who were called earlier?

Mr. CLARKE. May I be excused from further attendance upon the committee?

The CHAIRMAN. Certainly, Mr. Clarke, thank you.

Mr. JOHNSON. Mr. Chairman, Mr. Routhe said he would be in court this forenoon for a short time.

The CHAIRMAN. Mr. Smith?

STATEMENT OF BRAINERD B. SMITH, REGISTER OF THE UNITED STATES LAND OFFICE, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Your full name, please.

Mr. SMITH. Brainerd B. Smith.

The CHAIRMAN. And your official capacity at this time?

Mr. SMITH. Registrar of the United States land office at Los Angeles, Calif.

The CHAIRMAN. For how long have you been such?

Mr. SMITH. Since July 1, 1922.

The CHAIRMAN. You have been in attendance upon the committee hearings quite regularly since they opened, have you not, Mr. Smith?

Mr. SMITH. Yes, sir.

The CHAIRMAN. And you are quite conversant with the testimony that has been given here?

Mr. SMITH. I am, sir.

The CHAIRMAN. We should like, Mr. Smith, if you would proceed in your way in throwing any light that you may have upon this question, with particular reference to things that have been said here, more particularly with relation to the conduct of your office.

Mr. SMITH. May it please the committee, I have prepared a statement and some notes, which will probably have to be transcribed, giving, as far as I see it, since the fall of 1922 the status of homestead applications that have been made in the local land office on the lands affected.

There have been from and since the fall of 1922 numerous homesteam filings in the local land office upon lands embraced in private land grants, known as Mexican land grants, the title to which has passed out of the Government, and has been confirmed in the grantees pursuant to the treaty obligations of the United States and patents therefor issued to the grantees as directed and provided for in special acts of Congress.

The applicants to file when they appeared at the land office counter in person—as nearly all of them did—were then and there promptly told that the lands they applied for were patented lands, were not shown on the official plats on file as public lands, were not subject to disposal under the homestead laws, and that no rights could be initiated or acquired by a mere paper filing in the land office, and, therefore, their applications were rejected.

Under instructions from the General Land Office at Washington I had no discretion to refuse to accept the filings, but they were in accordance with the usual practice rejected and the right of appeal allowed. In due course of procedure the rejections of these applica-

tions have been affirmed, or will be affirmed by the Commissioner of the General Land Office and the Secretary of the Interior. There are still a great many filings which have not been finally disposed of, but they will be reached in due course for final rejection.

In all the cases referred to there is no official plat on file in the United States Land Office to show that the lands applied for are unpatented. In some of the townships no official plats of survey have ever been filed in the land office to show the existence of public lands therein; in other townships the official plat on file disclosed that the lands applied for were within the exterior limits of a private land grant, which are known as Mexican land grants, with only fractional portions of the townships along the borders of the grants surveyed and platted as public lands.

The rejection of these applications was based on the well established practice of the land department.

1. That homestead filings are not allowable for lands which are not shown on official plats of survey to be public lands. These official plats are required for the purpose of showing the survey lines, the legal subdivisions and areas of public lands.

2. That no right under the public land laws can be acquired by filings upon lands that have been patented, the title thereto having passed from the Government and having vested in the patentee.

This practice is well grounded in both law and equity. It would be obviously unjust to allow title searchers and others the prior right to initiate claims to lands claimed by them to be public lands in advance of the filing of official plats of survey and notice thereof to the general public.

The filings have been too frequent and numerous from 1922 up to the present time to set forth all of them, and I shall cite some typical cases, as the practice has been uniform in rejecting all the filings and in the affirmance of rejections on appeal.

On October 23, 1922, Ben McLendon made homestead filing 035363 for land described by him as the SW. ¼ of sec. 30, T. 5 S., R. 8 W., S. B. M., 160 acres, which was rejected because the land applied for lies within the exterior limits of the Rancho Lomas de Santiago, a Mexican land grand (now known as the Irvine Ranch). Then and subsequently there were made and procured through the advice and misrepresentations of said McLendon and his associated 230 or more other filings, embracing possibly 30,000 acres within said grant, which were also rejected by the Land Office. The Commissioner of the General Land Office affirmed the rejections, and in his decision of January 18, 1923, disposing of about 165 of the filings, he cited the fact that the plat of survey on file in his office approved February 1, 1868, showed all the lands to be within the limits of the grant, a private land claim, which was confirmed August 15, 1854, and was patented to Teodocia Yorba, February 1, 1868, which patent is recorded in volume 6 of the patent records of the General Land Office, page 479. On further appeal the Secretary of the Interior, by decision rendered April 30, 1923 (published in vol. 49 of Land Decisions, pp. 548–561), also affirmed the rejections, for the reason that the lands are embraced in an unrejected Mexican land grant and covered by an outstanding and uncanceled patent, and held in substance:

1. That the Secretary of the Interior has no power to ignore or inquire into the validity of the grant.
2. That the issuance of patent took away and deprived the land department of the power to allow an entry under the applications or to take any action looking to their allowance.

The decision recites:

> An entry should not be allowed on McLendon's application under the circumstances disclosed by the record, or on any of the kindred applications until it shall have been satisfactorily shown that the lands are not in the possession of some other person who is claiming title to them through the Mexican grant or under some other title or claim of right; these lands have not been surveyed and subdivided into sections and parts of sections and there is no such tract known or shown on the plats of the public surveys as the tract here applied for.

On November 18, 1922, Leonard C. Sloane made homestead filing 035583 for land described as the NW¼ of Sec. 23, T. 5 S., R. 9 W., S. M. B., which was rejected because the land applied for lies within the exterior limits of the Rancho Lomas de Santiago, a patented land grant. Then and subsequently about 49 filings on this grant were made which were also rejected. The rejections have all been affirmed.

On January 9, 1926, John Adams filed homestead application 041401 for land described as the S. ¼ NW. ¼ of sec. 10, T. 5 S., R. 14 W., S. B. M., which was rejected because the land applied for lies within the limits of the Rancho de Los Palos Verdes, a patented land grant. Then and subsequently about 84 similar filings were made. All these applications have been rejected and the rejections affirmed on appeal. The Secretary's decision in this case is published in volume 51, page 5921, of the Land Decisions of the Department of the Interior.

On September 26, 1926, Edith Hunt made homestead filing 042661 for land described as the SW. ¼ of sec. 5, T. 5 S., R. 15 W. S. B. M. which was rejected because the land applied for lies within the granted limits of Rancho Lomas de Los Palos Verdes. About 32 similar filings were made about the same time. All the filings have been rejected and the rejections affirmed on appeal.

On November 20, 1926, Verda Maupin made homestead filing 043079 for land described as the NE. ¼ of sec. 21, T. 1 N., R. 15 W., S. M. B., which was rejected because the land applied for lies within the limits of the Rancho Topango Malibu Sequit, a patented Ex-Mission of San Fernando. Then and subsequently about 100 similar filings were made. All the filings have been rejected and the rejection thereof affirmed. The commissioner in his decision rendered in these cases stated that the lands were shown to be within the limits of said grant which was patented to Eulogio de Celis on January 8, 1873, which patent is recorded in the General Land Office record of patents in volume 9, pages 140 to 163, inclusive.

On November 20, 1926, Ada Monica Williams made homestead filing 043056 for land described as the fractional E. ½ of E. ½ of sec. 33 and fractional W. ½ of W. ½ of sec. 34, T. 1 S., R. 17 W., S. B. M., which was rejected because the land applied for lies within the limits of the Rancho Topango Malibu Sequit, a patented land grant. Then and subsequently about 33 others and similar filings were made. The rejections have been affirmed. In his deci-

sion rendered February 14, 1927, the commissioner stated that the land applied for had been patented to Matthew Keller on August 29, 1872, which patent is recorded in the General Land Office record of patents volume 9, pages 40 to 56, inclusive.

The filings on these patented lands continue to be made at frequent intervals. Under recent instructions the filings are immediately forwarded to Washington for rejection by the commissioner. A great many of the filings are still pending not yet having been reached for final rejection in due course of business. The promotors back of these filings continue to operate notwithstanding the Secretary of the Interior has rejected them and pointed to their futility, citing decisions of the Supreme Court and the opinion of the Attorney General.

I unquestionably believe that these title-searchers have no desire to determine the question of title to these lands. They are well satisfied to repeat the form of filing and the formality of rejection and appeal so long as they can procure clients to make the business pay, and will continue operations until prohibited by law.

For several years Mr. Wheeler has held group meetings in various points in southern California and has induced others to call at his office at 571 I. W. Hellman Building, of this city, and has convinced a certain number of men that they can get a highly improved piece of property by paying a fee of $100, $500, or $1,000, as the case may be, by merely filing a paper known as a homesteader's application in the local land office. At this point I wish to say that these applications are filed on lands that are covered with fine homes, in places within the corporate limits of cities and all of it under a high state of improvement or cultivation.

Mr. Wheeler has created a very great deal of hostility in the minds of these filers against public officials. One of his greatest arguments is that corruption exists in the Land Department, and I desire at this time for Mr. Wheeler to prove these assertions, not only because I have been attacked but because I believe those he has induced to file these homestead applications should know the true facts.

Because we have endeavored to stop these innocent filers from throwing away their money we have been accused of fraud in office. Mr. Wheeler, who has accompanied most of the filers to the land office in the last several years, has been repeatedly told in the presence of his filers that he is filing them on patented lands, and when he has been told that he should stop this practice he has become abusive and called the clerks thieves, crooks, and bribe takers. Mr. Wheeler informed your committee yesterday about a visit he and I made together to the United States attorney's office. My version of that visit is a little different from his. Before the day of this visit on many occasions I and the clerks of the land office had told Mr. Wheeler that there was no way under the law to stop him from filing these applications, but we intended to stop him from calling us thieves, crooks, and bribe takers, which he did on every occasion he came to the office. On this day I took him to the attorney's office. He had two applicants with him, and I told Mr. McNabb that I wanted him to know this fellow, and Mr. McNabb asked him why he did not stop this practice of taking money from people for filing them on land that was shown to be patented, and in his opinion the

title could not be attacked, and he asked Mr. Wheeler why he did not act honestly in the matter and bring a test suit in the court by placing a squatter on one of these grants, and upon the ejectment of the settler obtain a court ruling in the case.

On many occasions we have asked Mr. Wheeler and others why they do not impound the moneys they collect from these filers, if they are acting under patriotic motives, and release these moneys to themselves when they will have delivered titles. Yesterday Mr. Wheeler referred to a radio address of Commissioner William Spry. If permissible I would like to comment on Commissioner Spry, and I wish to say at this point, as your honorable committee knows, that Commissioner Spry, after an eminently successful life was made Governor of Utah. His record in this office stands out as one of accomplishment, and he left the office with the highest regard and esteem of the people of Utah. He entered the office of commission with the reputation of a man of sterling honor and high attainments and personally, I hold him in the highest regard and the warmest affection.

Senator DALE. This may be somewhat aside from the issue, but I know Commissioner Spry very well and I am perfectly willing to have it appear in the record that I confirm what you have said about him.

Mr. SMITH. Thank you, Senator Dale. The radio address referred to was dictated by Commissioner Spry in my office and he gave the address not because he was a bribe taker or had otherwise been corrupted in public office, but because he had an earnest desire to save citizens of the United States their money and to let them know that there was no hope under acts of Congress, decisions of the land office, the Attorney General's office or the courts of the land in which they could hope to acquire title.

Now, there are a few points that I would like to touch on. I do not care to touch on the charge against me as a bribe taker, I think that is too childish to consider and I will say nothing about it. But there are some points to be emphasized which I would like to call attention to.

The CHAIRMAN. Proceed in your own way, Mr. Smith.

Mr. SMITH. First, that Summers, Wheeler, and their associates know that the lands applied for and being applied for lie within the limits of patented lands grants.

Second. That said land grants have been confirmed by the courts, and that the United States has issued patents therefor, pursuant to its treaty obligations, and as directed and provided for in special acts of Congress.

Third. That the patents have issued; the land department has lost all jurisdiction of the lands in question, and has no legal right even to inquire into the validity of these grants.

Fourth. That there are no officials plats on file in the United States Land Office to show that the lands have ever been surveyed as public lands, or to show the sections, or parts of sections, and areas thereof.

Fifth. Therefore the promotors of these filings are fully aware that their proceedings in the land department are futile.

Sixth. That the Attorney General of the United States has refused to bring a suit to question these titles in court.

Seventh. That after the lapse of so many years during which these lands have been in the undisputed, quiet possession of the grantees, their heirs, and successors in interest, they at least know the futility of paper filings in the United States Land Office.

Eighth. That if these promoters were sincere they would have proceeded by establishing a settler on the land they claim to be public, and trying the question of title in the consequent suit in ejectment brought against the settler.

Ninth. That their real intent is to persist in present methods, by procuring filings on the lands, and going through the useless round of rejection and appeal so long as they can make the business pay, which business is founded on the ignorance and credulity of the applicants and the absence of a specific law to prohibit them. I have finished, Mr. Chairman.

The CHAIRMAN. Having had as much experience as you have with these homestead applications and the land involved in the applications, would you volunteer to state to the Committee what you think of the validity of the patents that have issued upon these lands?

Mr. SMITH. You want my opinion as to their validity?

The CHAIRMAN. If you please.

Mr. SMITH. My opinion is that the titles are valid.

The CHAIRMAN. Do you think by any chance there was any fraud attendant upon the issuance of those patents?

Mr. SMITH. I have no evidence to show me that there was.

The CHAIRMAN. Have you found in your experience that the patents do not square with the grants themselves?

Mr. SMITH. I will say in that regard that there is no such thing as a legal subdivision shown and filed on in these filings. They have assumed these legal subdivisions. When these land grants were surveyed and the survey approved and accepted by the Land Office, later confirmed and patent issued, the exterior boundaries were established by a survey, under one act or another and the inside of the grant, or that area lying within those exterior boundaries, has never been sectionalized and there is no official record any place that these lands have been surveyed by township and range. You can follow out the lines, by taking a ruler and a pencil and extending the lands that lay outside of the grant and put in these subdivisions, but when they say they are filing on a certain legal subdivision, they do not exist at all, and those subdivisions do not exist in any records in the Land Department.

Senator BRATTON. What is your profession, Mr. Smith?

Mr. SMITH. I am an engineer. I have surveyed many townships.

The CHAIRMAN. What is the territory of jurisdiction of this land office here?

Mr. SMITH. This land office is designated as United States land office at Los Angeles, southern district of California. It comprises the area from the Mexican border on the south to a line running from the Colorado River to about the central part of the San Bernardino country, up to Kern County—it is bounded on the east by the Colorado River and on the west by the ocean.

Senator BRATTON. Are all of these land grants that are under consideration within the jurisdiction of this Land Office?

Mr. SMITH. They are so far as I know. I have told, Senator Bratton, that there have been some filings made in the San Joaquin

Valley, which is out of my jurisdiction, and I am not familiar with that.

Senator BRATTON. Can you furnish the committee with photostatic copies of the patents and plats of the respective grants?

Mr. SMITH. We can procure them. I thought Mr. Lawler introduced those yesterday.

Mr. LAWLER. Only as to the San Fernando. If the committee desires the others I am quite sure they can be obtained.

Senator BRATTON. The San Fernando, the Palos Verdes, the Malibu, the San Joaquin, the Lomas de Santiago and the Canada de los Alisos, will you furnish a photostat of the patents and plats as to each of those grants?

Mr. SMITH. Yes, sir.

The CHAIRMAN. They will be marked "Exhibit Z," and will be placed in the files of the committee.

Senator BRATTON. You stated awhile ago that there were no legal subdivisions within these grants. Do you mean by that that no official survey has been made as to sections and quarter sections?

Mr. SMITH. It was an official survey to bring the lines within the boundaries of the exterioral limits, but it was not a survey as to sections, townships, and ranges.

Senator BRATTON. But there was no official survey of the land as to sections?

Mr. SMITH. No.

Senator BRATTON. Quarter sections, and so forth?

Mr. SMITH. That is correct.

Senator BRATTON. What is the policy of the Land Department with reference to accepting homestead filings upon land not regularly open for entry by order and regulation of the Secretary of the Interior or the commissioner of the General Land Office?

Mr. SMITH. When the homestead application is offered, we accept it. If it is on patented lands, lands that are not subject, as we see it from our plans to be homesteaded, the filing fee is taken and the application rejected, with the right of appeal to the commissioner of the General Land Office within 30 days.

Senator BRATTON. I fear I have not made my point quite clear to you. Are applications accepted upon lands embraced in the public domain prior to the time that that land has been thrown open to entry by order of the Secretary of the Interior or Commissioner of the General Land Office?

Mr. SMITH. I am sorry, but I do not have that question quite clear.

Senator BRATTON. Perhaps I am not expressing it clearly.

Mr. SMITH. I think probably you are, but I do not understand it.

Senator BRATTON. Is it the policy, or is it required, that the land be first thrown open to entry?

Mr. SMITH. Yes; it is.

Senator BRATTON. By order of the Commissioner of the Land Office or the Secretary of the Interior before homestead applications are in order?

Mr. SMITH. It is.

Senator BRATTON. Is that by statute or rule or regulation promulgated under a statute?

Mr. SMITH. It is by statute and regulation both, I believe.

Senator BRATTON. So that if a tract of land is part of the public domain but has not been opened to entry by order of the Commissioner of the Land Office or the Secretary of the Interior, it is not subject to entry?

Mr. SMITH. No, sir. In that respect I might explain that on Government lands that are known to be vacant, what we term "unappropriated Government lands," a squatter can establish residence—that is on unsurveyed land, before the survey, a squatter can establish residence and by showing evidence in our office that he has abided substantially by the homestead law, the 3-year rule, and if he is a soldier giving him credit for his time of service—he can make that application in our office and when those lands are surveyed he has a priority right to patent and patent will subsequently be issued to him.

Senator BRATTON. But even a squatter, as you call him, is not entitled to make a regular entry or application for entry until the land is opened for entry and then he may make application and has priority right?

Mr. SMITH. That is correct.

Senator BRATTON. Has any of this land, covered by these applications, ever been thrown open to entry by the Commissioner of the General Land Office or the Secretary of the Interior?

Mr. SMITH. No, sir; not to my knowledge.

Senator BRATTON. So that under the statute and the regulations of the department that one fact alone would compel the rejection of these applications, would it not?

Mr. SMITH. Yes, sir.

Senator BRATTON. Now, Mr. Smith, you say that Commissioner Spry dictated his radio address in your office?

Mr. SMITH. Yes, sir.

Senator BRATTON. Where was it broadcast?

Mr. SMITH. It was broadcast I think over KHJ.

Senator BRATTON. Here in Los Angeles?

Mr. SMITH. Yes.

Senator BRATTON. About when?

Mr. SMITH. I would say it was about a year and a half ago. It might have been a little longer than that, probably two years ago. I suppose we can get the records of that station.

Senator BRATTON. Do you know what the occasion of broadcasting the address was?

Mr. SMITH. I think what prompted Governor Spry, more than anything else, was the fact that he wanted to put the facts before the public in this part of the country—there was rather a vicious attack made on him in a paper published over here in West Hollywood, I have forgotten the name of it—but he thought at that time it was his duty to inform the people of the facts of this whole situation. I talked to him about it casually and he said, "I think that I should just inform the people while I am here of my opinion in the matter." And he dictated it to one of the boys there in the office and read it that night over the radio.

The CHAIRMAN. Is that address available, Mr. Smith?

Mr. SMITH. I do not know what the procedure is at the broadcasting station. I can ascertain if it is available. Probably Governor

Spry would have the notes of this in his possession in Washington, or his private files might have it.

The CHAIRMAN. There was no copy of it left with you in your office?

Mr. SMITH. No, sir. May I ask Mr. Donovan if there was a copy of that address left in our office?

Mr. DONOVAN. No.

Senator BRATTON. I wonder if Mr. Donovan has his notes available?

Mr. SMITH. Have you the notes available?

Mr. DONOVAN. No; I didn't take the notes.

Mr. SMITH. I beg your pardon. I thought it was Mr. Donovan who took it.

Senator BRATTON. Your initials are B. B. Smith?

Mr. SMITH. Yes, sir. Brainerd B. Smith.

Senator BRATTON. Do you know of anyone by the name of D. B. Smith?

Mr. SMITH. No; I do not.

Senator BRATTON. I presume, Mr. Smith, that you are the person referred to in the memorandum, filed with the committee, stating certain facts and the persons by whom they could be established. the name D. B. Smith appears. Will you tell the committee what you know about Governor Spry announcing, while in the city of Los Angeles, that after he conferred with a number of men greatly interested in those Mexican land grants, that not a damn homestead application would be allowed and that he would see the homesteaders in hell before the United States ever got an acre of that land?

Mr. SMITH. Well, if that was said, I am not the D. B. Smith that is indicated there.

Senator BRATTON. Did you ever hear of Governor Spry saying anything of that nature?

Mr. SMITH. I think the honorable committee well knows that Governor Spry is not that type of man. I have had a long, intimate association with Governor Spry for a good many years, and I have never heard him use that language.

Senator BRATTON. You said a while ago that Mr. Wheeler had frequently called you and the employees of your office crooks, thieves, and bribe takers. Do you mean that he has made those charges open and above board to you and others while in the land office?

Mr. SMITH. Repeatedly for the last three or four years. I have affidavits on file in Washington in the commissioner's office, and I would like to have the record refer to those, so that you can refer to the witnesses who stood about the counter when these remarks were made.

Senator BRATTON. Remarks made by Mr. Wheeler?

Mr. SMITH. By Mr. Wheeler. I produced Mr. Donovan this morning, who procured these affidavits. He is one of the clerks in the office.

Senator BRATTON. What occasioned such remarks?

Mr. SMITH. I advised the clerks in the office, called them in several years ago and told them to inform everybody, regardless of whether they were filing on the Spanish grants or not, to inform the public, as I thought it was my duty, that when they filed these applications they were filing on patented land. Mr. Wheeler and several of his

associates resented that. Sometimes arguments have started up there and in the end Mr. Wheeler has generally ended up with those accusations.

Senator BRATTON. I believe you said a while ago that instructions had been received directing you to forward all applications filed on these grants to Washington directly for rejection. Is that a special order applying only to these applications?

Mr. SMITH. It was because of the amount of work on these mimeograph appeals that they file and put through the department. They thought it would expedite matters to send them direct to Washington, and they were filed without any action on our part, and they are rejected by the commissioner and the Secretary, saving one step.

Senator BRATTON. About how many applications have been rejected by the Secretary?

Mr. SMITH. Mr. Speir, do you know about how many applications have been rejected by the Secretary on these Spanish grants, approximately?

Mr. SPEIR. There have been about 300, in round numbers.

Mr. SMITH. By the Secretary?

Mr. SPEIR. Yes.

Senator BRATTON. Around 300 have been rejected by the Commissioner of the General Land Office?

Mr. SMITH. Yes. In the procedure of going through one office to the other it takes a good deal longer for the Secretary to reject. There have probably been twice that number rejected in the commissioner's office.

Senator BRATTON. And you estimate that the Commissioner of the General Land Office has rejected about 600?

Mr. SMITH. I would say that many.

Senator BRATTON. And of that number, the Secretary has rejected probably 300?

Mr. SMITH. I would say that number or a few more.

Senator BRATTON. In view of that situation, are applications still being filed?

Mr. SMITH. They are. That is one of the things that generally starts an argument. We tell them in the office of these repeated rejections and ask them why they persist in doing it.

Senator BRATTON. Do I understand that persons out in California continue to charge fees for making these after both the commissioner and the Secretary have rejected numerous applications?

Mr. SMITH. That is true, but I would prefer to have Mr. Wilhelm state the operation. It comes under his department to investigate those things.

Senator BRATTON. That is your understanding of it?

Mr. SMITH. That is my understanding; yes.

The CHAIRMAN. Mr. Smith, what do you feel would be the proper course to be pursued by Mr. Wheeler and homesteaders with whom he is associated, to establish once and for all time any measure of right or equity they may have upon this territory?

Mr. SMITH. Well, my opinion is, and the opinion of several others that I have talked to is, that they should go about it in the right way to see if they have any right on the ground, and go into the courts where they belong.

The CHAIRMAN. How could they do that?

Mr. SMITH. A squatter could go on one of these grants and be ejected and bring suit in court.

The CHAIRMAN. Has such an effort ever been made?

Mr. SMITH. No; not to my knowledge. Not on those that I have spoken of.

Senator BRATTON. That proceeding could only be followed in the State courts.

Mr. SMITH. It would start there; yes. In connection with that question, if I may say, I have tried to bring out that the department has no jurisdiction over the land where patent has passed, and it has in these cases.

Senator BRATTON. I think you have made that clear, if the chair will pardon the interruption. As I understand it, where a patent is issued to a tract of land, the Land Department, from the Secretary of the Interior down to you, is completely divested of further jurisdiction?

Mr. SMITH. That is correct.

Senator BRATTON. That department is powerless to pass upon the validity of those titles after patent has been issued?

Mr. SMITH. That is correct. And for a period of between six and seven years that information has been given to these settlers.

Senator BRATTON. And the only way that the question could be determined would be by judicial proceedings?

Mr. SMITH. Yes.

Senator BRATTON. That is my understanding of the situation also.

Mr. SMITH. That is my understanding of it.

Senator BRATTON. And I think it should be made clear to others that even though the department desired to grant the application of the homesteaders, it is utterly powerless to do so as to lands covered by existing patents.

Mr. SMITH. We have endeavored to give that information out for several years.

Senator BRATTON. That is my understanding of the law.

Mr. SMITH. That is one of the points, Senator Bratton, that Governor Spry wished to emphasize in his radio talk.

The CHAIRMAN. I would like to propound a question to Senator Bratton. Let us presume that it should be found that there was fraud attendant upon the issuance of patent to these lands. What, then, would be the decision? Would the Federal court have any jurisdiction of the matter, or must they be instituted in the State courts, too?

Senator BRATTON. Well, whatever my opinion is worth, Mr. Chairman, I think it is well to discuss that now, because several hundred people are interested in this subject matter. It is my understanding, Mr. Chairman, that when patent has issued, that, so far as the Land Department is concerned, from the Secretary of the Interior down to the lowest officer in the ranks of the department, the Land Department is through with it and is completely divested of jurisdiction; that the Secretary of the Interior, the Commissioner of the Land Office, or any interior officer could not go behind that patent and reconsider the matter if he desired to do so. I think these applicants should understand that. At least that is my view of it as an outsider. If fraud existed in the issuance of the patent, it is my judgment that the correct procedure, and, perhaps, the exclusive pro-

cedure, would be through a suit instituted in the name of the United States by the Attorney General or the United States attorney to set aside the patent on account of fraud and restore the land to public domain, thereby making it subject to entry. It is my view that when these patents issued covering these grants, no other remedy was available after that time except through a suit instituted in the Federal court by the Attorney General or the United States attorney.

Mr. WHEELER. In that connection, Senator——

Senator BRATTON. Just a moment, Mr. Wheeler, if you please. Such a suit should be filed in the name of the United States to vacate the patent, clear the title, and restore the land to the public domain, making it subject to homestead entry.

Mr. WHEELER. May I read a United States case?

Senator BRATTON. I am not arguing the case, I am simply answering the question of the chairman, Mr. Wheeler.

The CHAIRMAN. Have you completed the presentation of your views in connection with this matter, Mr. Smith?

Mr. SMITH. I have, Mr. Chairman. I simply wish to place myself at the disposal of the committee.

The CHAIRMAN. Mr. Wheeler, have you any questions you wish to propound to Mr. Smith?

Mr. WHEELER. I have, if you please. This will not be in the nature of cross-examination, but just straight questions which I would like you to answer, Mr. Smith. Did you at any time ever survey the so-called Irvine Ranch or the Lomas de Santiago grant yourself?

Mr. SMITH. I did not.

Mr. WHEELER. You did not?

Mr. SMITH. No, sir.

Mr. WHEELER. Did you make the statement that you had in your trunk maps showing the Lomas de Santiago and that you had been one of the surveyors?

Mr. SMITH. I did not.

Mr. WHEELER. Just what did you mean in your statement by saying that I told these people they could acquire a homestead by merely filing papers?

Mr. SMITH. I don't know that that is just what I said. I said mere paper filings do not constitute a homestead.

Mr. WHEELER. I did not quite understand. I thought your expression was that by merely filing a paper you acquired a right. Was I wrong in that?

Mr. SMITH. Yes. When you file a so-called homestead on lands which the record shows to be patented, it is rejected in proper course by the Commissioner of the Land Office.

Mr. WHEELER. Then you maintain they would acquire no vested interest or no right by filing a paper?

Mr. SMITH. None whatever.

Mr. WHEELER. Even if they carried their appeals on up and successfully show that they have a right?

Mr. SMITH. None whatever. Senator Bratton has just stated the situation, I think, very clearly.

Mr. WHEELER. Did you ever hear of any lawyer or attorney ever escrowing his retainer fees until the case was over?

Mr. SMITH. Mr. Wheeler, in that respect you have told my clerk at various times that you are a very patriotic citizen and you are doing this for the citizens of the United States. I feel it my duty, as an administrative officer of this office, to protect these citizens, and that is what I have endeavored to do.

Mr. WHEELER. You sure should.

Mr. SMITH. And I have done it.

Mr. WHEELER. All right.

Mr. SMITH. And I have been maligned very much by you and some of your associates for doing it.

Mr. WHEELER. That is fine. Did you ever happen to read in any Supreme Court decision where it says that Congress has the sole power to declare the dignity and effect of titles emanating from the United States? Did you ever hear of that?

Mr. SMITH. Mr. Wheeler, if you had anything but the most primary knowledge of what that means, you would understand that that means in the origination of title and patent which is vested in the department.

Mr. WHEELER. All right, but that is your answer.

Mr. SMITH. In these remarks that I am making to this honorable body, I wish to state that in my opinion the questions at times seem childish, and I am answering them in that regard.

Mr. WHEELER. Now I have two or three more childish questions, inasmuch as I am a child.

Mr. SMITH. All right.

Senator BRATTON. Let us not have these by-plays, gentlemen.

Mr. SMITH. I beg your pardon for my remark.

Mr. WHEELER. I also beg your pardon. I have another question here relating to this. The validity of a grant or patent prior to acquisition of the territory by the United States is for the consideration of Congress——

Mr. SMITH. May it please this honorable body, but can we not refer such questions as this to counsel?

The CHAIRMAN. Certainly.

Mr. SMITH. I am not going into these cases. They have no reference here.

Mr. WHEELER. My question was if you had ever heard of those decisions.

Mr. SMITH. What decisions? Will you please name the decisions so I will know to what you are referring?

Mr. WHEELER. I will be very glad to.

The first "Power to declare the dignity and effect of titles is under the heading, 'Power to declare effect of titles.'" It says, "Congress has the sole power to declare the dignity and effect of titles emanating from the United States." The decisions are given just below. That is found in 13 Peters at page 450, in the case of Bagnell *v.* Broderick, and in 19 Howard, page 332.

The CHAIRMAN. What is the materiality of these questions. Just what is it you are endeavoring to bring out?

Mr. WHEELER. I want to see what his knowledge is of the law and the court decisions. Just those two points and then I am through, or I am through now if you wish.

Mr. SMITH. What is it you want me to answer?

Mr. WHEELER. If you had ever heard of those decisions?

Mr. SMITH. I never have. I can not remember that I ever have.

Mr. WHEELER. All right. I have just a few more questions, and then I will be through. According to your recollection, who started the argument in the Land Office at the time I was present?

Mr. SMITH. Well, that is rather difficult, most of the time. They generally started after your clients had been told they were filing on patented lands and never had any hope of getting the land.

Mr. WHEELER. Have not your clerks at different times told them that we were all crooks; that you were going to have us arrested and you were going to get the district attorney to investigate the matter and see that we were put where we belong?

Mr. SMITH. I have never made those remarks, and I do not think my boys have.

Mr. WHEELER. We have a great many homesteaders who will be glad to testify to that.

Mr. SMITH. You were told on many occasions, but the words "crook" and "thieves" as applied to you never were used. I never used it. I told you you should be ashamed of yourself to repeatedly bring these people up there in the face of these decisions from Washington, and that generally led to an argument.

Mr. WHEELER. Personally I never met you at the counter but a few times, and that was usually done by some one of the clerks. You spoke of a patent having been issued. Do you have reference to the patent issued under the act of March 3, 1851, or a patent, as the court says, which is a document which conveys title?

Mr. SMITH. I refer to any patent that the Commissioner of the Land Office or the Interior Department quote in their various instructions to me.

Mr. WHEELER. If I would walk into the Land Office to-day and I wished to file a homestead and I considered I had ample proof to show that the land on which I wanted to file was public domain and that it had never been closed to homestead entry, and therefore need not be thrown open, but you would not admit the proof and you should tell me I could not file on it and never would get anywhere with it; that, in fact, I was a fool to try it, and all that sort of thing, just what steps would I have to take to prove it before I could file?

Mr. SMITH. That has never happened in your case on lands that are shown not to be patented lands. The record shows that these lands are patented lands. You are stating a hypothetical case. I do not know what I would do until the case was presented to me.

Mr. WHEELER. But you said that we should file, just take possession, and then start the case in the courts.

The CHAIRMAN. In connection with that line of questioning, is it not altogether proper that you disclose now just what you base your position on to the effect that it was not necessary for the department to declare any portion of the public domain open for entry?

Mr. WHEELER. Why, I think that is easy. When we purchased this territory from Mexico, and used $15,000,000 of the people's money, we purchased two kinds of land. We did not pay $15,000,000 for just a few grants or pueblos. Part of it was public domain and part of it was private property. The treaty between the United States and Mexico specifies which was which. It does that in this way. It

says if there was a grant it would have been that which would have been made according to Mexican law before May 13, 1846.

They do not even claim that they had a grant made before that date. The documents which have been introduced in evidence show the date of June 17, 1846, which absolutely could not have been valid. In addition to that we have these documents from Mexico in which Mexico certifies they never made any such grant as the Land Office claims covered the grant on which we wished to file.

Senator BRATTON. Let me get my thought to you, if I can do so. Let us presume that this land was acquired by the United States by the payment of $15,000,000 and the title vested in the United States.

Mr. WHEELER. As trustee for the people.

Senator BRATTON. Congress had a perfect right to deal with that land as it saw fit. If Congress passed a statute saying that no part of that land should be subject to homestead filing until it had been surveyed and opened to entry by order of the commissioner or the Secretary, and that has not been done, the land would not be subject to entry and the filing of applications upon it would not make it subject to entry.

Mr. WHEELER. Pardon me. My position is that the very act of Congress, under which the land was taken over, specifies that it was open to sale and entry under the public land law, if I am not mistaken.

Senator BRATTON. I think Congress had a perfect right to pass a statute applying to these lands as well as all other public domain and say that it should not be subject to homestead entry until it was surveyed and made open to entry by an order of the commissioner or the Secretary. Congress had a perfect right to do that and it has done it. It seems to me that it is futile to argue on that until it has been thrown open to entry, that you or anybody else would have the right to go in the land office and lay down the filing and say, "I demand this land as a homestead."

Mr. WHEELER. But Senator, you either miss my point or I do not get yours. Was this ever closed to entry?

Senator BRATTON. It had to be opened before it was closed. It never was opened at any time.

Mr. WHEELER. My understanding is that it was open when we took it over, under the act under which we took it over.

Senator BRATTON. You have argued that repeatedly since the opening of the hearing day before yesterday, Mr. Wheeler. But, frankly, I think your criticism of the land office, or the commissioner or the Secretary, should cease, when it is apparent to any student of the law that when patent has issued the department is completely divested of jurisdiction to go behind that patent and set it aside, because evidently that would establish a property interest and nobody has the right to divest the holder of a property interest or title except judicially. The Land Department can not divest people of title.

Mr. WHEELER. You speak of the land not being open to entry. The act of Congress of March 3, 1851, section 13, says this:

And be it further enacted, That all lands, the claims to which have been finally rejected by the commissioners in manner herein provided, or which shall be finally decided to be invalid by the District or Supreme Court, and all lands the claims to which shall not have been presented to the said commissioners within two years after the date of this act, shall be deemed, held, and considered

as a part of the public domain of the United States; and for all claims finally confirmed by the said commissioners, or by the said district or Supreme Court, a patent shall issue to the claimant.

Senator BRATTON. If a part of the public domain?

Mr. WHEELER. This is a part of the public domain, having never been granted.

Senator BRATTON. No part of the public domain is subject to entry until it is surveyed and thrown open by Executive orders.

Mr. WHEELER. And I have given you the law throwing it open, although I am not a lawyer.

Senator BRATTON. That is the point. I am convinced of that, too, but you continue to argue the matter.

Mr. WHEELER. I did not mean to argue with you, Senator. I would like to suggest that there is evidence right here that this territory has been surveyed and sectionalized.

Senator BRATTON. By whom?

Mr. WHEELER. On these maps here that I would like to have introduced in evidence.

The CHAIRMAN. They will be received for the files of the committee and marked "Exhibit AA."

Mr. SMITH. Those are some topography sheets, United States Geological Survey topography sheets. These maps are made generally by a plain table. It is taken out on the field and shot in with the instrument and the section lines, where they do not exist, are interpolated. They are not accurate section lines. The topography and contours are very accurate but the section lines are not accurate and in many places do not exist. You can buy them for 10 cents apiece in Washington at the Geological Survey.

Mr. WHEELER. The lines shown on the map are in accordance with the lines shown on the surveys and recognized in the county. This is the quarter section and number of the section, except in some places where the printing is too thick to have the numbers put in (referring to map).

Senator BRATTON. But that is an entirely different sort of map from the one contemplated in the act of Congress which provides that land shall not be subject to entry until surveys are made and it has been thrown open to entry by order of the commissioner or the Secretary.

Mr. LAWLER. It might possibly clarify your mind on the proposition, Mr. Wheeler, to tell you that there is a system with reference to public-land surveys whereby the official survey is made pursuant to contract. The surveyor goes out pursuant to contract and makes it and then returns it to the Department of the Interior where it is either approved or rejected. Upon approval of the survey by the Secretary of the Interior or the commissioner, as the case may be, the document is then an official survey. These surveys (referring to map), as Mr. Smith has said, outline the topography of the country, but they are not in any way connected with the public land system in any way. That is a mere topographical illustration of the country. I do not know whether Mr. Wheeler is familiar with that.

Senator BRATTON. I understand perfectly how that is done, and that is not the kind of maps that the law contemplates.

The CHAIRMAN. Are there any further questions, Mr. Smith?

Mr. HARTKE. Is there anything in the transaction of this business in your office that indicates that it is done according to system, and by that I mean do they make application or come in in large groups at times?

Mr. SMITH. How much time do you want me to spend on that? Do you want me to begin at the beginning?

Mr. HARTKE. Whatever the committee desires on that.

The CHAIRMAN. A great deal has been offered along that line, but if you have anything in addition we will be glad to hear it.

Mr. SMITH. I will answer the question in a few words and then if you want further information I will give it. There have been large groups on several occasions. On several instances our office has been deluged, with a line extending from the office out in the hall almost to the elevator. That instance I am speaking of happened in the fall of 1922 when Mr. Price and Mr. McLendon seem to have been the prime movers in this cause. At a later date we had somewhere around 70 or 80. I could refer to it, but that is near enough. I think that was on the Palos Verdes. On the San Fernando the filings have not been so much in groups, except in groups of one or two brought in by Mr. Wheeler generally. They have been in small groups generally.

Mr. HARTKE. When was the last filing on the San Fernando grant?

Mr. SMITH. Yesterday noon, when I returned to the office a man presented me with a filing.

Mr. HARTKE. Can you tell me the number of filings that have been made during the period covered by this investigation on the San Fernando?

Mr. SMITH. On the San Fernando alone?

Mr. HARTKE. You may take them one at a time. It probably would be better.

Mr. SMITH. Mr. Wilhelm, have you the memorandum that you gave me one day?

Mr. HARTKE. Estimate the total on the three grants.

Mr. SMITH. The total on the three grants is something in excess of 800 filings.

Mr. HARTKE. Eight hundred filings and over?

Mr. SMITH. Yes; but that would be approximate.

Mr. HARTKE. You , of course, do not know whether fees were paid on all those 800 filings, or the amount?

Mr. SMITH. No; I do not know. In the testimony yesterday it was stated by several witnesses that Mr. McLendon received a $400 fee, but I would rather have our inspectors tell what they have found about that. Mr. Wheeler says that they started at a hundred and are now at a thousand.

The CHAIRMAN. Right at this point the committee would like to ascertain how many homesteaders, or those who have made homestead applications upon any of these so-called grants, are present in the chamber at this time. May we see the hands of those who have made applications [hands were raised in compliance with the request—30 to 35.] We shall hope that you will all be back here this afternoon, as we may want to hear from some of you at that time. If there are no further questions of Mr. Smith, he may be excused.

TESTIMONY OF A. A. WILHELM, EXAMINER IN THE GENERAL LAND OFFICE, DEPARTMENT OF THE INTERIOR

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please tell the committee your full name and occupation.

Mr. WILHELM. A. A. Wilhelm. I am an examiner in the General Land Office, Department of the Interior.

The CHAIRMAN. Mr. Smith, there was one matter on which you thought Mr. Wilhelm could answer more authoritatively and authentically than you could, and it was in relation to the number of filings.

Mr. SMITH. The filings as to number, and the amount of fees.

The CHAIRMAN. What has been, in a general way, your connection with these homestead filings?

Mr. WILHELM. An investigation to determine what was being represented to the people induced to make the filing, how they were induced to part with their money and what representations were made to them to make them believe the land was subject to entry.

The CHAIRMAN. How long have you had knowledge and contact with this matter?

Mr. WILHELM. Since September or October of 1922, with this particular subject.

The CHAIRMAN. How long have you been in your present service?

Mr. WILHELM. Nineteen years.

The CHAIRMAN. Do you have any knowledge, Mr. Wilhelm, as to the number of filings that have been made?

Mr. WILHELM. I have them approximately; yes.

The CHAIRMAN. Will you tell the committee?

Mr. WILHELM. On the Lomas de Santiago grant about 405. On the San Fernando grant about 420 to 426. On the Santa Monica 6. On the Malibu, 33; on the Palos Verdes about 85, making a total of 955.

The CHAIRMAN. You have had considerable contact with those who have made applications?

Mr. WILHELM. Yes; quite a number.

The CHAIRMAN. Has it been disclosed to you that they had a great deal of confidence in the chances which were theirs of having their application accepted?

Mr. WILHELM. Yes; almost absolute confidence. Most of the homesteaders—in fact, all that I attempted to interview—would not give me anything. They would refer me to their counsel. In the beginning Ben McLendon was the attorney, and later, beginning after 1923, Williamson S. Summers. I would be referred to him as their attorney.

The CHAIRMAN. Have you obtained any information as to the amounts that have been paid for retainers by these applicants?

Mr. WILHELM. I have. Beginning with 1922, when claim filings were made through the efforts of Price, McLendon, Clinton Johnson, Vernon E. Clarke, and Gertrude Caldwell, I interviewed perhaps 30 or 40 of the applicants and they said they had paid fees ranging from $300 to $1,000 each. Most of them paid $400 and agreed to pay another $400, which was to be paid in monthly payments, and some

of those deferred payments, perhaps, were never made. But a number of them stated that they had paid $600, some $500, and one that I have particularly in mind, $1,000. Then, after the criminal case which has been referred to was dismissed and Mr. Wheeler, Mr. Summers, and Mr. Johnson began their operations, at first they charged a hundred dollars fee for each location. This lasted a short while. After that they charged $500. Recently, as I understood from Mr. Wheeler's own statement, the fee has been raised to a thousand dollars. I have no knowledge of that.

The CHAIRMAN. Have you encountered in your work any information, beyond what you have disclosed, which you feel the committee should have in passing judgment upon the merits of the resolution under which we are working at this time?

Mr. WILHELM. I can hardly say that I have anything to offer that would be worth while. In regard to this bribery business, of course, I would like to say something, but Mr. Wheeler has failed so miserably to substantiate any of his charges that I almost feel that it is useless to mention it.

The CHAIRMAN. Do you have any knowledge at all, or has anyone complained to you about the fact that bribery was being resorted to in the case, more particularly, of the Irvine claim?

Mr. WILHELM. Yes. In 1924, or thereabouts, when Mr. Williamson S. Summers was representing McLendon and Johnson in the criminal proceedings, he appeared in Mr. Burke's office, the United States attorney, for a conference with him regarding these cases, which he was endeavoring to get dismissed. Mr. Burke asked me to come in for the conference. Mr. Summers requested of Mr. Burke that he be permitted to have a conference with him first in my absence. Mr. Burke told him that I had been working upon the case and that I should remain in the office. So the charges were not made at that time that I had been bribed. But after I left the office, or maybe a day later, Summers returned and told Burke that I had been bribed by Irvine. Of course, Mr. Burke did not believe it, and he gave it very little attention. The criminal case was not brought to trial because of several handicaps. Later Mr. Samuel W. McNabb became United States attorney. Summers repeatedly called there in regard to the case, endeavoring to get it dismissed. He made charges to McNabb that I had been bribed by Irvine, and perhaps by the title companies, and probably by Harry Chandler, and Mr. McNabb, who is very congenial and wishes to hear everybody's side of the question, it seems, was induced to believe that there might be something to it, and he requested the Department of Justice to make an investigation of me, which they did. Two of the department's special agents were put on the case and went out and made an investigation, which I didn't know about until after it was all over. But nothing was produced, the same as nothing has been produced today or yesterday.

By the fall of 1927, after Mr. Wheeler had induced numerous persons to pay $500 for homestead filings, I was instructed by Mr. Favorite, under whom I was working in connection with this investigation, to make an investigation and report of the activities of Wheeler and Summers and whoever else might be included in the scheme at that time. I sent out four or five, or maybe six or eight

letters to these victims in Pasadena, who had been induced to pay over $500, and asked them if they would come around to the office and see me. That if they could not come in, where could I have an interview with them. I received a reply from one in the mails. Mr. Wheeler produced a copy of one of the letters yesterday that I sent out. They would not come in to see me but I was advised later over the telephone by one of them that I could see them at Clarke's Top Shop in Pasadena. It was perhaps 10 o'clock in the forenoon that I received the last telephone call and I said, "All right, I will be over at 2 o'clock." So I went over there. Mr. Clarke was there, a man by the name of Jones and a man by the name of Walton. There was one more at least, there must have been five. All of them stated that they had paid $500 for locations. Then I proceeded to tell them what I wanted, that I wanted to know what representations were made by Wheeler and by Summers or by any one else as to how they would get the land. They told me they were informed it was public land of the United States, that there was no grant, that the grant was invalid, that any attempt to make the grant valid was so much worthless effort and that the land had always been open for entry; that they were all convinced and were all satisfied with what they had done, that they had a chance to get something for their money. I then proceeded to tell them that the land was covered by Spanish grants or Mexican grants and that the Department of the General Land Office had issued patent to it. That is order to restore any such land to entry the patents first would have to be attacked and canceled in the United States courts and they could not procure anything by merely filing a homestead on land that was occupied and improved and held by somebody in good faith believing their title to be good.

Referring now to what Mr. Wheeler said on yesterday in regard to some of my statements. He says I admitted that it was vacant public land, which is a willful falsity. What I stated to these applicants was this: I said, "For the sake of argument, suppose we will say that the land was erroneously included within the Mexican grant and that it should be or should have been at that time public domain; and just suppose that the land could be restored to entry. No rights could be acquired until it had been subdivided into sections and local subdivisions, the survey approved, the date set for opening of the land to entry; that if it should be so opened to entry, under the present acts of Congress, soldiers and sailors of the World War would have a preference right of 90 days over everybody else to file; that it was occupied and improved and always had been held not subject to homestead application. I also told them that the local laws and customs of the State of California would not dispossess an occupant who, in good faith, believed he was occupying land that he had earned by his own efforts.

During all of this conversation Mr. Wheeler was closeted in the toilet, and then appeared. I did not know he was present. I did not care. He came out and said, "I have heard all you have said. You have been bribed. We know you are working for the title companies and I will have you where I want you in a few days."

Then later, perhaps only six months ago, or perhaps nine months ago, when I was present at the United States Land Office, Mr.

Wheeler appeared with one or two of his applicants whom he had solicited to file homestead applications, and some controversy arose at the counter, as it does sometimes, after they have been told by the clerk at the counter that the land is not public land and that nothing can be acquired by filing a homestead application. I was standing by, and I told Mr. Wheeler that he was a swindler, that he was a bunco operator, that he was taking people's money for which he knew he could give them nothing. He said, "I thought you would be quiet after all that happened over at the Top Shop." And he said, "You have been bribed. Irvine has put up $100,000 to bribe you and the rest of the department, up to the Attorney General; you have been bribed by the title company."

Those were the circumstances under which I worked. No doubt it appears from all the statements made of me by the persons interviewed that Wheeler and his associates make a particular effort to induce all these applicants to believe that the entire land office has been bribed, that I have been bribed, that the United States Attorney's office has been bribed, that they can not expect to get anything at the land office. They are told that their applications will be rejected there, but that they will appeal to the department, that if they do not get their rights there, they will appeal to the Secretary, and if he refuses to grant them, they will go to the President. That was formerly their explanation and later they said that they would procure acts of Congress which would give them preference rights to that land. Wheeler has said all the time that the land is public domain, and more than that, he has said he will get the entries allowed for these people. Inasmuch as these charges were made I want Wheeler to produce evidence now. But he dodges the issue. Mr. Chandler was in here yesterday. If I had been bribed by Chandler, why didn't he bring it out then? I had never seen Chandler until yesterday in my life. Irvine, who has bribed all of us, with a hundred thousand dollars, I am of the opinion does not know that I exist. I do not think he knows that I am on the face of the globe. I have never seen him and never talked to him or I have never talked to any of his representatives or anybody that represented him in any way. I know none of these abstract offices and haven't talked with any of their agents or representatives. So I contend that the place is here and now, and the time is now for Wheeler to produce anything that he has, and if he doesn't have it, that hereafter he be quiet.

The CHAIRMAN. Will it be convenient to all parties concerned, if, when we take a recess at this time, we reconvene at 1 o'clock? Without objection, we will recess until 1 o'clock.

Mr. STIVERS. If I may interrupt for a moment. There is a matter about which I wrote Senator Bratton. I have summarized it in such a way that if I may have, possibly in the morning and not to disturb the hours of the committee to-day, 20 minutes of the committee's time, I think I can dispose of my matters.

The CHAIRMAN. The committe had hoped to get through this afternoon.

Mr. STIVERS. You mean with these matters here?

The CHAIRMAN. With these matters here; yes.

Mr. STIVERS. It will take me only just about 20 minutes.

The CHAIRMAN. I think opportunity will be available to you this afternoon.

Mr. HARTKE. If I may make a suggestion in reference to the books that we requested from Mr. Wheeler, that if he will bring them this afternoon it will be appreciated, and if he will also bring the contracts made with applicants, which he has agreed to furnish to the committee——

The CHAIRMAN. Yes.

FURTHER STATEMENT OF H. N. WHEELER, LOS ANGELES, CALIF.

Mr. WHEELER. Let me state at this time that I have been instructed by Mr. Summers to not turn over to the Chamber of Commerce or to any one else a list of his clients or records. He is attorney for their homesteaders; he further asked me to say that he would take care of the criminal charges, which I am not competent to do, and on which I do not have the evidence; that there are a number of witnesses he would like to have called, inasmuch as they will not be in Washington where their testimony is needed——

The CHAIRMAN. Witnesses you wish to call here this afternoon?

Mr. WHEELER. I would like to have them if you intend to close to-night.

The CHAIRMAN. Have you sent word to those that you wish heard?

Mr. WHEELER. It is not easy for me to compel these witnesses to attend.

The CHAIRMAN. Who are they?

Mr. WHEELER. Well, one is Mr. Lucien C. Wheeler, formerly head of the Department of Justice.

Mr. HARTKE. Mr. Wheeler is in the district attorney's office and he will come.

Mr. WHEELER. Another is Mr. Robert P. Stewart, also from the district attorney's office.

Mr. HARTKE. We will get him, too, if he is not in the trial of a criminal case.

Mr. WHEELER. There were some others who were mentioned here yesterday, Captain Finlinson, Dick Lucas, Lieutenant McCarron.

Mr. HARTKE. We are not in touch with them, but they are Mr. Wheeler's witnesses.

Mr. WHEELER. They are not ours.

Mr. HARTKE. In reference to the records Mr. Wheeler said he was custodian of, I want to respectfully submit to Mr. Wheeler that they be brought here for the benefit of the committee.

The CHAIRMAN. Mr. Wheeler, if you will give the clerk the names of those you wish brought here to appear this afternoon, the clerk will attend to their being subpœnaed.

Mr. WHEELER. All right; thank you.

Mr. HARTKE. I would like to know about the records.

The CHAIRMAN. Do I understand that Mr. Summers, your counsel, has advised against your turning over the committee the records?

Mr. WHEELER. Mr. Summers, as attorney for these homesteaders, asked me to tell the committee that he considered that these homesteaders were his clients and that it was not my duty nor within my power to turn over his private personal records with a list of his clients.

The CHAIRMAN. You maintain that the records are virtually the property of Mr. Summers?

Mr. WHEELER. Of Mr. Summers; yes.

The CHAIRMAN. And if we are going to get them they must come through him?

Mr. WHEELER. Yes, sir. I am merely trustee in the case.

The CHAIRMAN. Did you not on yesterday testify that those records were yours and that you had the records in your office in your possession that were your own?

Mr. WHEELER. As trustee for Mr. Summers.

Mr. HARTKE. And not for the homesteaders?

Mr. WHEELER. And for the homesteaders, if you please.

The CHAIRMAN. In order that we may understand one another, I know with some of you there must be a feeling that, in a degree, this inquiry that the committee is conducting has become an inquiry not under the resolution under which we are operating but an inquiry about the homesteader organization and the individuals connected with it. That is true to this degree: That before the committee can determine how much more thoroughly it is going into the matter, it must satisfy itself of the good faith of those who are instrumental in bringing about this inquiry, and to that end the records would be very helpful to the committee.

Mr. MILLER (D. J.). Mr. Chairman, several of the people who have filed application for homestead have talked to me and they have no objection to the committee knowing who they are, but they do object to the chamber of commerce and everybody else having a list of their names, because some of the parties that have filed applications here work for some of the larger companies and they would be discharged, and they do not want their names to be published and become the property of the chamber of commerce and the banks and everybody else connected with the opposition.

Mr. HARTKE. It is all a matter of public record at the land office who they are. It is not that so much we want. It is the contracts they have made.

The CHAIRMAN. Copies of the contracts are in evidence are they not?

Mr. HARTKE. Only one form, your honor.

Mr. WHEELER. There are three forms in evidence. All of the forms are in evidence, as Exhibit R.

The CHAIRMAN. Yes; I think the three forms are in evidence.

Mr. MILLER. We have a committee of a hundred to handle any disputes that we may have with our attorneys. We have no complaints to make of our attorneys. We sought this investigation through our attorneys but we do not seek an investigation for the purpose of investigating our attorneys.

Mr. SMITH. Everybody who has filed is shown in the public record filed in Washington.

Mr. WHEELER. In that event I suggest that the land office furnish the information.

The CHAIRMAN. That information is available to us quite easily, Mr. Wheeler, but with relation to the records such as you may have, regarding the accounts and so forth, do you object to offering that in evidence before the committee?

Mr. WHEELER. I do, since they are strictly between Mr. Summers and myself. I record each homesteader's payments under instructions from Mr. Summers, and if the committee wishes, I am sure that they could get them from Mr. Summers.

The CHAIRMAN. The committee will give that point further consideration upon reconvening at 1 o'clock. We will recess at this time until 1 o'clock.

(Whereupon, at 12.06 o'clock p. m., the committee recessed until 1 o'clock p. m.)

AFTER RECESS

The subcommittee reconvened at 1 o'clock p. m., pursuant to the recess.

The CHAIRMAN. The committee will be in order.

Mr. Wheeler, I understand you have some questions that you wish to ask Mr. Wilhelm.

TESTIMONY OF A. A. WILHELM, EXAMINER IN THE GENERAL LAND OFFICE, DEPARTMENT OF THE INTERIOR—Continued

Mr. WHEELER. Senator Nye, the questions I might like to ask this witness would better be asked by the witnesses themselves. I do not think I have any questions I would like to ask him personally. I would like to have the witnesses, and there are several here, that have had contact with Mr. Wilhelm, who have expressed a desire to tell the truth.

The CHAIRMAN. You have no questions to propound him yourself?

Mr. WHEELER. Not at this time. Will I have the privilege later?

The CHAIRMAN. For the purpose of expediting matters, why can't your questions be propounded to him now?

Mr. WHEELER. All right, then I will say I have no questions to ask Mr. Wilhelm.

The CHAIRMAN. Did you have anything further that you wished to lay before the committee, Mr. Wilhelm?

Mr. WILHELM. Nothing at all.

Mr. MITCHELL. Mr. Chairman, my name is M. F. Mitchell, and I am attorney for the Marblehead Land Co., which owns the Muliber Rancho. I would like to ask Mr. Wilhelm a question.

Mr. Wilhelm, in your investigations, did you ever find that there was an organized effort to take people out and to furnish transportation, to see this land?

Mr. WILHELM. Yes, at one time there was. That was in the early progress of it, when the first filings were being made on the Lamos de Santiago.

Mr. MITCHELL. Tell what was learned by you with respect to this furnishing transportation to take people out to look at the land. What was said to them when they got there, and so forth?

Mr. WILHELM. One or two person who were taken out and shown the land told me that busses were used to take them down there and return and they were charged a 50-cent fare on the bus. That they would drive on the highway down to Tustin, which is about 4 miles beyond Santa Ana, and and upon arriving at a point about a half a mile beyond Tustin, which I understand would be just

south of the high school, they would be told that the land began at that place; the bus would go on down for 5 or 6 or 7 miles in the vicinity of Irvine; there would be some one in the bus who would explain that this land on both sides of the highway—here are some good orange groves, here are some fine walnut groves, here are some cultivated gardens and vegetable patches; you can get any of this; you can select any tract you want. This is all part of the land that you can get. They would then turn around and come back. They did not attempt to show anything more than the land as a whole, but upon their return they were shown township plats and told they could select what they wanted from that township plat.

The CHAIRMAN. Now, Mr. Wheeler, you have spoken of witnesses who had information that Mr. Wilhelm would be a party to. Are they all pretty much along the same line?

Mr. WHEELER. No; covering the whole situation. It is along the same line in that respect only.

The CHAIRMAN. How many such witnesses do you have here?

Mr. WHEELER. I did not count them.

The CHAIRMAN. Those that you listed this noon?

Mr. WHEELER. Yes. There is one present in the room, and you can start on that one. I believe there are others present.

The CHAIRMAN. Who is present?

Mr. WHEELER. Miss Greer.

The CHAIRMAN. Miss Greer, will you take the stand, please?

TESTIMONY OF MISS GRACE A. GREER, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Your full name.

Miss GREER. Grace A. Greer.

The CHAIRMAN. And your residence, Miss Greer?

Miss GREER. 942 West Seventh Place, Los Angeles.

The CHAIRMAN. Are you one of the applicants for homestead entry?

Miss GREER. I am.

The CHAIRMAN. When did you make your application?

Miss GREER. On the 24th day of October, 1922.

The CHAIRMAN. Now, Mr. Wheeler, do you want to examine this witness, or does Miss Greer wish to proceed in her own way?

Mr. WHEELER. I believe she wanted to tell her story.

The CHAIRMAN. Very well.

Miss GREER. I have not tried to refresh my mind, but I will try to tell it. The principal facts were laid before us, of course, and we went down to see the land.

The CHAIRMAN. Laid before you by whom?

Miss GREER. The facts were laid before me by Doctor Price and by others, in the presence of Doctor Price. Later I heard Judge McLendon give quite a good bit before I had a personal interview with Judge McLendon. Later on I had a personal interview with Judge McLendon, and I told some of my friends about it and they went over to see Doctor Price, and they talked with him, and decided to come in on it, too. Later on I had other friends who went in on it, but that was some time later. A little later, after we had filed on it, I had many talks with Judge McLendon, whom I found to

be a very brilliant man, with wonderful information, and one of the kindest men I have ever met. He told me a great many things and showed me documents and showed me many things that were very interesting, and it made me have confidence that we were doing the right thing. Among other things, Judge McLendon told me, and told others in my presence—and later it was repeated quite a number of times in my presence—that before we filed he wanted to go to the General Land Office in Washington, and he went to the General Land Office and had an interview with Mr. Spry and Mr. Wickham. In that interview Mr. Spry told him that he knew it was public land, or that he probably knew it better than Judge McLendon knew it. He also told me that Mr. Spry told Mr. Wickham to furnish him (McLendon) with this list of description of locations. He also told me that he was given a certain book which he showed me, and which I examined, and in which two pages, I believe, were marked, and they were marked by either Mr. Spry or Mr. Wickham in the Land Office at Washington.

Senator DALE. When he was telling you this, did he say that Mr. Spry and Mr. Wickham were both there together?

Miss GREER. At one interview he did. How many interviews he had with Mr. Spry I do not know. I do not recall. It has been many years since; but those two pages were marked and he showed me this mark was made in this book and called attention to the Lomas de Santiago as being one of those grants which was spurious and about which there has been information in regard to the crookedness in connection with it. I can not state just the proper words probably, but the part we filed on had not had any grant, it wasn't any granted. It wasn't in any grant. It was an interstilial space between two bogus grants.

I later went up to the hall of records and look into the matter for myself, in what records I could find in the hall of records. Of course, I did not find the original grant, and would not have been able to read it had I found it, I presume, because it was in Spanish, I suppose; but I found a man by the name of Wolfskill had been connected with it and James Irvine and a man by the name of Lassell and a man by the name of Bixby, who, I understand was the founder of Long Beach, and a man by the name of Flint. They bought one-half of 4 square leagues. Those are the records I went through myself. They bought one-half of 4 square leagues of this so-called grant from Theodosia Yorba. Later they bought the other half of the 4 square leagues, or Mr. Irvine bought the other half, after having gotten control of the first half from his associates. There was nothing mentioned in all those early papers about the 4 square leagues and the half of the 4 square leagues. Later on, without any connection at all, I found a paper which made it 11 square leagues.

From the information I had already had and the documents I had already seen, of course, I understood what had occurred. Judge McLendon showed me three maps, that had the official seal of the United States Government on them, which he said had been given to him by officials in Washington, that had the names of at least five officials on them, and was certified to. Judge McLendon told me that the Lomas de Santiago Rancho had been surveyed by the United States Government, that there was a map in Washington

giving the sections of the quarter sections. When he asked for that map it was denied that such a map existed; that he knew it existed and he told them where they would find the map. After some search they found it covered with dust and with some piece of furniture pushed up against the place where it was kept; and that map was an official survey of this tract of land and was marked with sections and quarter sections. Judge McLedon told me that it was very hard to find any books in any of the libraries referring to California land, as the books that had been in the different libraries had been removed.

He also told me that there were certain documents that he wanted to get and examine. I do not recall the names of the officials, although he told me who they were, but he went to one official and this official told him that the document that he was asking for had been destroyed by fire when in the custody of a certain official, whose name I do not now recall, and at the time the documents were being removed from the old building to a new building in Washington where they now are. He said to this official, "Well, you just write that down and sign it and certify to that statement." He said, "No; he would care to write it down and wouldn't care to put his name to such a statement." Judge McLendon said, "But you say that these documents were destroyed by fire," and he said, "Yes." Judge McLendon said, "Do you mean to say that official documents of the United States Government were destroyed by fire while in the custody of this official?" And he said, "Yes"; and then he said, "I will tell you where these documents are and I want you to produce them," and the documents were produced.

I had a great deal more information, and, if I had a little more time to think it over, I might recall it, but, not expecting to be a witness and being out of town up until Tuesday evening, I do not recall it now at the present time.

Senator BRATTON. Any connection you might have had with Mr. A. A. Wilhelm in the way of intimidation or threats, or anything of that nature, we would like to have.

Miss GREER. I was just coming to that. I wanted to lay the foundation for my knowledge first. After we had filed, some time after, quite a number of my friends came to me and told me that they were being very much annoyed by a man by the name of Wilhelm and another man by the name of Ritchy. I believe usually they were together. I have not seen Mr. Wilhelm to know him, and I knew nothing about it except from these different people telling me at the time. Later on a little group of friends of mine filed in the land office, and I went to the land office with them but did not go into the room. I told them that it was necessary—they wanted to know how to go about it—and I told them that it was necessary for them to go, and they went in to get the papers, but they could not get the business through in the land office, the clerks refusing in any way to help them. They told them it was not public domain, and they could not accept their filings; that they never would get this land; that it belonged to private ownership. Time went by. I wondered why they did not come out, and at last another part of the group went into the land office to find out what was the cause of the delay. They came out and told me that no one had filed, they didn't know how to file, and the clerks wouldn't receive their filing. I said, "Well, I

will settle that." And I went in with them, and we soon had the filing put through, although the clerks did everything in their power to prevent it.

Later on I was in the land office with two friends, and I was getting a little information for myself—but, by the way, before I go any further I wish to state that, while the first group of people were filing, the group of which I was one, I spent four days in the land office listening to what was going on, noting who was there and how many people were there at the time, and never once did I see a line extending out in the hall or down to the elevators, although I was not there the first day, but after the first day it was not a fact. I spent four full days there at that time. Later on I was in the land office with two friends, when suddenly two men appeared beside me and commenced to question me as to why I was there and what I was doing. I did not know the men, but I knew they were connected with the office. I had had one of the books, containing records, and it had been taken out of my hands three times that afternoon by a man whose name I afterwards learned was Van Hook or some similar name. He was a man who was exceedingly unpleasant to deal with and very insolent to me and to many others in my presence. There were several other men in the office that were insolent; but Mr. Van Hook, if that is his correct name, took this book from me and put it on a shelf under the desk; another clerk came along, and I asked him if he would give me a certain book and he handed it out, and pretty soon Mr. Van Hook would see that I had the book and he would come over and take it away from me and told me that I couldn't have that book. Another clerk would come around, and I would ask him for the book again and he would hand it out. About three times Mr. Van Hook had taken the book out of my hands, when these gentlemen appeared before me and commenced questioning me. They wanted to know if I was an attorney, if I was registered in the land office, and what I was doing. I said I was looking up some information. They continued to question me very closely and asked me what business I had looking up information in the land office. I said I was a citizen of the United States, and I had a right to look at any public document that I wished to, that I wanted to see how things were going on and I was looking to find out.

Mr. Wilhelm, as I afterwards learned, was the one who questioned me most closely, and Mr. Ritchy was the other gentleman, although I did not know who they were at the time. Mr. Wilhelm said to me, "What is your name?" I smiled and said, "I do not see as that concerns you." Mr. Van Hook at that time was on the other side of the desk, just in front of me, and I said to him, "One of your officious clerks has taken this book out of my hands three times this afternoon and has put it under the desk," and he said, "Well, maybe the book was needed," and I said, "No; it wasn't needed at all." And he said, "Well, he had no right to do that." I said, "I am perfectly aware of that." We talked quite a little while. Mr. Wilhelm and Mr. Ritchy were both gentlemanly, but they insisted on demanding what rights I had. I didn't see them again for quite a little while. Later on a young lady that I didn't know, but who had filed on the land and who was a member of a society of which I was a member, brought suit against Doctor Price for embezzlement on an Alaska deal, a gold mine. She came to me about it and she asked me differ-

ent questions and asked me to go on the witness stand with reference to it. I said, "I know about that phase of the matter because I had no connection with it." Well, she wanted me to go on the witness stand in relation to certain things just before that. Now, I had never met this young lady, but I knew her sister, who was secretary to Doctor Price and who was the head of this society, and I had a telephone call asking me if I would go over to her home to see her; that she wanted to talk with me; and I said yes. And I went over. And she met me at the head of the stairs; their flat was on the second floor. The first thing she said to me was, "Do you want to get your money back?" I was taken very much by surprise, and I said, "Why, yes; what is it?" "Well," she says, "I have got $250 of my money and you can get yours back if you go to see Mr. Wilhelm."

Well, the whole thing was a surprise to me. I said, "Why, what has Wilhelm got to do with it?" and she said, "You go see him and you will find out." So we went in the parlor and I talked with her quite a while. She said, "I have got $250 of mine back and I am going to get the rest." And I said, "Well, how can I get mine?" "Well, I can not tell you, but if you go to Wilhelm you can get yours back." I said, "I might call him up a little later," and she said, "Well, will you have an interview with Mr. Wilhelm if I make the appointment for you?" And I said, "I have no objection to talking to Mr. Wilhelm." She said, "You call him up; I will give you his number." And I said, "No; I won't call him up. If you want me to see Mr. Wilhelm, you will have to make the appointment." And she said, "I will call him up and make the appointment, and then I will call you back and let you know when he can see you." And I said, "If he wants to come to my apartment, all right. I won't go to the land office, but if he wants to see me he can come to my apartment and I will see him." So Edith Campbell called me up a little later and said she had made an appointment with Mr. Wilhelm to be at my apartment the next day at 1 o'clock.

The next day at 1 o'clock a friend of mine, Miss Scott, was at my apartment when Mr. Wilhelm called. We talked with Mr. Wilhelm. Of course, I wanted to know what Mr. Wilhelm had to give us. Mr. Wilhelm had a great many documents which he got out and showed us and explained to us and told us this was all a fraud and that those men that were at the head of this land business knew it was a fraud and that we could not get it, and these men were guilty of getting money because they—I don't just recall the amount. I wrote it out, and if I can get ahold of the papers that I wrote in relation to it I can give you a good many things that I can not give you offhand now.

Then Mr. Wilhelm questioned us and I answered him pretty fully, and afterwards Miss Scott asked me why I told him those things, and I said I didn't tell him one thing that he didn't tell me first, because he had already secured what information I gave him from other people. Mr. Wilhelm thought he had convinced us fully that there was no possibility of our getting this land. Later he wanted us to appear as witnesses and Miss Scott made some remarks just before he went as to what she was going to do when she got this ranch, and he turned to us and he says, "What, you don't believe now that you are going to get that ranch, do you?" And she said, "Why, I certainly do." And then just before Mr. Wilhelm left Miss Scott said to him, "Well, you won't want me as a witness, Mr. Wil-

helm, you won't need me?" And he said, "No; we won't need you." And I said, "You won't need me either." And he says, "No; we won't need you either." Then Mr. Wilhelm asked us if we would come down to the land office and talk with Mr. Ritchy, and I do not recall anybody else that he mentioned. He said there was another woman that had a question she wanted to ask me, and we went down and Mr. Wilhelm was very courteous and nice, but when we went in he laughed and he said, "You are the lady I was talking with in the land office that day, aren't you?" And I said, "Yes." And he said, "I did not recognize you when I was up at your apartment." And I said, "No; but I recognized you." So he talked with us and showed us the documents, and so on, and I believe that is the last of my personal knowledge of Mr. Wilhelm. Friends of mine came to me afterwards and told me how he had talked with them and what he had said and were indignant over what he said to them.

Then later I was in the land office and I wished to look up certain records and I was denied the use of the books. Mr. Van Hook wouldn't let me see any of the records, and I went in to see Mr. Smith in relation to it, and Mr. Smith told me that if I wrote a letter to the Commissioner of the General Land Office, Mr. Spry, that he would send it to Mr. Spry and ask permission to see those records. I said, "Mr. Smith, the people maintain this office for the use and convenience of the people"—and oh, he old me just before that if I should go to Washington I could see the records if I wanted to—and I said, "Mr. Smith, the people maintain this office for the use and convenience of the people. The men in this office are the servants of the people and are here to assist them in any way they can in relation to their business. If I write a letter to Mr. Spry, I will mail it myself and I will write and mail other letters at the same time."

Mr. LAWLER. Pardon me, Mr. Chairman, I do not like to interrupt, but Mr. Stewart, the chief deputy district attorney, is very much occupied, and he is very anxious to get back to his office as soon as he can.

The CHAIRMAN. I understand there are other witnesses anxious to be heard so they can get away. Mr. Finlinson, will you consent to Mr. Stewart being heard first?

Mr. FINLINSON. Yes, sir.

The CHAIRMAN. If you will give way, Miss Greer, to these witnesses for the time being, you will have an opportunity to come back.

Mr. ROUTHE. Mr. Chairman, I understand the committee has called for me. I just wish to announce that I am available.

The CHAIRMAN. We will call Mr. Stewart.

TESTIMONY OF ROBERT P. STEWART, CHIEF DEPUTY DISTRICT ATTORNEY, LOS ANGELES COUNTY, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your name.

Mr. STEWART. Robert P. Stewart.

The CHAIRMAN. And your occupation?

Mr. STEWART. Chief deputy district attorney, Los Angeles County.

The CHAIRMAN. This is one of the witnesses Mr. Wheeler wanted called.

Mr. WHEELER. I do not care to ask any questions. I would merely like to have Mr. Stewart state his knowledge of the surveys. I believe he had a conversation with the Assistant Attorney General in Washington by the name of Wells in regard to the ordering of surveys, and anything in that connection that he may remember.

Mr. STEWART. I know nothing about any surveys. When I came here this gentleman asked me if I recalled a conversation in the office of the Assistant Attorney General Wells, of Washington, in the year 1925 relative to ordering surveys. I told him that I did recall a conversation to this effect; that sometime in 1925 in the Department of Justice in Washington I was called into the office of Assistant Attorney General Wells, in charge of the public lands. There was a conference there, and present at that time were Attorney Williamson S. Summers—I think Summers, Wells, and myself were the only three persons present. The subject of the conference was disputed Spanish lands out here and the action of the Government. At that time I was special assistant to the Attorney General of the United States. The question was discussed in this way: I think it was stated by Mr. Summers that there was an unexecuted order of survey of certain lands in California and the discussion was as to how that question might be determined. I offered the suggestion that if there was an unexecuted order of survey that the department should instruct the Interior Department to make the survey; that probably when they went to survey a piece of land an injunction proceeding would be started against the officer of the Government acting under an order of that kind, to the effect that they were acting in excess of authority conferred upon them by law; that they would be enjoined and the question would be determined in that way.

Mr. Wells said he thought that would be a good idea, and suggested that a letter be written by Mr. Summers embodying that idea. Mr. Summers said he would write such a letter. I do not recall if any such letter was written, or ever seeing any such letter except by hearsay, if you want that. Mr. Summers told me he had written such a letter and given it to Mr. Wells. That is all I know of the transaction.

Mr. WHEELER. That is all I wanted. Thank you very much.

The CHAIRMAN. That is all, Mr. Stewart. You may be excused.

TESTIMONY OF J. FINLINSON, POLICE OFFICER, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

Mr. FINLINSON. J. Finlinson.

The CHAIRMAN. And your occupation?

Mr. FINLINSON. Police officer, city of Los Angeles.

The CHAIRMAN. How long have you been in that position?

Mr. FINLINSON. About 18½ years.

The CHAIRMAN. All right, Mr. Wheeler.

Mr. WHEELER. I would like to ask Mr. Finlinson this: Did you, with your associates, Mr. Lucas and Lieutenant McCarron, ever pay a visit to me in my office at 571 I. W. Hellman Building?

Mr. FINLINSON. Mr. McCarron, Lieutenant Bligh, and myself.

Mr. WHEELER. Not Mr. Lucas?

Mr. FINLINSON. No, sir.

Mr. WHEELER. That was the name that I got at the time. During that conversation, Mr. Finlinson, did you, in your official capacity as investigator, learn anything from the conversation that you had with me that would lead you to believe that what I told you was not true or lead you to draw the conclusion that the land was privately owned, or would you say that the Government of the United States had no interest in the land? I would like for you to tell your story to the committee so that they may get the facts.

Mr. FINLINSON. The only interest I had was from a specific complaint having reached the police department that there was reason to believe—I being in charge of the bunco squad at that time—that there was ground for bunco action. Mr. Landers, who is the father of one of the members of our department, claimed he had been approached by somebody telling him that he had no right to the land he was on until such time as he would have a legal survey made, and they gave him a card, the survey would cost him $500, and they gave him a card, and if he would go to certain people that were specified on this card to have them make this survey; that was the reason of our coming to your office to satisfy ourselves who were the persons named on the card and what was their legitimate business. In our interview with you, with Lieutenant McCarron on the 19th of September—and I visited your office with Lieutenant Bligh on the 21st, and I recall you referred to various maps and referred to certain articles in books, telling us that this land was in the San Fernando Valley, and I recall the Palos Verdes estate being brought in. I recall the picture of a very elaborate home you claimed you had filed a homestead on yourself, and I remember asking you if you ever expected to live in it, and you said "Yes." And I said, "I wouldn't like to hold my breath until you were liv ng in that home."

Mr. WHEELER. What was your final conclusion as related to the work we were doing?

Mr. FINLINSON. I did not reach any conclusion. It was a matter of the technicality of the law which I did not think I was able to pass upon.

Mr. WHEELER. You did not make any statement to that effect?

Mr. FINLINSON. I stated that you—that I thought there was a technicality in the law whereby many people were perhaps making deposits, thinking that they would be able to homestead that property. I said I was a little at a loss to understand how the Title Insurance Co. and many of the guaranty companies that we have here had been passing these legal titles over to various people, and I did not see how they had not been discovered before, as the property had been sold from time to time.

Mr. WHEELER. Who was your chief officer at that time?

Mr. FINLINSON. The chief of detectives or the chief of police.

Mr. WHEELER. Was it your chief who sent you down there?

Mr. FINLINSON. I sent myself. I was inspector of detectives technically—not technically, but according to the civil service rules—I was an inspetor of detectives at that time in charge of the bunco squad, under which that case naturally came.

Mr. WHEELER. This complaint was filed with you originally?

Mr. FINLINSON. Yes.

The CHAIRMAN. Right along that line, you had not been approached through any other source than the one you have mentioned with respect to making this inquiry?

Mr. FINLINSON. None whatever.

Mr. LAWLER. I would like to ask one question. Mr. Finlinson referred to Mr. Landers, whose father was the owner of property in the San Fernando Valley.

Mr. FINLINSON. I think he said he had 10 acres that he had improved and had brought it to a high point of cultivation.

Mr. LAWLER. He owned his home there, in other words?

Mr. FINLINSON. Yes.

Mr. LAWLER. And some one had come to him and indicated to him that he didn't own his land?

Mr. FINLINSON. That is right, that he didn't have a clear title to it.

Mr. LAWLER. That he didn't have good title and wanted to make some arrangements to homestead part of it.

Mr. FINLINSON. That it would have to be regularly surveyed first and these people on the card that he brought to him were the people who performed such service for him for a given sum.

Mr. LAWLER. And the card contained the address at which you found Mr. Wheeler?

Mr. FINLINSON. As I recall it.

Mr. ROUTHE. You stated you didn't see how these title companies passed these titles, and so forth. Did you know at that time, or have you known since, that the title companies make a special exception in their titles in respect to these lands?

Mr. FINLINSON. No; I did not know that.

Mr. WHEELER. But I showed that to you at the time.

Mr. FINLINSON. Showed what to me?

Mr. WHEELER. A copy of the document referred to.

Mr. FINLINSON. The only thing I recall your showing to me was certain maps and certain paragraphs out of books that you referred to.

Mr. WHEELER. Do you remember the act of Congress of 1851 of the treaty of Guadalupe Hildalgo?

Mr. FINLINSON. It isn't clear in my mind at present what you refer to.

The CHAIRMAN. That is all, Mr. Finlinson.

Mr. SMITH. Mr. Chairman, Mr. Samuel W. McNabb, United States attorney, is present.

The CHAIRMAN. We will hear from Mr. McNabb at this time.

STATEMENT OF SAMUEL W. McNABB, UNITED STATES DISTRICT ATTORNEY FOR SOUTHERN DISTRICT OF CALIFORNIA

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Your full name, please.

Mr. MCNABB. Samuel W. McNabb.

The CHAIRMAN. And your official position at this time is what?

Mr. MCNABB. United States district attorney for the southern district of California.

The CHAIRMAN. Now, Mr. Wheeler.

Mr. WHEELER. I would like Mr. McNabb to tell the committee the reason why the case was dismissed against the four or five defendants under the indictment in regard to the Irvine Ranch, in which

they were charged with using the United States mails to defraud; what were the reasons for the dismissal of that case?

Mr. McNabb. Well, there were several. In the first place, Mr. Price, who was the primary mover in the particular case referred to, the Irvine case, which was the case that was pending in the office when I came into it in 1925, had died. He ran some sort of a cult down here at Los Angeles, and I understood had about 300 members, and the people who had filed the homesteads were largely members of this cult. Then McLendon was still alive, and the two principal offenders in that case, according to the records in our office, were Price and McLendon.

I looked into the matter very carefully and approached quite a number of people who were supposed to have been defrauded, if this was a mail fraud case, and I believe you are correct, although I am not sure without going back and looking in the files. I have been ill and have not been able to go to the office to-day; but in each and every case I have found that the person who has been victimized was of the same belief and felt that they had not been victimized at all, but that they knew all about this thing that had been put up to them. That they had all gone into it as a gamble; that they had been taken down to the land on trucks and shown the land. They admitted it was in full cultivation and that there were people living on it. They admitted that they all thought they would be able to skin the people who were in possession of it in this technical way; that Mr. Price and Mr. McLendon had made a trip to Washington—that Mr. McLendon had, I think, shortly after that, I am not sure whether it was before the case was dismissed or not—but I made up my mind it would be very difficult, in the face of the fact that without any victims, persons who claimed that they had been defrauded, to establish the fact that it was a fraud, we could not proceed. Another difficulty entered into it. I found that some one—I think there was a Mr. Wickham, who had been in the land office prior to that time, and he had been interviewed in Washington, and these people had secured a statement in writing from him as to the description of certain pieces of land. There was nothing in the writing shown to me that indicated that Mr. Wickham had made a statement that this was open to entry, but they had gotten hold of this thing in some way and their contention was that Wickham had told them that he thought the land was open for entry.

The Chairman. It might be interesting to you to know that Mr. Wickham was on the stand yesterday and testified that he had not given out any such information.

Mr. McNabb. The story I got from my investigators as to what Price and McLendon claimed was that Wickham had made a statement in a restaurant, or somewhere in Washington at some interview, about the description of a letter which was shown to him, or copy of it, that it was apparently a statement of certain descriptions of property that were within the confines of this Irvine Ranch. I supposed at that time that the thing was limited to the people who were involved in the particular transaction of the Irvine Ranch. And then another factor entered into it. Somewhere along the line somebody—and I can not tell who without going and looking at the file—had gotten somebody in the attorney general's office to write a letter

to the Interior Department about a resurvey of this Irvine Ranch, that a resurvey of that ranch be had. Of course, all those things entered very seriously into an attempted prosecution of these people on a scheme to defraud, because they gave a shadow foundation to their claims, and I decided that it was useless to pursue the prosecution against these parties. I do not remember who they were, because it seemed to be of a minor character to me at that time.

The CHAIRMAN. Was any influence brought to bear at all, and were you influenced in any way against dismissing the action more quickly than it was dismissed?

Mr. MCNABB. Against dismissing it?

The CHAIRMAN. Yes.

Mr. MCNABB. Oh, no. You said against dismissing the action?

The CHAIRMAN. Yes.

Mr. MCNABB. There was never any influence used either way. I just came to the conclusion that the main parties having died and the evidence being of the character that I thought indicated that it would be a very hard case to try, I dismissed it. I did not know there would be any further continuance of this matter by these parties or I never would have dismissed the case at that time at all. I would rather have had it pending and had it threshed out.

The CHAIRMAN. Did Mr. Summers appeal to you for dismissal of the action or take some action about it?

Mr. MCNABB. I do not remember when Mr. Summers first came into it. Mr. Summers was not a party to that first suit at all, as I remember it. I do not remember Mr. Summers at all until some time after that, although he may have come into the picture before the case was dismissed. He went to Washington I think—it might have been just before, but I think it was about the time when the suit was dismissed, and that is when I first met Mr. Summers. I wouldn't be sure of those dates without looking them up, but he had no influence so far as I was concerned, because I didn't know Mr. Summers any more than I knew any other attorney.

The CHAIRMAN. Are there any further questions of Mr. McNabb?

Mr. WHEELER. Just one question I would like to ask.

The CHAIRMAN. Senator Bratton would like to ask a question.

Senator BRATTON. When did you become United States district attorney?

Mr. MCNABB. In February, 1925.

Senator BRATTON. Who was your predecessor?

Mr. MCNABB. Mr. Joseph Burke.

Senator BRATTON. How long had he held office?

Mr. MCNABB. I think about two years.

Senator BRATTON. Were you connected with the office as assistant or otherwise prior to your appointment as United States attorney?

Mr. MCNABB. No, sir.

Senator BRATTON. When you became district attorney you found this case in existence?

Mr. MCNABB. Yes.

Senator BRATTON. The parties had been indicted some time prior to that, had they?

Mr. MCNABB. Yes.

Senator BRATTON. How did the matter of dismissing the case arise; that is, did it originate in your office or in Washington?

Mr. McNABB. It originated in my office.

Senator BRATTON. The Attorney General or no other official of the Government in Washington ever had anything to do with initiating the subject of dismissing the case?

Mr. McNABB. No, sir.

Senator BRATTON. Was there any influence, either exerted or attempted to be exerted, by anyone in Washington with reference to retaining the case on the docket or dismissing it?

Mr. McNABB. No. As I remember it, I wrote them a letter as I ordinarily do, explaining the situation and giving it as my opinion that it would be difficult to get a conviction of the case under the circumstances—that is the customary letter, if you are familiar with the district attorney's work—and they simply took the statements I made as a fact and had no objection to its dismissal. That is the way it was done.

Senator BRATTON. Your letter, addressed to the Attorney General reviewing the case, expressing the view that it should be dismissed, was the first official information regarding it passing between your office and the Attorney General after you became United States attorney.

Mr. McNABB. I wouldn't be sure about that. I will have to look at the files. I did not know I was going to be called now and of course I would have to go into the files and look it up.

Senator BRATTON. Let me ask this, more for the record than otherwise; how does the subject matter of dismissing cases usually arise?

Mr. McNABB. Well, it usually arises by reason of the fact that the defendants die or we lose the necessary witnesses to make a case, and so forth.

Senator BRATTON. I mean in whose office?

Mr. McNABB. Oh, in my office.

Senator BRATTON. In your office?

Mr. McNABB. I think always. I have never had the Attorney General suggest the dismissal of a case yet since I have been there.

Senator BRATTON. When you reach the conclusion that a case should be dismissed, what do you do in the premises?

Mr. McNABB. I write a letter to the Attorney General.

Senator BRATTON. Do you state the facts or the reason why that dismissal should be entered?

Mr. McNABB. Yes.

Senator BRATTON. What is the next step?

Mr. McNABB. Well, of course he replies to that.

Senator BRATTON. He either authorizes dismissal or advises you to proceed with the case?

Mr. McNABB. Yes, sir.

Senator BRATTON. Was that course followed in this instance?

Mr. McNABB. I think so.

Senator BRATTON. Was there anything unusual in the preliminary steps taken leading up to the dismissal of this case?

Mr. McNABB. Not a thing in the world.

Senator BRATTON. It was handled in the regular order?

Mr. McNABBS. In the regular order.

Senator BRATTON. Was there anything out of the ordinary on the part of the Attorney General, or any of his subordinates at Washington, in connection with the handling of this case?

Mr. McNABB. Not that I know of. I think there had been some correspondence, perhaps, with the Attorney General, or possibly with the Land Department, before I asked for the dismissal with reference to the question of that survey?

Senator BRATTON. Some correspondence?

Mr. McNABB. You see the authorization of the survey in a fraud case raises the question that has to be determined as to whether there was a fraud or not, and it might amount to a big question as far as the successful prosecution was concerned.

Senator BRATTON. Did you have any personal knowledge of the circumstances under which the indictment was returned?

Mr. McNABB. No; I did not. It was returned some time before I came into office. I didn't even live in Los Angeles at the time.

Senator BRATTON. Just one further question: You were never consulted about or took any part in considering whether civil litigation should be instituted to annul any of the patents to these grants and restore the land to the public domain?

Mr. McNABB. No, sir. I suggest to Mr. Wheeler—are you Mr. Wheeler?

Mr. WHEELER. Yes.

Mr. McNABB. Are you the gentleman who was at my office with Mr. Smith?

Mr. WHEELER. Yes.

Mr. McNABB. I suggested to Mr. Wheler when a couple of homesteaders came to my office that they institute civil proceedings to determine whether they were right in this thing or not. That was at the time of a visit by Mr. Wheeler, Mr. Smith, and two people who were filing homesteads on the San Fernando tract.

Senator BRATTON. You made rather an offhand or extemporaneous suggestion to that effect?

Mr. McNABB. Yes.

Senator BRATTON. Otherwise, have you been consulted or have you given serious consideration to the matter of instituting proceedings to annul any of these patents?

Mr. McNABB. No, sir. I have never made any suggestion.

Senator BRATTON. Directing your attention to the occasion when Wheeler and Smith came into your office, did you understand that Mr. Smith had Mr. Wheeler in custody?

Mr. McNABB. I don't know. There were three of the land people and Smith was alone. It rather looked as though it was the other way around.

Senator BRATTON. Did you understand that Mr. Smith brought Mr. Wheeeler into your office for the purpose of turning him over to you to be arrested or put in jail?

Mr. McNABB. No.

Senator BRATTON. Tell us what took place there—the whole thing.

Mr. McNABB. Well, I was sitting in my office, in the inner office, my private office, and my chief clerk came in and said to come out in the front office, that Mr. Smith and some people were having a row out there and for me to come out and setttle it, or something to that effect. So I went out and I found Mr. Wheeler and Mr. Smith arguing over the question of the filing, I presumed, by these two people who were with Mr. Wheeler. I did not know them, but it was over a certain filing. Mr. Smith was telling him that he knew that that

land was not open for entry, and Mr. Wheeler said, "Well, but you called me a crook, and I am not going to stand for that."

Senator BRATTON. Who said that?

Mr. MCNABB. Mr. Wheeler, speaking to Mr. Smith, and they had some general conversation back and forth that way.

Senator BRATTON. They passed such compliments back and forth?

Mr. MCNABB. Yes. They were both somewhat irritated and wrought up over the matter. I suggested at that time, I think, to Mr. Wheeler, that I did not think there was anything in the claim that this land was open to entry myself, and that the only proper thing would be for them to take one of their homestead entrymen, put him on the land, and then they would bring an action and put the occupant off the property and they could settle the thing and not have any of the rowing that they were having.

Senator BRATTON. Did you express the opinion to Mr. Wheeler that the land was not subject to entry and that that was the best way to test the question?

Mr. MCNABB. Yes.

Senator BRATTON. And that is the substance of what took place in the office?

Mr. MCNABB. Yes.

Senator BRATTON. At the time I have mentioned?

Mr. MCNABB. Yes.

The CHAIRMAN. Have complaints been filed with your office charging corruption, slander, and bribery on the part of public officials connected with the administration of the public domain?

Mr. MCNABB. No, sir.

The CHAIRMAN. Are there any further questions, Mr. McNabb?

Mr. WILHELM. I would like to ask Mr. McNabb a question.

The CHAIRMAN. Proceed Mr. Wilhelm.

Mr. WILHELM. Mr. McNabb, some three and a half or four years ago was there a complaint made to you about my actions in my official capacity?

Mr. MCNABB. Oh, that is right. I believe there was. I had forgotten about that.

Mr. WILHELM. Tell us who made the complaint and what the complaint consisted of.

Mr. MCNABB. Well now, it is not clear in my mind. I think it was Mr. Summers. I am not sure. I would have to look that up, I have forgotten. The fact is I gave it so little consideration that I have forgotten it.

The CHAIRMAN. In any event, it was given attention and the matter investigated when the complaint was made.

Mr. MCNABB. Yes. I think this gentleman's superior officer in San Francisco took the matter up with Commissioner Spry, or I took the matter up with Commissioner Spry when he was here, and he was in to see me about this matter subsequently.

Mr. WILHELM. Did you request the agent of the Department of Justice to make an investigation and report to you?

Mr. MCNABB. I wouldn't be sure about that, without looking in the files. I can not say from memory at this time.

Mr. WILHELM. If your file shows that a report was made, why that investigation was made at your suggestion, wasn't it?

Mr. MCNABB. Yes.

Mr. WILHELM. Can you not recall the ch rges made by Summers, if he was the man that made them; that is, the substance of the charges?

Mr. MCNABB. Well, my recollection is that the charges were to the effect that you are trying to browbeat the homesteaders into making complaints.

Mr. WILHELM. Did the complaint also consist of charges that I had been bribed by one James Irvine?

Mr. MCNABB. I do not remember without looking it up.

Senator BRATTON. Without taking the time of the committee couldn't you submit the whole matter to Mr. Wilhelm in your office and let him satisfy himself about it?

Mr. MCNABB. I think so. I would have to go to the files, and they are very voluminous. I did not know I was going to be called or what I was going to be called about or what I was going to be called to produce here.

Mr. WILHELM. If an investigation was made I was not found guilty of any improprieties in office, was I, so far as the records are concerned?

Mr. MCNABB. No, sir.

The CHAIRMAN. You say Commissioner Spry was here and instrumental in bringing about this inquiry?

Mr. MCNABB. No, Mr. Chairman. We have had this thing going on here for a long time. So far as I know, except on the report brought in by Mr. Wilhelm, I have never had a complaint by any of these people who filed homesteads. In fact, each one that I have ever interviewed was strongly of the opinion that I was wrong and that my opinion that the lands were not open for entry was a mistake and they were perfectly willing to rely upon the statements made to them by Mr. Summers and Mr. Wheeler, and I can remember no complaint whatever from any person who had filed a homestead entry. That is in my own department.

Now, Mr. Favorite is the chief of the investigating department in San Francisco. He has been in to see me a number of times and Mr. Wilhelm, as inspector for that department, of course, made us a report on the activities of these people, and after that report was made, my recollection is that Mr. Favorite and Mr. Wilhelm came into my office. At that time, as I recollect it, there had been no decision by the Interior Department or the Land Department in Washington as to whether they would accept these filings or not, but there were instructions issued to Mr. Smith, as I understood, to send them all into Washington. So it was decided to let the matter stand in abeyance until the Land Department at Washington had given some opinion in the matter. Now, I do not remember when it was, but a few months ago, possibly, Governer Spry was here and Mr. Favorite, and, I think, Mr. Wilhelm and, perhaps, one or two other gentlemen, and we all sat down and went over the matter on the question of criminal prosecution, and the outcome of that was that when the commissioner left we decided to leave it in abeyance until we received a report from the Land Department in Washington as to what they expected to do about it, and there it has stood from that time on, so far as I know. I haven't any knowledge about anything further being done.

The CHAIRMAN. Are there any further questions of Mr. McNabb?

Mr. ROUTHE. Mr. McNabb, at the time of the call at your office of Mr. Wilhelm and the other man, Mr. Favorite, did they show you a letter that they had forwarded to the locators on the Irvine ranch, a circular letter?

Mr. MCNABB. On the Irvine ranch?

Mr. ROUTHE. Yes; a circular letter that they had sent out to the locators.

Mr. MCNABB. I do not remember that they did on any occasion. Of course, Mr. Favorite and Mr. Wilhelm have been in my office a great number of times, not always on this business, but on other land matters.

Mr. ROUTHE. Have you that circular letter, Mr. Wheeler?

Mr. WHEELER. Yes.

Mr. ROUTHE. Will you give it to Mr. McNabb, please? I think I never met you, but I made a formal appearance for all the defendants except Price and the suit stood upon the demurrer all the time that it was in the office, the criminal case.

Mr. MCNABB. I believe so, but I wouldn't be sure without looking it up.

Mr. ROUTHE. Do you recall having been presented with a petition asking for your assistance in relieving these defendants of this charge, signed by all the locators on the Irvine ranch, except Miss Campbell, I believe? Do you recall that?

Mr. MCNABB. No.

Mr. ROUTHE. Do you recall having sent such a petition with some of your communications to the Attorney General of the United States with reference to the matter?

Mr. MCNABB. No; I do not.

Mr. ROUTHE. Have you a copy of the petition, Mr. Wheeler?

Mr. WHEELER. The copy is at the office. I do not have it here.

Mr. ROUTHE. Have you a copy of that Favorite letter?

Mr. WHEELER. No; I have not.

Mr. MCNABB. I haven't had opportunity to look the matter up for a long time. I have been ill ever since the committee has been in session.

The CHAIRMAN. The committee appreciates the circumstances, Mr. McNabb.

Mr. MCNABB. And it is a long time since I have given that matter any definite attention.

Mr. ROUTHE. Did you ever investigate any of the problems that were involved in this land litigation, either for your own information or officially?

Mr. MCNABB. No.

Mr. HARTKE. For the purposes of the record I would like to know whether Mr. Routhe appears for himself or for other homesteaders?

Mr. ROUTHE. Both.

Mr. HARTKE. For yourself and other homesteaders, as attorney?

Mr. ROUTHE. Yes, sir.

The CHAIRMAN. We will ask Mr. Routhe to take the stand at this time. Just a moment; Miss Greer would like to ask you a question.

Miss GREER. At the time you referred to going into Mr. Smith's office and with reference to looking up the books and records in the

Land Office, public records, after he had refused to allow me to see them and told me I could write a letter to Mr. Spry, the Commissioner of the General Land Office, to get Mr. Spry's permission to look at those records, I went into your office, Mr. McNabb, and told you the circumstances and you were very much interested and you questioned me a great deal in relation to these charges against Judge McLendon and these other peopule, and you told me you wanted to know the truth, and were very anxious to have it from the different people, and you were very nice to me, but you told me that you had no authority over the Land Office, but you would use your good influence to see that Mr. Smith did not allow me to look at those books, and went into Mr. Smith's office, I understand, in that behalf. I just wanted to speak of that before you left the room. That is correct, isn't it?

Mr. McNABB. I do not remember you. I remember some lady being in here on a matter of that kind, and I think I did ask Mr. Smith if you could not look at the books.

Miss GREER. I was on the witness stand just a while ago and I wanted to speak of that before you left the room.

Mr. MUSICK. Mr. Chairman, Colonel Lankershim leaves to-night for Europe, and if he can be put on the stand now, he would appreciate it.

The CHAIRMAN. Mr. Routhe, are you willing to give way to the gentleman?

Mr. ROUTHE. I will be glad to, Mr. Chairman.

TESTIMONY OF JAMES B. LANKERSHIM, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. State your full name, please.

Mr. LANKERSHIM. James Boone Lankershim.

The CHAIRMAN. And your occupation?

Mr. LANKERSHIM. I always have been a farmer.

The CHAIRMAN. You are now retired, I take it?

Mr. LANKERSHIM. Yes.

The CHAIRMAN. Proceed, Mr. Wheeler.

Mr. WHEELER. Mr. Lankershim, I would like you to tell the committee, which has come out here from Washington to investigate the situation as to the titles to a number of these alleged Spanish or Mexican grants, along with some other serious charges, your knowledge of the validity of the grant under which your tract was sold. I don't know whether you sold under the grant or not, but if you had title under the grant there, I would like to have you explain what it was and how it could be checked up. I am not a lawyer, but I would like to get the story out.

The CHAIRMAN. Mr. Wheeler, it occurs to me that whatever title he holds is a matter of record, or whatever title he did hold. I am sure Colonel Lankershim is at a loss of understand just what information you want.

Mr. WHEELER. If I may make it clear, the information I want is whether he had a valid title to that ground or not, and if so, I think he should be made to produce it.

Mr. McDONALD. I am attorney, Mr. Chairman, for Mr. Lankershim. He was called here without any knowledge of what he was to be interrogated upon. He leaves to-night on the *Chief*, for Europe. I will say if there is anything the committee wants that we will produce our record titles, the title we have.

The CHAIRMAN. Please understand that the committee did not summon the colonel here at this time. He was called for by those who were prosecuting this investigation. Frankly I am at a loss now to understand just why they did ask for his appearance here. We have sought to confine the inquiry to the element of fraud in connection with these titles, and we shall still hold that unless Mr. Wheeler wishes to question the witness in relation to any knowledge he may have of any fraud in connection with this matter, that his testimony is hardly material.

Mr. WHEELER. May I ask two or three questions?

The CHAIRMAN. Certainly; along that line?

Mr. WHEELER. Mr. Lankershim, at the time you purchased the land in and around the city of Lankershim, who did you purchase it from?

Mr. McDONALD. That is assuming that the colonel purchased it. I do not know that he did purchase it. There was a corporation there and the corporation owned a great deal of this land.

Mr. WHEELER. I would like to get the record; that is all I want. Did you at that time, Colonel Lankershim, understand that you were purchasing this land under a Mexican grant?

Mr. LANKERSHIM. No; I did not understand that. My father purchased the land and I don't know anything about it. I was only 18 or 19 years old.

Mr. WHEELER. Do you or do you not know whether there was a Mexican grant to that ground?

Senator BRATTON. The committee has expressed itself on the point that that is a matter of record.

Mr. WHEELER. All right.

Senator BRATTON. The existence or absence of its existence could be determined for the record without bringing witness here to ask their personal knowledge of it.

Mr. WHEELER. All right; that is all I have.

The CHAIRMAN. Do you feel that the witness had any knowledge of fraud perpetrated in connection with the patents to these lands?

Mr. WHEELER. That was the purpose of my question. I felt that perhaps he might know all the facts as they are and as the records show them and I thought a little testimony along that line might be valuable.

Mr. McDONALD. Is there any suggestion of fraud on the part of Colonel Lankershim in this matter?

Mr. WHEELER. What was that?

Mr. McDONALD. I say, is there any suggestion of fraud on the part of Colonel Lankershim in the matter?

Mr. WHEELER. There is certainly a lot of fraud, as I understand it, in connection with the San Fernando Valley.

Mr. McDONALD. I am asking you if there is any suggestion of fraud by Colonel Lankershim.

Mr. WHEELER. That is just what I was trying to find out from J. B. Lankershim and these others.

Mr. McDONALD. But I am asking you if there is any suggestion of fraud by Colonel Lankershim in the matter?

Mr. WHEELER. I have answered your question.

Mr. McDONALD. I don't think you have.

The CHAIRMAN. Have you had any knowledge of fraud in connection with the patent of these lands, in which you have an interest as an individual or as a member of some corporation?

Mr. LANKERSHIM. No, sir. I have no knowledge of any such thing.

Senator BRATTON. Have you summons people here this afternoon with a view of establishing similar facts, Mr. Wheeler?

Mr. WHEELER. Perhaps two or three of them are for that purpose, and some of it is to refute the testimony given by Mr. Wilhelm on the stand this morning, and others.

Mr. MUSICK. Mr. Sartori's presence was requested yesterday. He is here now. These men are busy men and we feel that it is an imposition to continue this sort of an examination. Mr. Sartori is here and would like to be heard without delay.

Senator BRATTON. And it is an imposition on the committee, in view of the repeated announcement that we did not consider this testimony admissible.

Mr. LAWLER. With the utmost respect to the committee, Mr. Sartori is here. If, under the circumstances, his presence is not required, still he does not desire to leave without the permission of the committee.

The CHAIRMAN. What information was desired of Mr. Sartori, Mr. Wheeler?

Mr. WHEELER. If the committee please, it is not my desire to impose on the committee's time. My understanding of Senate resolution No. 291 was this, that the committee was coming to the city of Los Angeles to investigate the titles to these lands.

The CHAIRMAN. The committee is here for this purpose, and I read now from the resolution to investigate and ascertain whether or not—

vast tracts of land ceded to the United States by the Government of Mexico were corruptly and fraudently turned over and delivered into the possession of private interests, whether they have been held and are now held by such interests without color of title; that qualified citizens seekin gto exercise constitutional rights relative to said lands, and parts thereof, have been maliciously threatened, intimidated, slandered, libeled, and arrested, and have been corruptly indicted and held under outrageous bonds for long period of time, and then released without a hearing or a trial; that private interests continue in the unlawful possession of the public lands by reason of their exerted influence over those whose duty it is to enforce the law.

That said committee is hereby authorized to sit and perform its duties at such times and places as it deems necessary or proper, and to require the attendance of witnesses by subpœna or otherwise; to require the production of books, papers, surveys, maps, grants, patents, and any and all other documents pertaining thereto; and to employ stenographers at a cost not exceeding 25 cents per 100 words. The chairman of the committee or any member thereof may administer oaths to witnesses and sign subpœnas for witnesses and records; and every person duly summoned before said committee, or any subcommittee thereof, who refuses or fails to obey the process of said committee or refuses to answer the questions pertaining to said investigation shall be punished as prescribed by law. The expenses of said investigation shall not exceed $1,500 which shall be paid from the contingent fund of the Senate on vouchers of the committee or subcommittee, signed by the chairman and approved by the committee who audit and control the contingent expenses of the Senate.

The CHAIRMAN. Do you wish to question Mr. Sartori along those lines, Mr. Wheeler?

Mr. WHEELER. To ascertain if these people still retain title in violation of the law was my purpose, but I believe Senator Bratton has ruled that the evidence now in shows their titles, and with that thought in mind I believe that is complete. The evidence now in shows that Mexico never made any such grant, and so far as I am concerned personally I am willing to rest our side of the case in regard to the San Fernando Valley on that evidence.

Senator DALE. I did not understand that Senator Bratton had made any such ruling as that.

Senator BRATTON. Of course, that statement is refuted by the record.

The CHAIRMAN. Have you made any effort, Mr. Wheeler, to bring in the courts an action testing the validity of the titles?

Mr. WHEELER. I have not and would not be competent to do so. I am not an attorney.

The CHAIRMAN. Have those with whom you are associated made any such efforts?

Mr. WHEELER. My understanding is this, that if they were to do so they would have to start in these courts. I understand, if I may presume to answer that, that the proper place to make that test is through the Land Office and the Department of the Interior, and failing there, to go to Congress. Mr. Summers handled that and still handles it.

The CHAIRMAN. The committee will stand in recess for five minutes and reconvene at 12.35.

(After the expiration of the recess.)

STATEMENT BY HON. SAM G. BRATTON, ON BEHALF OF THE SUBCOMMITTEE, REGARDING PROCEDURE OF THE SUBCOMMITTEE

The CHAIRMAN. The committee has deliberated with relation to future procedure in this investigation, and the Chair will ask at this time the Senator from New Mexico, Mr. Bratton, to outline the wishes of the committee with respect to that procedure.

Senator BRATTON. We are all of one mind. We think there are two issues to be investigated in this inquiry. One is the existence or nonexistence of the titles, and that can be established from the records and the court decisions. The other is the fraud perpetrated in connection with those titles. We think the evidence should be confined to those two issues. We think it has not been confined to those two issues either closely or substantially. We feel that time has been needlessly consumed, the time of the committee and the time of all others connected with it. Now, as to the San Fernando grant and the other grants, let us have the proof as to title from the records, and as to fraud originating or inhering in the title at the outset or arising thereafter, let us have the evidence concisely. There has been a great deal of hearsay, and it must be obvious to everybody that it simply encumbers the record. It is expensive, it is a waste of time, and it will not aid the committee or Congress in reaching a solution of this inquiry. The committee desires to urge and request the cooperation of all parties

connected with the investigation that that be kept in mind and that the scope of the testimony be narrowed to the two features that I have outlined. As to the title, let it be the record. As to fraud, let it be confined to facts that the witnesses know themselves and can state concisely here. Mr. Routhe is the next witness.

Mr. WESTERVELT. May I ask one question before the matter proceeds further?

The CHAIRMAN. You may sir.

Mr. WESTERVELT. As the committee knows, I think, from the statement I have made more than once to them, I am not familiar enough with the facts of the evidence to be of as much assistance as I would like to be; but I would like to ask, for the purposes of the record, whether in the ruling which Senator Bratton has just outlined whether the committee had in mind specifically this language in Senate resolution 291, appearing on line 5 to 11 of the first page:

> Findings and recommendations regarding charges that have frequently been made and continue to persist, and reports that have long been current and now prevail, that vast tracts of lands within the area of the lands ceded to the United States by the Government of Mexico were corruptly and fraudulently turned over to and delivered into the possession of private interests, and have been held and are now held by said interests without color of title.

That would seem to indicate that the scope of the inquiry should include not only such allegations of fraud as may relate to current matters but as to the origin of the titles.

Senator BRATTON. I had that in mind, Mr. Westervelt, when I used the expression fraud inhering in the titles themselves, fraud in connection with the issuance of the patents in the making of the surveys or otherwise in connection with the titles. But as to whether there is a proper title or not——

Mr. WESTERVELT. I understand, Senator. Of course, that would be a matter of record.

Senator BRATTON. Chain of title, emolument of title. We feel that the records must either establish or negative their existence. We do not think it is fair to call witnesses here and ask them to state orally what title they have. I am sure you appreciate what the committee has in mind.

Mr. WESTERVELT. Entirely, Senator.

Senator BRATTON. Now, in connection with the paper title, whether it be an original grant, or the confirmatory proceedings, or the patent, if fraud was practiced or existed in connection with those steps, let us have the proof of the fraud.

Mr. WESTERVELT. I understand. It was merely for the purpose of making the record clear that I asked the question.

Senator BRATTON. I think you and the committee are in accord on that, Mr. Westervelt.

The CHAIRMAN. We will now hear Mr. Routhe.

STATEMENT OF A. C. ROUTHE, ATTORNEY, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

Mr. ROUTHE. Mr. Chairman, I wish to step aside as a witness for a moment and refer to the matter spoken of by the Senator just a moment ago, that the committee would rely upon the record. I call the committee's attention to the United States *v.* Ortes (176 U. S. 422), in which the decision held that where parties are relying upon

the validity of a grant, it is incumbent upon them to produce the title. Now, at this time, on behalf of myself and those whom I represent, I desire to call the attention of the committee to this fact in order that the record may show that we are relying upon that provision of the law for the answer to the question: Where is the title? It is by reason of the Senator's statement that the committee would rely upon the record that I call it to your attention at this time.

Furthermore, I wish to state that this decision is taken from a brief which was filed by Mr. Summers in Washington in the Land Office, which bears the date of September 26, 1926.

I wish to also step aside as a witness to say on behalf of myself and those that desire to adopt it, or to request that the records, briefs, and all exhibits in these cases in the United States Land Office and the various departments to which they have been submitted, together with the files, decisions, and rulings of the department pertaining to these grants, be made a part of this hearing, by reference.

The CHAIRMAN. Very well. Please state your full name?

Mr. ROUTHE. Routhe, A. C. Routhe. The same Routhe that you read about in the bible, except that I have given it the French spelling.

The CHAIRMAN. Your occupation.

Mr. ROUTHE. I am an attorney.

The CHAIRMAN. And also a homesteader, or have you made application?

Mr. ROUTHE. An application on the interstitial part of the Irvine tract which lies, or is alleged to lie, between two grants or alleged grants.

The CHAIRMAN. In some degree as you are representative of other applicants for homestead rights?

Mr. ROUTHE. At the request of Mr. Williamson S. Summers, who is the chief counsel, I filed a brief in that particular case and I had limited connection with the inception of the filing on Palos Verdes.

Senator BRATTON. Mr. Routhe, how long have you been connected with this controversy?

Mr. ROUTHE. As a locator, I rather think it is six years, which connection was relative to the Irvine matter, and only for the past three years concerning the Palos Verdes.

I have no information or connection in any respect with any other tract of land that is involved before your committee.

Senator BRATTON. Treating the whole controversy as one entity, have you had occasion to confer with Mr. Summers regarding the matter?

Mr. ROUTHE. I did before filing on the Palos Verdes. However, Mr. Summers did not come into the litigation, as I recall it, until 1925, at which time I met him for the first time. I conferred with him upon various features later, which had previously been submitted to me by Ben McLendon.

Senator BRATTON. I understood you to say this morning that you appeared for some of the defendants in the criminal prosecution here in Los Angeles?

Mr. ROUTHE. I did.

Senator BRATTON. Was Mr. Summers also employed in that case?

Mr. ROUTHE. Well, at the time the case was brought I appeared for the defendants other than Price, and as I recall it, they included Mr. Johnson, Mr. Clark, and Ben McLendon, I do not recall that there were any others. I filed a demurrer to the indictment and that demurrer, as I recall it, never was passed upon by the court. Hearing on the demurrer was on several occasions postponed, and I do not recall that Mr. McNabb, who was a witness here this afternoon, was present on either of those occasions. Later on, I should say perhaps after the case had run perhaps a year, Mr. Summners, through some request for the defendants, and with my consent, began to look into it and I shifted my responsibility in the case to Mr. Summers.

Senator BRATTON. About when was it, now, that he came to the case?

Mr. ROUTHE. Well, it must have been in 1925. I am quite sure that the case was brought in 1923, or somewhere along in there, or 1924.

Senator BRATTON. Have you and Mr. Summers conferred with each other respecting the matters and facts involved in this homestead controversy.

Mr. ROUTHE. Not very recently. Mr. Summers took charge of the matter, as far as I was concerned, in its early inception. Mr. Summers is a lawyer and I am only an attorney, and I did not feel like bothering him about the details of something he was not called upon to handle.

Senator BRATTON. Do I understand that you have or have not discussed the facts with Mr. Summers?

Mr. ROUTHE. Not the details of the facts. I have gone into the matters of survey, matters particularly pertaining to the survey, the question of the existence or nonexistence of title, the certificates and records from Mexico with reference thereto. However, prior to Mr. Summers's connection with the case Mr. McLendon and I had discussed a good many of the important facts, that is the basic facts.

Senator BRATTON. Let us have the answers responsive, please.

Mr. ROUTHE. I will try, Senator.

Senator BRATTON. My question was whether you and Mr. Summers had discussed the facts relating to the controversy between the homesteaders on the one hand and the holders of the title, by grant, on the other hand.

Mr. ROUTHE. Get this clear; do you mean that Judge Summers and I discussed how we would present specific facts or where we would acquire information relative to points—no.

Senator BRATTON. Had you ever discussed with him the subject of public officials being bribed in connection with this matter?

Mr. ROUTHE. Well, I would not call it a discussion, no. I probably have heard these remarks, but whether by Judge Summers, I do not know. I have heard them quite often, but I have no specific remembrance as to whether Judge Summers said them.

Senator BRATTON. Had you discussed with him the question of statements purported to have been made by Commissioner Spry, to the effect that he would see these homesteaders in hell before the United States ever got an acre of this land?

Mr. ROUTHE. Well, I don't think that was a discussion. I think that probably was called to my attention. I might have said, "I

understand he said that or something like that," but I haven't had two hours' talk with Judge Summers in the last year and a half.

Senator BRATTON. Mr. Routhe, a memorandum was filed with the committee by Mr. Summers and the committee took it in account in passing the resolution appointing this subcommittee to come to California and investigate this controversy. In the memorandum this language was set forth and your name was supplied as a witness who would testify to these facts: When the applications for homesteads were filed, this, of course, was followed by publicity. James Irvine, who was in possession of the land applied for by the homesteaders for homesteads, stated that he had retained possession of the land on former occasions by the use of his check book, and that he would proceed to use it again. A short time thereafter Irvine announced that the hour of danger had passed, that he had secured control of the Land Department, that the applications for homesteads would be rejected. A short time after Irvine made that statement the applications for homesteads were rejected by the local land office, and thereafter Commissioner of the General Land Office Spry was in the city of Los Angeles and conferred with a number of men greatly interested in the alleged Mexican grants that are known to have been fabricated and that the lands described had become public domain of the United States, and after this conference the commissioner is declared to have stated, at the Federal Building, "That not a damn homestead application will be allowed and that he would see the homesteaders in hell before the United States ever got an acre of that land."

Mr. ROUTHE. You say he says I said that?

Senator BRATTON. It reads, "Witnesses to the foregoing, A. C. Routhe, R. D. Morris, D. B. Smith, and Robert A. Armstrong."

Mr. ROUTHE. Well, I heard just a similar remark but I never met Mr. Spry. The judge is mistaken. I may have heard such a remark but I never met Mr. Spry.

Senator BRATTON. Have you any information as to the other feature of James Irvine making the statements which are attributed to him here or the statement attributed to Governor Spry?

Mr. ROUTHE. Only from hearsay, because I never met Mr. Irvine in my life. I met his son, but I know nothing of the Irvine conversation that is mentioned there.

Senator BRATTON. Being a lawyer, you appreciate the fact that the committee does not care to go into the channels of hearsay.

Mr. ROUTHE. Certainly.

Senator BRATTON. But leaving that aside, are you able to help the committee as to the other feature?

Mr. ROUTHE. No, except as I say, it was stated, but by whom I do not recall. Of course in my position, having had some connection with this matter, I am assumed to have more information than I have. So many inquiries are made and every one has his own theory about it and wants to divulge it. I had to shut out a lot of these things and I forget. I do not think of such things. I have heard both of those statements probably a dozen times, but like other statements with regard to which I suppose some proof was available, I did not make note of it as to who it was. I would say that the judge is mistaken as to my participation in that conversation.

Senator BRATTON. And in furnishing our name as a witness to these statements——

Mr. ROUTHE (interrupting). Of course I knew nothing of that.

Senator BRATTON. What do you know of your own knowledge with reference to the charge that the United States district attorney Burke stated that some persons under indictment knew too damn much and that on that account they would be put in the penitentiary.

Mr. ROUTHE. Not a thing, because I didn't know Mr. Burke. I don't remember ever seeing him in my life.

Senator BRATTON. But you were attorney in that case?

Mr. ROUTHE. I was attorney in the case but I never saw Mr. Burke in it. I think some deputy—at that time I knew his name—some young gentleman—appeared in the case, but if I ever saw Mr. Burke I never knew it.

Senator BRATTON. Did he ever make such a statement to you that is given here?

Mr. ROUTHE. Not to me. He made no such statement to me. I heard that statement, but not from Mr. Burke.

Senator BRATTON. Of course, the committee can not rely on hearsay.

Mr. ROUTHE. No, Senator.

The CHAIRMAN. Perhaps you have information that you want to lay before the committee, Mr. Routhe, keeping within the bounds within which we are trying to hold the matter now.

Mr. ROUTHE. I have been deprived of attending the session for several reasons, and I am not advised as to what has taken place. I can only state for the use of the committee a few things, which may be accumulative or may be entirely new. I have had courteous treatment at the local land office, except on one occasion, when Mr. Smith and I tangled horns, and I think I contributed as largely to that matter as he did. I am a fellow that believes in the remedy of laying on of hands, and he seemed to be also, so we met rather abruptly. Perhaps he was within the scope of his authority, but he denied me the right to see the books. I probably was not known to him. I had had some experience in land-office matters. I practiced law for quite a while in the State of Washington, where those matters come up. I called there after this filing on the Palos Verdes. I was given some book that I asked for, and Mr. Smith found it out and he came out and denied me the right to the book, and we talked it over so that others could hear it. It was a very audible encounter. Outside of that I have had very fair treatment.

Early in the matter Mr. Wilhelm called on me. I did not associate his name with the land-office affair. It seems I only associated him with distant relatives, probably in Germany, and we didn't start off just right. He wanted to know what I was doing. I was rather abrupt until he told me what his real idea was, and I could not say that his presence or his statements were offensive in any respect. I went through the matter very carefully and showed him that I had a certificate from the Attorney General, of the secretary of the State of Mexico, pertaining to the nonexistence of a grant to the Palos Verdes; that I had looked into the various features of the law and of the decisions and was satisfied that there was no grant; that my clients had a right, in view of that, to make filings. That I had

participated in making out the filings for them. He asked me about the contracts, as I remember, and I told him that I had a conditional or contingent contract. He wanted to know how much money had been paid to me, and I told him on the 100, or whatever it was, that there was less than $2,500 in fees. He wanted to know what we were doing at that time. The case had proceeded perhaps six months or a year and I had contracted with Judge Summers to turn over a very substantial interest in the contract to a trustee for Mr. Summers and others that were associated with him, and turned over the money I had received, except such as was taken out for expenses. I gave him such information as I had. I am quite sure he got a copy of the contract, and later my clients deluged my office with letters from Mr. Favorite, I believe it is. I am sorry I did not bring one. I was quite sure Mr. Wheeler would have one in the files. I would like to supply the record with one of those files, which will be the best evidence of its contents. It pretended to make inquiry as to whether or not they had been robbed, and asked what they could do to help, and so forth.

The CHAIRMAN. Have you any questions, Mr. Wheeler?

Mr. WHEELER. I have no questions at all.

Mr. HARTKE. I would like to ask some questions, Mr. Chairman.

The CHAIRMAN. Proceed, Mr. Hartke.

Mr. HARTKE. When did you first become associated with this enterprise?

Mr. ROUTHE. Well, I could not say, because the matter was called to my attention with reference to the grants even years before any filing was done to my knowledge. It was called to my attention by Mr. McLendor, who at all times contended that he was very much convinced by the proof he had.

Mr. HARTKE. When did you say that was?

Mr. ROUTHE. I think it was probably in 1900, as far back as that.

Mr. HARTKE. When did you first begin work on these 100 that you have spoken of?

Mr. ROUTHE. That was December, perhaps between the 10th and 18th of December in 1925.

Mr. HARTKE. You continued to represent them and still do represent some of them now, as I understand it?

Mr. ROUTHE. Only in this way: Very soon after that time I made an arrangement with Mr. Summers, we being associated, to take charge of this other land matter and to handle the case of my clients, and gave substitution of attorneys. I think those are matters of record. I turned all of this matter over. I was yet interested in a small part, one-fourth, for instance, of the contingent contract, after which time I signed those over to Mr. Summers.

Mr. HARTKE. What was the substance of those continued contracts?

Mr. ROUTHE. Well, they provided that the claimant would pay a certain sum as a retainer. The sum was left blank and then filled in. Some of them paid nothing. A great many of them paid nothing. There was a place left for it. I believe there are some that show $200 and $300 that never paid it at all. As I say, there was only about $2,000 taken in on the matter.

Mr. HARTKE. What was the contingent feature?

Mr. ROUTHE. The contingent feature was that after they had acquired the land, that we should have a sum equal to one-half its value after they had acquired title to it.

Mr. HARTKE. Now, as to these people who did not pay anything, were their applications filed the same as for those who paid?

Mr. ROUTHE. Yes. Each and every one was taken care of.

Mr. HARTKE. Were those people taken out to make a personal inspection and examination of the land?

Mr. ROUTHE. No one was ever taken out that I know of. They all went and looked at it.

Mr. HARTKE. Do you know yourself that they all went?

Mr. ROUTHE. I know they went from their affidavits on it and then they came in and described it and marked it out and told me they had.

Mr. HARTKE. Are you aware of the fact that some of these affidavits cover land on which there are many homes?

Mr. ROUTHE. That is not true.

Mr. HARTKE. It is not?

Mr. ROUTHE. No. To my knowledge I wouldn't take a case—I am not so particular as some—but I am not interested in a case where other people are living, so I didn't file any person on a place where there was a residence.

Senator BRATTON. I think this is quite a little out side of the purpose of the inquiry and the scope of this. It neither bears upon the title nor fraud in granting the title.

Mr. ROUTHE. If the committee will allow me, I think that it is relevant in this, that it was suggested by the gentleman there that vast sums of money had been extracted from innocent locaters and I presume the question is in consequence of that. As that was their opening statement, I think it is proper to allow it.

Senator BRATTON. Do you want to absolve yourself from any question or any accusation of that kind?

Mr. ROUTHE. So far as I am concerned it may seem to serve that purpose. I am not backing away from any participation I have had in this, because I am firmly of the belief that it is right, but it seems to be the purpose of the chamber of commerce to determine that particular point, and I thought it was fair to the committee to make that statement.

Senator BRATTON. The committee has endeavored to narrow the scope of the inquiry and of the evidence, and I do not believe this is in line with that.

Mr. HARTKE. Very well, but with the committee's permission I will ask this: In advising these various clients in reference to their rights, did you inform them as to recent decisions and as to other decisions of the Supreme Court involving these titles, especially the decision in the case of L. A. Farming & Milling Co. *v.* Thompson?

Mr. ROUTHE. Those that I got to inform in any respect I did, but there were a great many that I didn't talk with at all. For instance, if I were talking to you and explained that matter to you, you might say, either audibly or to yourself, "Well, I am going to tell Charley and Harry and Tom," and then here comes Charley and Harry and

Tom right up there themselves, so you don't tell them, and I didn't talk with probably a fourth of those that filed.

Mr. HARTKE. Yet you accepted their contracts.

Mr. ROUTHE. I did tell them the situation just as I have found it. Several questions had arisen between Mr. McLendon and myself, and, I think, Mr. Summers, with reference to the law, and we had followed it up and found that the decisions were compatible with our theory about it.

Mr. HARTKE. And you did give advice to the people that you represented in these matters——

Mr. ROUTHE (interrupting). I probably did not get to advise them on all of the matters, because some of them probably filed, that is, made up their papers without my knowing anything about it, but I told them what I knew about it.

Mr. HARTKE. According to the statement you made just now, as I understand it, you did not think it was proper for anyone to file on property that was improved by homes or buildings?

Mr. ROUTHE. That was only my personal feeling about it.

Mr. HARTKE. But that is your personal feeling now, is it not?

Mr. ROUTHE. Yes, sir; I would prefer that.

Mr. HARTKE. You think homesteading should not be allowed on property that has been highly improved by the owner?

Mr. ROUTHE. Well, I would rather not answer that question because it would be my own personal affair and I am not binding anyone else.

The CHAIRMAN. Your acquaintance with the matter leads me to believe that you might be able to shed light on the question of who organized this homesteaders' association.

Mr. ROUTHE. The homesteaders' association?

The CHAIRMAN. The organization of homesteaders. Who brought it to a head?

Mr. ROUTHE. I never heard of such a thing. I will give the committee the advantage of what I do know. At some time, perhaps months after the filings on the Irvine ranch, I remember being present one night at a meeting in some hall over here, at which time a resolution was made and directed to the United States district attorney's office and to the United States Attorney General, signed by all except one of the locators, asking that the case against McLendon be dismissed. If that had the designation as the homesteaders' organization, I did not know it.

The CHAIRMAN. I did not mean that it had any such designation.

Mr. ROUTHE. I knew nothing about it.

The CHAIRMAN. I had reference only to the association of men and women in this controversy.

Mr. ROUTHE. I had very limited acquaintance with Mr. Price and I knew nothing of any organization that he had. I was not one of his associates.

The CHAIRMAN. That is all. Is there anything further, Mr. Wheeler?

Mr. WHEELER. No, Mr. Chairman.

Mr. HARTKE. Mr. Chairman, Mr. Sartori is here and Mr. Ferguson.

The CHAIRMAN. We will call Mr. Sartori.

TESTIMONY OF JOSEPH F. SARTORI, PRESIDENT OF THE SECURITY NATIONAL BANK, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

Mr. SARTORI. Mr. Joseph F. Sartori.

The CHAIRMAN. Mr. Wheeler called Mr. Sartori for what purpose?

Mr. WHEELER. I have only this to ask——

The CHAIRMAN. What is your official connection at this time? You are an officer in one of the title companies, I believe?

Mr. SARTORI. I am president of the Security National Bank.

Mr. WHEELER. My question is simply this: Before the merger, when your bank was known as the Security Trust & Savings Bank, did your institution have any control of or own any stock in the Title Insurance & Trust Co.?

Mr. SARTORI. Not in the institution, no. Some of the officers may have had, yes. I have some stock in it, six shares.

Mr. WHEELER. Do you know of the storing of certain records pertaining to your titles, together with old maps, and so forth in a bank or title company on Melrose Avenue?

Mr. SARTORI. I have heard of it but I have never seen it.

Mr. WHEELER. Do you happen to know of your own knowledge whether there are any such records stored there?

Mr. SARTORI. No, I do not.

The CHAIRMAN. That is all, Mr. Sartori.

TESTIMONY OF HOWARD G. FERGUSON, REAL ESTATE, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

Mr. FERGUSON. Howard G. Ferguson.

The CHAIRMAN. And what is your occupation?

Mr. FERGUSON. I am in the real-estate business, president of the Howard Ferguson Corporation.

The CHAIRMAN. Mr. Wheeler requested your presence here to disclose certain information which he believes will be helpful to the committee.

Mr. FERGUSON. Yes.

Mr. WHEELER. I would like to ask you whether at the present time you are selling or leasing land in what is known as the Malibu Sequit grant?

Mr. FERGUSON. We are.

Mr. WHEELER. Are you and were you at any time, an attorney in this district?

Mr. FERGUSON. I was and am still.

Mr. WHEELER. Then in selling this land do you know of your own knowledge—this is what Senator Bratton would say would be a question of law—with your knowledge do you believe that you have a good, valid, and legitimate title to that land?

Mr. FERGUSON. We believe we have, yes.

Mr. WHEELER. That is a matter of record, of course?

Mr. FERGUSON. Yes.

Mr. WHEELER. Would you say whether that was based on a grant or on what?

Mr. FERGUSON. Based on the chain of title.
Mr. WHEELER. I mean starting with a grant.
Mr. FERGUSON. So I believe.
Mr. WHEELER. That is all. Thank you.
The CHAIRMAN. You have direct knowledge of the existence of such a grant?
Mr. FERGUSON. We have a report from the Title Insurance & Trust Co. of Los Angeles, in the certificate of title which was given to us by the title company guaranteeing the title to that particular property that we are offering now.
The CHAIRMAN. Of course that chain of title also includes the patent issued by the Government?
Mr. FERGUSON. Yes. We believe that the title is a good title and have paid for a certificate of guaranty for the purpose of passing on the title to subsequent purchasers of individual parcels as the land is subdivided.
The CHAIRMAN. Has that title ever been challenged in the courts?
Mr. FERGUSON. It has never been challenged.

TESTIMONY OF FRED W. MARLOW, VICE PRESIDENT OF CLIFFORD F. REID (INC.), REALTORS, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)
The CHAIRMAN. State your full name.
Mr. MARLOW. Fred W. Marlow.
The CHAIRMAN. And your official connection with any business?
Mr. MARLOW. Vice president of the Clifford F. Reid (Inc.), realtors.
Mr. WHEELER. I do not know that Mr. Marlow would know the details, but Mr. Reid would know them, but I want to know if a party by the name of Petty, who purchased a tract from the Clifford Reid Corporation, a lot in the Hollywood Riviera, who, after learning certain information in regard to the absence of a grant to the Palos Verdes, I believe demanded the return of that money, and after several days of argument and looking into the matter I believe the money or the deal was stopped, if the money was not returned. Do you know anything of that transaction, Mr. Marlow?
Mr. MARLOW. I do not.
Mr. WHEELER. Would you know anything as regards the validity of that title?
Mr. MARLOW. I should say so; yes. I handle all the transactions that go through the company.
Mr. WHEELER. What would you say as to the title to the Palos Verdes being based on a grant?
Mr. MARLOW. We purchased the old Huntington Land Co. property and our title was brought down in the regular way, with the title guaranteed by the Title & Trust Co.
Mr. WHEELER. But you could not say whether that title was really based on a grant or not?
Mr. MARLOW. I should say definitely no. I would also like to say that we did not give any money back in that case on account of any such information.
The CHAIRMAN. That is all, Mr. Marlow. We will now hear Mr. Clinton Johnson.

Mr. MUSICK. May it please the committee, Mr. Clinton Johnson was a witness called yesterday by Mr. Wheeler. After Mr. Johnson had testified he engaged me in conversation privately, for the purpose of convincing me of his sincerity. He said he would like to take the stand—I do not know whether he said to correct his testimony or whether he said enlarge his testimony, but what he told me at that time would have the effect of doing both. I am not prepared to say that it is exactly in line with the two points the committee has narrowed the inquiry to, but I think it is exactly in line with the testimony that Mr. Johnson gave on yesterday, and in fairness to Mr. Johnson and in fairness to the committee and to these applicants I think he should have the opportunity to either correct or enlarge his testimony so that the true facts may be known.

The CHAIRMAN. The committee wants Mr. Johnson to feel that he has every right to do that.

FURTHER TESTIMONY OF CLINTON JOHNSON, LOS ANGELES, CALIF.

The CHAIRMAN. Proceed, Mr. Johnson.

Mr. JOHNSON. I did not make the assertion that I had anything to correct, but that there were certain facts that I wanted to state. I also wanted to present the balance of the certificates, if I may do so, that I was asked to present here, issued by Mexico.

The CHAIRMAN. You have those with you now?

Mr. JOHNSON. I have those with me. I have photostatic copies of the originals, if you want to compare them.

The CHAIRMAN. There will be no occasion for comparison at this time, if you will submit the photostatic copies.

Mr. JOHNSON. These photostatic copies have to do with the Rancho San Joaquin, the Lomas de Santiago, and the Palos Verdes.

The CHAIRMAN. Those, in effect, are in the form of affidavits by officials of the Mexican Government maintaining that there are no grants of record?

Mr. JOHNSON. That is what they certify in these affidavits.

The CHAIRMAN. You may proceed, Mr. Johnson.

Mr. JOHNSON. I particularly wanted to get before the committee the fact that Ben McLendon, as I testified the other day, along in the month of August, 1922, if I remember the date correctly, went to Washington. Now, his statement as to why he went to Washington was that he did not want anybody to file any homestead application until he had first determined what the attitude of the Land Department would be with reference to these applications. Now, I am stating what Ben McLendon told me. As I said the other day, some $3,000 was raised for the purpose of sending McLendon there. That money was turned over to him and he went back there. On his return to Los Angeles he made the statement to me, and I think to others who are present here and whom I can name, that he made this investigation; that he met with George R. Wickham and Commissioner Spry, and that they told him that everything from the cellar to the garret was open for his investigation in the Land Department; that it would be the mere matter of these applications that he intended filing reaching a certain desk where they would be acted

upon and he thought it would take about 90 days to get this land. That was the theory that he went on.

McLendon also brought back a map that was purported to have been made in the office of maps back there, or the place where they keep their maps. This evidently was a photostatic copy and it showed the lines of the Lomas de Santiago grant, beginning up around Orange County Park and extending down in a triangular shape adjoining on to the San Joaquin. I think possibly Mr. Wheeler has the original map that McLendon produced at that time. He also said to me that he had a discussion with the Land Department on the matter of surveys; that they had told him that the surveys had been made on this land, and that when the lines showed the township and range lines that it was surveyed public land; that anybody could fill in the sections of that land, any surveyor could do that; that he could take this map and fill in these sections. Now, I think this is a map similar to the one he furnished. All you have to do, you know, is to find out the correct lines of the township and range, and there being 36 sections in a township, with No. 1 commencing up in the right-hand corner and extending across to 6, and then back to 13, and so on, and it was a simple matter to show where these different sections would lie in this surveyed land.

Senator DALE. Let me interrupt just a moment. Is this map on page 42 of the committee's hearings, which I show you, similar to the one you have there?

Mr. JOHNSON. It is in line, yes. It is made almost exactly; made as exactly as it could be without using instruments.

The CHAIRMAN. Just a moment, please. We have a telephone call from Mr. Burke. The information which Mr. Burke, former district attorney, can give the committee is such information as can be obtained through a deposition?

Mr. WHEELER. I would think so, but for the convenience of Mr. Burke I would say let him stay right there. I do not want to inconvenience anybody if I can help it.

The CHAIRMAN. Now, proceed, Mr. Johnson.

Mr. JOHNSON. In substantiation of Mr. McLendon's statements that he had been in the Land Office and that he had had these conversations, he produced a book which he said was turned over to him by George R. Wickham, marked on page 29, showing that among other frauds perpetrated by the Land Department, that the Lomas de Santiago, granted for 4 square leagues, was patented for 47,000 acres. And he showed me these different things that I have here containing the signature of Wickham, things in Wickham's handwriting. I don't know that they are valuable, because I think they are all mentioned in the document. I am merely showing this to show what he did to substantiate his statements.

Mr. MUSICK. May I ask some questions, Mr. Chairman?

The CHAIRMAN. Yes; but will you permit Senator Bratton to examine the witness at this time?

Mr. MUSICK. Certainly.

Senator BRATTON. Mr. Johnson, you say that when Mr. McLendon returned from Washington he advised you that where the township and range lines were established through official surveys, recognized

surveys, that anyone could survey out the 36 sections that were in the township, the quarter sections and so forth.

Mr. JOHNSON. He said the Land Department instructed him that if a map were drawn in that way, that the place where the homestead application could be filed on would be determined just as well as though you had an official map.

Senator BRATTON. Was any map ever used by the organization showing the 36 sections within the several townships of that grant?

Mr. JOHNSON. I would like to make one correction. There was no organization. Maps were used in the office, yes.

Senator BRATTON. Very well, I will accept the modification. Having reference to those maps that were used in the office, did they show the section lines, the section corners, the quarter section lines, and so forth?

Mr. JOHNSON. Yes, sir.

Senator BRATTON. Who placed those lines upon the map?

Mr. JOHNSON. I think I did that myself, under the direction of McLendon.

Senator BRATTON. And that map was used afterwards for filing purposes?

Mr. JOHNSON. Yes, sir; in defining where these locations were.

Senator BRATTON. Was any such map ever presented to the Land Department for its approval and recognition?

Mr. JOHNSON. I believe not. Not to my knowledge.

Senator BRATTON. So that so far as official records in the Land Office went there was no map showing the section lines, section corners, and quarter sections in this rancho Lomas de Santiago?

Mr. JOHNSON. Why, I don't know. I never saw a map in the Land Office and I think they have denied that they had any map there, I believe. McLendon said that when Alexander Mitchell—was there a man by that name as registrar and receiver at one time? I think he claimed that Mitchell was a friend of his and that he had gone to Mitchell's office at one time, while he was in that capacity, and he had shown Mitchell that he had such a map there that Mitchell did not know existed.

Senator BRATTON. At any rate, in preparing papers for homestead entries a map was used showing section lines and quarter section lines projected by you and McLendon.

Mr. JOHNSON. Yes.

Senator BRATTON. Without the approval of the Land Department?

Mr. JOHNSON. McLendon stated that they had authorized it in the Land Department at Washington.

Senator BRATTON. I understand. Based upon what he told you these lines were projected on the map by you and McLendon?

Mr. JOHNSON. Yes.

Senator BRATTON. And you used that map in making up the homestead-entry applications?

Mr. JOHNSON. That is a fact.

Senator BRATTON. Have you that map with you, showing the projection lines?

Mr. JOHNSON. I have not. I haven't had that map for some time.

Senator BRATTON. Do you know where it is?

Mr. JOHNSON. I do not know whether it exists or not.

Mr. WHEELER. I will be glad to produce that map for use of the committee.

Mr. JOHNSON. Have you the map?

Mr. WHEELER. I have; yes.

Senator BRATTON. Is it here now?

Mr. WHEELER. No. I was looking for it at the office, but I have a large photograph of it.

Mr. JOHNSON. I might say that at a later date a man by the name of Fred Steele brought in a map that he obtained somewhere which looked like an official map, showing the sections of that land down there. As I remember it, it was not divided into quarter sections, but was divided into sections.

Mr. WHEELER. Let me correct my statement about this map that I have reference to, because that shows a photograph of an official map, showing the quarter sections and the section numbers put in and purporting to have come from the official records in Washington.

Mr. JOHNSON. I don't know where it came from, but I remember distinctly that map.

Senator BRATTON. I understand the map that you and Mr. McLendon used was one in which you and he projected the section and quarter section lines?

Mr. JOHNSON. It was a similar map to this with the sections drawn in.

Senator BRATTON. Drawn in by you?

Mr. JOHNSON. Yes; sections and quarter sections.

Senator BRATTON. By you, under the supervision of McLendon?

Mr. JOHNSON. Yes.

Senator BRATTON. And now you refer to another map that you say had the appearance of being an official map.

Mr. JOHNSON. Yes.

Senator BRATTON. As I understand you, it showed the section lines put in and the quarter section lines.

Mr. JOHNSON. That is my remembrance of it, that the section lines were shown. The quarter sections might have been defined in there, but I don't remember. That is better determined by looking at the map.

Senator BRATTON. Where did you first see that map?

Mr. JOHNSON. I should say along about October or November of 1922.

Senator BRATTON. In 1922?

Mr. JOHNSON. Yes.

Senator BRATTON. And who had it?

Mr. JOHNSON. Fred R. Steele.

Senator BRATTON. Was he connected with the office to which you refer?

Mr. JOHNSON. No, but Steele had made some effort in years past, as I understand it, to file a homestead on the same property.

Senator BRATTON. What was done with that map when he brought it into the office?

Mr. JOHNSON. It was retained by the office.

Senator BRATTON. Is that the map that Mr. Wheeler refers to and says he will supply to the committee?

Mr. JOHNSON. Yes.

Senator BRATTON. What became of the map in which you and Mr. McLendon projected the section and quarter section lines?

Mr. JOHNSON. I haven't an idea what became of that map.

Senator BRATTON. Where was it when you last saw it or had knowledge of it?

Mr. JOHNSON. The last time I saw it it was tacked on a drawing board, I think, where it was made, on a small drawing board in the office.

Senator BRATTON. In the suite of offices about which you testified on yesterday?

Mr. JOHNSON. Yes.

Senator BRATTON. Was it tacked up?

Mr. JOHNSON. No; it was just tacked on a small drawing board about the size of this blotter [indicating a blotter about 2 feet by 2 feet].

Senator BRATTON. Now, with reference to the map that was brought into the office by this man Steele, what do you mean when you say it had the appearance of being an official map?

Mr. JOHNSON. My memory is that it was indorsed officially by somebody in the land department or some institution, but I have not seen that map for some time. I guess it has been three years, possibly two or three years since I saw that map.

Senator BRATTON. That is based upon your memory of the attached certificate that you say it had?

Mr. JOHNSON. Well, the indorsement, I think, was on the face of the map.

Senator BRATTON. Was the fact that the section and quarter section lines were projected by you and McLendon upon the map used in connection with these homestead entries, known to others in the office?

Mr. JOHNSON. Yes, sir; I think so, to everybody.

Senator BRATTON. Everybody?

Mr. JOHNSON. Yes. I think it was known to the locaters and homesteaders as well.

Senator BRATTON. Has Judge Summers known that fact?

Mr. JOHNSON. I suppose he has. I do not know whether he has or not.

Senator BRATTON. And Mr. Wheeler?

Mr. JOHNSON. I think so.

Senator BRATTON. And you think most of the homesteaders have known it?

Mr. JOHNSON. I think they did.

The CHAIRMAN. Are there any further questions?

Mr. MUSICK. Mr. Johnson, do you know what means was used to ascertain the location of the ground, of this land that had not yet been surveyed, which the different applicants sworn that they had visited the ground?

Mr. JOHNSON. You refer to the Lomas de Santiago?

Mr. MUSICK. Yes, or to any property covered by this map.

Mr. JOHNSON. Now, as an illustration, take the Irvine property. If you are familiar with that tract of land you know it is not surveyed along section lines, that it is laid off in lots that run diagonally from the direction of the compass. Perhaps you know that.

Mr. MUSICK. No; not personally.

Mr. JOHNSON. That is the truth of the matter, and there are roads laid out that run diagonally. In other words, they do not follow the direction of the compass. In getting up this map that was furnished by the Department of the Interior, with instructions to draw in these lines in the townships, cover the townships with sections, it was found that these lines, for instance, ran through—we will take section 1, township 5 south, range 8 west, that the roads running up through there would intersect this piece of land for a certain distance from some corner——

Mr. MUSICK. Are you testifying from your own knowledge?

Mr. JOHNSON. Yes.

Mr. MUSICK. You have been over the ground?

Mr. JOHNSON. I have been over the ground, and the people who wish to file would look at the map and determine where they wanted to go and drive up there and measure off the ground, find out where it was and look it over. I never went down there with but one person, and that was on a joy ride.

Mr. MUSICK. Do you know what means was used to ascertain definitely that these people did see the particular land that they described in the homestead entry?

Mr. JOHNSON. There would be no question in my judgment about their seeing it, because the lines were so well defined, and these roads, that they could not help seeing it if they went down there.

Mr. MUSICK. The entire property was covered by roads?

Mr. JOHNSON. The roads were in there sufficiently clear that they could see any piece of ground they wanted to file on.

Mr. MUSICK. They would go to some point nearest that property, as near the property as possible and look at the property?

Mr. JOHNSON (interrupting). No; I think in every case they went on the property.

Mr. MUSICK. You think they actually went on the property?

Mr. JOHNSON. Yes, sir.

Mr. MUSICK. May it please the committee, I think the question of good faith in this matter is of paramount importance, and as an introduction to this particular matter I should like to refresh Mr. Johnson's memory and I would like to run over the purports of the conversation we had on yesterday. It may digress for just a moment, but I will immediately come back to the point.

Mr. Johnson, when you approached me yesterday you said, "Mr. Musick, I want you to know I am sincere in this——"

Mr. JOHNSON. Absolutely.

Mr. MUSICK (continuing). "I want you to know that these applicants are sincere."

Mr. JOHNSON. I believe they are.

Mr. MUSICK. Do you remember I told you, "Yes; I think that is true; I believe the applicants are sincere"?

Mr. JOHNSON. I think there is no question about it.

Mr. MUSICK. Then I asked you the further question, had you never read, or had there never been told to you the decision of the United States Supreme Court which was so ably presented by Mr. Lawler yesterday, which completely and finally put these questions at rest. Do you remember that?

Mr. JOHNSON. Yes, sir.

Mr. MUSICK. Do you remember your answer?

Mr. JOHNSON. That I didn't remember of having ever read that decision that was placed before me?

Mr. MUSICK. Do you remember you told me that so far as you knew it had never been called to your attention by anyone that such decisions existed?

Mr. JOHNSON. But I am not an attorney nor am I a lawyer.

Mr. MUSICK. I realize that. I have merely asked you if you remember what you told me yesterday, that you do not now recall, and did not then recall that you had ever been told of the decision of the United States Supreme Court, which once and for all definitely and finally, as presented by Mr. Lawler yesterday, disposed of this case, and your answer was, You had not.

Mr. JOHNSON. My attention has been called to certain Supreme Court decisions, but they are all incorporated in the briefs that were issued in this case by Judge Summers. I haven't knowledge of that particular decision, and never ran across it until I heard it through Mr. Lawler. I had not read it.

Mr. MUSICK. Do you remember you told me yesterday, and followed it up to-day, that if you had had any knowledge or had had any information that there might be a misunderstanding, or that this committee might be misled, that you would be the first one to want to set it right?

Mr. JOHNSON. Absolutely.

Mr. MUSICK. You even went further, as I remember, and said that you would be in favor of raising money to refund it to them if they lost money by virtue of these applications.

Mr. JOHNSON. I believe I made the statement to you that it has been my purpose for some time, that if these people did not get these lands that I would, and with regard to those that could not afford to lose, as soon as I could possibly do it, reimburse them for what they had paid out. That might seem like a foolish assertion to make, but that is my idea in the matter, where I have had any influence in the matter particularly.

Mr. MUSICK. You testified yesterday, and you reiterated again to me this morning, that you yourself had lost or had invested or had contributed, as you first termed it, a sum approximating $30,000.

Mr. JOHNSON. I think slightly in excess of that.

Mr. MUSICK. And that you did that in the utmost good faith?

Mr. JOHNSON. I certainly did, or I wouldn't have put it in.

Mr. MUSICK. When Mr. McLendon returned from Washington and told you these facts, were you familiar at all with Land Office law?

Mr. JOHNSON. Not in any way whatever.

Mr. MUSICK. You accepted has statements?

Mr. JOHNSON. Absolutely.

Mr. MUSICK. And relied implicitly upon his statements?

Mr. JOHNSON. Yes.

Mr. MUSICK. And it was pursuant to the statements he made and because of the statements he made that you did participate?

Mr. JOHNSON, Absolutely.

Mr. MUSICK. And it was wholly under his instructions that you participated in the drafting of this map?

Mr. JOHNSON. Positively.

Mr. MUSICK. And you thought when you did it that you were doing something entirely proper and that you had the right to do so?

Mr. JOHNSON. Yes, sir.

Mr. MITCHELL. In filing your certificates, Mr. Johnson, purporting to be from the Government of Mexico, I notice you do not file any certificate that there was no grant for the Malibu ranch. Do you infer from that, then, that there was a grant for the Malibu ranch?

Mr. JOHNSON. I was not interested in any of these subjects or situations outside of this Lomas de Santiago. We started with that in 1924, in the month of November. An attorney from San Francisco by the name of McGee went down to Mexico City, at my expense, and under the direction of Ben McLendon, carrying out his ideas in getting information that he considered basic. He was told to investigate and determine whether there was any title and what the government had to say about this title to such grants. Now, one was the Lomas de Santiago, the other was the San Joaquin and another was the Malibu—no, not the Malibu, but the San Fernando. Also the Palos Verdes, those four grants. Those were the only ones investigated by McGee. McLendon told me at that time it was not his intention to disturb anything outside of this interstitial space on the Lomas de Santiago, and when this business was started on the Malibu Rancho up here I knew nothing about the situation. I did not know a thing about the title to the Malibu or the Boca de Santa Monica and paid no attention to those lands in any way, shape, or manner whatever. What I do know is merely hearsay.

Mr. MITCHELL. The fact that you do not find the certificate as to the Malibu is not an indication that you found there was a grant?

Mr. JOHNSON. No. I never investigated that or had it investigated.

Mr. WICKHAM. Mr. Johnson, did Mr. McLendon tell you from whom he got the information in the land department that anybody could fill in the section lines in the townships?

Mr. JOHNSON. I believe he told me he got that from Commissioner Spry. I think so.

Mr. WICKHAM. That is your best recollection?

Mr. JOHNSON. I would not be positive about that.

Mr. WICKHAM. That was on the first trip he made, in August of 1922?

Mr. JOHNSON. Yes. That was on the return from that trip. Isn't it a fact that they came in pretty close proximity when you project them on the map?

Mr. WICKHAM. You may project them but they may be wrong.

Mr. JOHNSON. I will leave it to Mr. Smith who is a surveyor. Mr. Smith will tell you that he can take a township map and fill in the sections and quarter sections, especially if the scale is not too small. But he can get an idea of the piece of ground without any question.

The CHAIRMAN. Mr. Wickham, you desire to take the stand again?

Mr. WICKHAM. Yes, I do. I want to make this statement in reference to Mr. Johnson's testimony. I said on yesterday that I was present at the only interview that McLendon had with Commissioner Spry, which lasted probably five minutes and which was concerning some coal-land cases. McLendon did not discuss the question with Commissioner Spry of any Spanish land grants or maps or surveys or any thing else pertaining to these California lands

at any time during the interview. Nor did Commissioner Spry tell him anything about survey or filling in maps of the public domain. And I can say further that most certainly I never gave McLendon any such information as he reported to Mr. Johnson. That statement, like most of the others that Mr. McLendon came back and reported, was made out of whole cloth and not in accordance with the facts as Mr. McLendon got them from me in Washington.

Mr. MUSICK. Mr. Chairman, it seems to me that the question of good faith is so paramount here, that if the committee will indulge me for a moment I would like to propound two or three questions to Mr. Wheeler respecting this particular map.

The CHAIRMAN. Will you first permit Senator Bratton to make a statement for the committee?

Mr. MUSICK. Certainly, sir.

Senator BRATTON. Gentlemen, on the question of paper title, Mr. Smith, Register of the Land Office, has agreed to supply the committee with photostatic copies of the patents and maps and the surveys in each case. Mr. Johnson has supplied the committee with the certificates purporting to emanate from the Mexican Government to the effect that the grants were not made. Are there any other records now to be offered respecting these grants either to establish or negative the record title?

Mr. WHEELER. I have two or three things, I believe, Senator, that you may put into the record.

Senator BRATTON. Relating to the paper title?

Mr. WHEELER. Yes, relating to the activities of certain interests in selling that land under what they are pleased to call alleged grants.

Senator BRATTON. What have you to offer, Mr. Wheeler, relating to the existence or nonexistence of record title in any case relating to any grant?

Mr. WHEELER. I have a certificate here from the Department of the Interior and I rather hesitate to offer this, inasmuch as I have been told many times that I could not file a homestead on this land, because it is a part of the city of Los Angeles. Here is a certificate which shows that the city of Los Angeles was a Spanish pueblo.

Senator BRATTON. You want to offer that in evidence?

Mr. WHEELER. I do.

Senator BRATTON. It is admitted as Exhibit AB.

Senator BRATTON. Now, what else have you to offer?

Mr. WHEELER. I will offer this map, inasmuch as Mr. Smith has offered to submit the other maps.

Senator BRATTON. All right, it will be admitted as Exhibit AC.

Senator BRATTON. What else, Mr. Wheeler?

Mr. WHEELER. I have a list of grants compiled by Mr. C. C. Grove. I believe in this there are several that have been confirmed and held valid by the courts, a number of which grants were made as late as 1852, in other words, two or three or four years after the United States had taken the country over from Mexico.

Senator BRATTON. Do you want that admitted in the record?

Mr. WHEELER. Yes.

Senator BRATTON. That is admitted as Exhibit AD.

EXHIBIT AD

LOS ANGELES COUNTY RANCHOS

The first conveyance of real property in Los Angeles County was that made by Pope Alexander VI, when he executed that "Bull of Demarcation" to King Ferdinand and Queen Isabella. The King and Queen of Spain exercised jurisdiction and appointed a viceroy to carry out his royal instructions, which was not to give any of their favorites full jurisdiction, but to keep a string on the grant and let them have occupation only. Therefore, no grants were ever found in the archives from either the king or viceroy. Mexico followed that example in the act of 1824 and the regulations of 1828, wherein it was provided that grants should only be given for possession, and if the property was abandoned or neglected, it could be denounced by another. Thus it appears that many grants were made by the governors and confirmed by our courts, one on top of the other. The surveyors bumped up against this difficulty, and surveyed the desired lands anywhere and in any shape and any quantity the claimants desired. The Mexican Congress saw fit to pass an act about 1837 canceling all grants made by the Mexican governors and forbidding them to make any more; but the governors either failed to read or obey. Consequently, the legal injunction not to grant lands within 10 leagues of the seashore or 20 leagues of any foreign power was a dead letter. A bad example for political grafters.

The only grant ever approved by the Supreme Government of Mexico was about 1846, to Father Macnamara for 4,000 square leagues, reaching from the Rio Consumnes to San Bernardino, with an additional half league to each couple that got married. This army was to be recruited from faithful Irish Catholics of Ireland, and the purpose was, as Father Macnamara expressed it, "to keep the ravenous Methodist wolves" from taking the country. But, unfortunately, he fell foul of Fremont, who stripped him of his precious documents, and they now repose in the archives at Washington, D. C.

Alphabetical list of ranchos named in the official records as being located in Los Angeles and Orange counties, and year of record given

Name of rancho	Parties claiming same	Year
Aguage de la Centinella	A. Y. Abilia y Antonio Machado	1837
Do	Ygnacio Machado	1837
Aguage del Aliso de la Brea	Juan Padilla	1853
Aguage del Tule	do	1853
Aguages	Encarnacion Sepulveda	
Alamitos	Manuel Nieto (see Sta Gertrudes)	1784
Alimos rancho	Felipe Lugo	1844
Do	Fca Romero de Coronel	1844
Aliso de la Brieta	J. M. Lopez y Julian Valdez	1853
Aliso de San Juan	Jose Sepulveda	
Arroyo Hondo de las Flores	Jose Maria Verdugo	
Azusa	Ygnacio Abila	1839
Do	Salvador Vallejo	1838
Do	Enrique Dalton	1845
Do	Ramon Ybarra	1838
Do	Gil. Ybarra	1839
Azusa. Mountains back of	Palomares y Alvarado	1845
Azusa. Duarte	Andres Duarte	
Bahio	Juan Alvitre y Lobo	1847
Ballona. Lindero de	Ygnacio Abila	1836
Ballona, La y Sta Monica	Tomas Talamantes	1839
Ballona	Ygnacio Machado	1837
Do	do	1839
Do	Tomas Talamantes	1849
Berdugos, Los	Ignacio Coronel	
Boca de Santa Monica	Marquez y Reyes	1839
Boca de la Playa	Emigdio Vejar	1847
Boca de San Juan	do	1837
Boca de la Canada de los Alisos	Jose Serrano	1833
Boca de la Canada	J. P. Ontiveras	1835
Bolsa o Rincon de Santa Ana del Chino	Juan Bandini	1839
Bolsa Chiquita	Ma Cleofa Nieto y Joaq. Ruiz	
Bolsas, Las	Juan Jose Nieto	
Canada de Los Alimos Ravine	Jose Valdez	1852
Canada Viejos	Luis Arenas	1837
Canada de Santa Ana	Barnardo Yorba	1834
Canada de Los Alisos	Jose Serrano	1842-6
Canada de la Cienega	Luciano Valdez	1834

Alphabetical list of ranchos named in the official records as being located in Los Angeles and Orange counties, and year of record given—Continued

Name of rancho	Parties claiming same	Year
Canada de la Habra	Bernardo Yorba	1847
Canada de los Alisos	Manual Antonio	
Canada de la Brea	Mariano Roldon	1839
Do	Julian Manriquez	1839
Canada de los Alimos	Jose Manuel Cota	1837
Do	Juanario Avila	
Do	Juan Ramirez	
Do	—— Vejars	
Do	Vicente Sanchez	
Do	Policarpio Higuerra	
Do	Desiderio Olivera	
Canada de la Brea	Julian Manriquez	1839
Do	Gil. Ybarra	
Do	Julian Manriquez	1847
Canada de los Nogales	Jose Ma Aguilar	1844
Canada de los Alimos y Rodeo de San Enmedio	D. Olivera y Juan Ramirez	
Canada de Ygnacio Abila	Peter Hogan	1855
Canada de la Habra	Mariano Roldon	1839
Canada de la Madero	Julian Manriquez	1847
Cahuenga	Rita Villa Valdez (in San Fernando)	1845
Do	Francisco Sepulveda (in San Fernando)	1845
Do	Antonio Reyes (in San Fernando)	1833
Do	Part of in San Fernando (in San Fernando)	1834
Do	Felipe Lugo (in San Fernando)	1833-37
Canada de la Brea	San Jose Ramirez (in San Fernando)	
Do	Luis Arenas (in San Fernando)	1846
Do	Jose y Limantour (in San Fernando)	1845
Cahuenga y Verdugas	Vicente de la Osa	
Cajon de Muscupiabe	Juan Bandini	1839
Canon de Santa Ana	Bernardo Yorba	1834
Do	Julian Manriquez	1835
California Batalion Tract	Mariano Bonillo	1845
Castaic	Carlos Carrillo	
Do	Antonio Del Valle	1838
Do	Jose Maria Covarrubias	1843
Cienega Rancho	Tomas Yorba	1836
Cienega de los Ranas	do	1837
Cienega de los Ranas	J. J. D. y Jose S. Sepulveda	1836
Cieneguita	Joaquin Blanco	1846
Cienega (E. of River)	Julian Chavez	1836
Cucamonga	Guillerma Ybarra	1837-38
Do	Antonio Reyes	1837
Do	Tiburcio Tapia	1839
Do	Seferino Reyes	1850
Do	Julian Manriquez	1839
Desechos	Felipe Carrillo	1847
Descardes de los Alisos	—— Lugo	1837
De posito	Luis Vignes	1849
Deporto, Lomo Alta	Do	1849
El Alimo	Juan Moreno y Urquidez	
El Chino	Antonio Maria Lugo	1847
Do	Fernando y Encar Sepulveda	1837
El Encino	Ramon, Francisco y Roque	1845
El Escorpion	Urbano, Odon y Manuel	1843
En Medio	Jose Manuel Cota	1837
Do	Juan Ramirez	1837
El Escorpion (W 9000 A)	Miguel Leonis (of San Fernando)	
El Trabuco y La Paz	Juan Forster	1847
El Trabuco	Pio Pico	1837
Garvanza	Francisco Lopez	1838
Do	Lorenzo y L. F. Moreno	1843
Guaspita	Antonio Ygnacio Abila	1836
Island of Catalina	Tomas M. Robbins	1846
Jurupa	Juan Bandini	1838
Do	Do	1837
Joaquin Alcade & 40 Indians	San Fernando	
La Bolsa Chica	Joaquin Ruiz	1841
La Brea	Antonio Jose Rocha et al	1828
La Canada y Boca	J. P. Ontiveras	1835
La Canada	Ignacio Carrillo	1843
La Cienega	A. Olvera y N. Botello	1846
Do	Basilio Lopez	
Do	Nicolas Feliz	
Do	—— Higuerra	1839
La Labria	Joe Maria Flores	1846
La Habra	Mariano R. Holdon	1839
La Mission Viejo	Jose y Manuel Perez	1837
La Merced	Casildo Soto	1844
La Mission Viejo	Juan Lazos	1837
La Puente	Jose de la Luz Linares	1838

Alphabetical list of ranchos named in the official records as being located in Los Angeles and Orange counties, and year of record given—Continued

Name of rancho	Parties claiming same	Year
La Sierra	Bernarod Yorba	1846
Los Feliz	Ma Ignacio Verdugo Feliz (Se Providencia)	1843
Los Berdugos	Ignacio Coronel	
Los Nogales	Jesus Gracia Linares	1854
Do	Jose Maria Aguilar (in San Rafael)	1844
Los Viejos	Luis Arenas (?Arenal)	1837
Los Negros	William Wolfskill	1847
Los Alamitos	J. P. Ontiveras	1833
La Bolsas	Catarina Ruiz	1839
Las Virgenes	Miguel Ortega	1833
Los Nogales	Jose de la Luz Linares	1838
Las Ranas	Tomas Yorba	1837
Los Palos Verdes	J. L. Sepulveda et al	1846
Los Alisos de San Juan	———	1837
La Sierra	Clvente Sepulveda	1846
Los Alisos	Felipe Lugo (in San Fernando)	1837
Las Virgenes	Domingo Carrillo	1833
Do	Nemesio Dominguez	1833
Los Alamitos	Figueroa to Stears (deed)	1842
Los Alimos y Agua Caliente	Pedro C. Carrillo	1843
Los Nietos At Ortis	Alvarado y Lugo Claim	1837
Los Cerritos	Manuel Nieto	1834
Los Coyotes	Manuel Nieto-J. J. Nieto	1784–1834
Los Alamos y Ague Caliente	Francisco Lopez	1846
Lindero de la Ballona	A. Y. Avila	1836
Lomas de Santiago	Teodocio Yorba	1846
Manriquez Rancho	Julian Manriquez	1847
Matzultaquea	Ramon Carrillo	1845
Mission Viejo	J. y Manuel Perez	1837
Do	Felipe Lugo y Leonardo Cota	1847
Mission San Gabriel	Workman y Reid	1846
Mocobenga	Jose Feliz	1836
Monte de Sierra	Antonio Ignacio Abila (Sausal Redondo)	1836
Mountains back of Azusa	Palomares y Alvarado	1845
Muscupiabe	Juan Bandini (S. Bernardino?)	1839
Do	Michael White	1843
Niguel rancho	Juan Abila	1842
Old Mission	Antonio Alvitr	1847
Paso de la Carreta de los Buyes	Guillermo Cot	1833
Paso de la Carreta de los Reyes	Antonio Mad.ado	1833
Paso de Bartolo	——— Alvarados	183
Do	do	1837
Do	Antonio Sepulvedas	1844
Paso de la Carreta	Lugo to N. Alvarado (deed)	1837
Potrero de San Juan	Higuerra Francisco y Bernardino	1821–1835
Potrero de Felipe Lugo	Juan Forster	1847
Do	George Romero y Morrillo	1845–1854
Potrero Chico	Vicente de la Osa	1843
Potrero Grande	Manuel Antonio	1845
Portezuelo	do	1845
Posito	Luis Vignes	1845
Pauba	Mariano Barreos	1852
Potrero de San Juan	A. Martin to Juan Manzo (deed)	1847
Potrero de Sierras	Juan Foster	1847
Potrero de la Mission viejo de San Gabriel	Anto Valenzuela y J. Alvitro	1844
Rincon de la Brea	Gil. Ybarra	1841
Rio de las Animas	L. Cota y J. Chavez	1846
Rincon de los Buyes	Anto Machado y Higuerras	1834–1839
Do	Higuerra y Pedro Mendez	1834
Rodeo de en Medio	——— Vejars	1837
Rodeo de las Aguas	Lucian Vejar	
Do	Lucian Valdez	
Rodeo de Emmedio	Dasiderio Olivera	1837
Rodeo de las Aguas	Palomares y Julian Valdez	1836
Rosa de Castilla	Enrique Sepulveda	1833
Do	Rosa Figueroa (by Church)	1846
San Pascual	Juan Marine	1835–1837
Do	Francisco Villa	1837
Do	Perez, Silva y Villa	1837
Do	Enrique Sepulveda	1839
Do	Manuel Garfias	1843
San Pascualito	Juan Gallardo	1847
San Antonio	Rita Villa	1838
Do	B. Lugo	1838
Do	Lugo vs. Sepulveda y Abila	1834
Do	Lugo, Jose Maria Ortiz	1837
Do	Antonio Maria Lugo	1810–1834 1844
Do	Encarnacion Sepulveda	1834
Do	Maria Rita Valdez	1831
San Gabriel, in	G. Morrillo	

Alphabetical list of ranchos named in the official records as being located in Los Angeles and Orange counties, and year of record given—Continued

Name of rancho	Parties claiming same	Year
San Gabriel, 1,000 varas in	Daniel Sexton	1841
San Gabriel, 500 varas in	Daniel Sexton	1842
San Gabriel, in	Jose Ledesme	1846
Do	Manuel Sales Tasion	1845
Do	Francisco Sales	1845
Do	Simeon	1846
San Gabriel	Jose Maria Alvarado	1846
Do	Felipe	1845
Do	Serafin de Jesus	1843
Do	Arno Maube	
San Mateo (in San Juan Capistrano)		
San Francisco (San Francisquito)	Enrique Dalton	1845
San Francisco	A. Del Valle y Carlos Carrillo	1838
Do	Antonio del Valle (tract adjacent)	1838
San Bernardino	Pio Pico (San B. Co.?)	1836-37 1839
San Vincente	Juan Bouet	1845
San Juan Capistrano		
Santiago	Jose Antonio	1838
Do	Bernardo Yorba	1838
Santiago de Santa Ana	Avila, Yorba y Vicente Sepulveda	1847
Santa Ana	Jose Antonio Yorba	1839
Do	Teodocio Yorba	1838
Do	B. y J. M. Lopez y J. Carrillo	
Santa Ana (near San Gabriel)	Jose Antonio Carrillo	1839
Santa Ana	Jose Maria Lopez	
Santa Anita	Vicente de la Osa	1839
Do	Jose Maria Lopez	1839
Do	Perfecto Hugo Reid	1839
Santa Monica	Francisco Sepulveda	1839
Santa Monica Canon	Tomas Talamantes	1838-1845 1848
Santa Monica y San Vicente	Sepulveda y Marquez	1839
Do	Yorba	1839
Do	Marquez y Reyes	1839
Do	Antonio Machado	1839-1849
Do	Ygnacio Machado	1839
San Vicente	Juan Bouet	1845
Santa Monica	Tomas Talamantes	1839
San Pedro de la Ensenada	Juan Jose Dominguez	1784
San Pedro	Antonio Machado	1833
Do	Guillermo Cota	1833
San Pedro (deed)	Gutierrez-Guirado	1833
San Pedro	Guiterrez to Johnson	1833
Do	J. A. Carrillo y Abel Stearns	1834
San Juan Cajon de Santa Ana	J. P. Ontiveras	1837
San Jose de Los Nogales	——— Linares	1838-39
San Jose de Gracia o Simi	Jose de Guerra y Noriega	
Suanga	Teresa Sepulveda y N. M. Pryor	1839
San Julio (Garvanza)	Julio Verdugo	
Tar Springs	Carlos Baric	
Do	William Reader	1859
Topanga Malibu Sequit	Jose Bartrolme Tapia	1804
Trabuco	Pio y Andres Pico y Juan Forster	1837-1847
Tujunga	Triunfo	1844
Do	Dametrio Villa y P. Lopez	1844
Do	Vicente de la Osa	1844
Victoria o La Paz	Juan Forster	1847
Miscellaneous:		
1,300 x 1,000 Varas Adjoining Sanchez y Abila	Joaq. y Pedro Mandez	1846
4,000 yards square in Los Angeles County	Nicholas A. Den	1842

Mr. WHEELER. I have a book of photostats, each page is a photograph, taken from the Mexican book, a compilation of decrees and proclamations, laws, a list of the Missions, officials and so forth in California at that time.

Senator BRATTON. That is certified to by whom?

Mr. JOHNSON. I will certify to it. I made the photographs personally.

Senator BRATTON. Do you want that admitted?

Mr. WHEELER. I would like to have it admitted; yes.

Senator BRATTON. It may be admitted as Exhibit AE.

Senator BRATTON. Very well, what else have you, Mr. Wheeler?

Mr. WHEELER. I have a book published by the Security Trust & Savings Bank. The book is supposed to give a record of the early history of California and of many of the grants, among them the San Fernando.

Senator BRATTON. Then you want the whole book in evidence, is that it?

Mr. WHEELER. I think it ought to be.

Senator BRATTON. It will be accepted as Exhibit AF.

These exhibits, with the exception of Exhibit AD, will be placed in the files of the committee.

Senator BRATTON. Mr. Wheeler, have you any other records?

Mr. WHEELER. That, I will say, is the extent of my evidence.

Senator BRATTON. You have no more record evidence?

Mr. WHEELER. The Palos Verdes case, of course, there is some evidence to go in.

Senator BRATTON. Any record evidence?

Mr. WHEELER. I believe these documents from the Land Office, and the evidence already given on the San Fernando, gives much evidence on the Palos Verdes, and I think it is sufficient and I am satisfied to let it go that way for the time being.

Senator BRATTON. Has anyone else any record evidence to offer in regard to these titles?

Mr. WHEELER. Senator, there is one thing I think we have overlooked, and that is the testimony of Mr. Lucian C. Wheeler.

Senator BRATTON. But the committee is now endeavoring to ascertain whether there are any more records relating to the titles.

Mr. WHEELER. I think I stated that I was through with the records.

Mr. LAWLER. Mr. Chairman, if I may make a suggestion, on yesterday, you may recall, when the San Fernando grant was put in evidence, I mean the patent, that only the manuscript of the patent was put in without the survey map being attached. I now have a copy of the patent with the survey map attached, if you would prefer that.

The CHAIRMAN. Substitute that for the other and let the record show that it is substituted for the other and that you may withdraw the separate documents.

Mr. MITCHELL. Do I understand that you are getting certified copies of the patents to these various ranches?

The CHAIRMAN. That is correct.

Mr. MITCHELL. Then it will not be necessary for me to furnish the one on the Malibu?

The CHAIRMAN. I understand Mr. Smith had taken upon himself the responsibility of seeing that we are supplied with copies of all the patents to all the grants.

Mr. LAWLER. If there is any difficulty on that line we shall be very glad to cooperate in supplying the information.

Mr. MITCHELL. I am having one made now on the Malibu and I just wanted to know whether I should hand it in or not.

Senator BRATTON. In the event the committee should desire a certified copy of the proceedings had by the Board of Land Com-

missioners, have you any suggestion as to where that may be obtained?

Mr. WHEELER. There is such a thing introduced into evidence now.

Senator BRATTON. Does it relate to all these grants?

Mr. WHEELER. It does not cover any one of these cases. It is simply the proceedings necessary to place before the commission in order to get affirmation.

Senator BRATTON. But if the committee should desire a certified copy of the actual proceedings had before the Board of Land Commissioners in these cases, where is that obtainable?

Mr. WICKHAM. Certified copies are on file in the General Land Office. I think you will find the Land Office has certified copies of everything.

The CHAIRMAN. Very well.

TESTIMONY OF MISS GRACE A. GREER, LOS ANGELES, CALIF.—Resumed

The CHAIRMAN. Miss Greer, will you resume the stand, please?

Miss GREER. Yes, Mr. Chairman.

The CHAIRMAN. You have already been sworn?

Miss GREER. Yes.

The CHAIRMAN. We apologize, Miss Greer, for having to keep you waiting so long; but now I think you have heard the expressions of the committee with relation to the confines of this investigation, and in the absence of anything further in the way of record to be made, we hope that you will confine what you may have in the way of information to information involving fraud which has come to your attention, or regarding intimidation that has come to your attention, but not if it is only a matter of hearsay. Now, if you please take up from where you left off and go on with your story.

Miss GREER. Shall I be permitted to tell what Judge McLendon has said to me and in my presence to many others, because there are two or three things that I would like to speak of?

The CHAIRMAN. That would be hearsay, of course. If you have substantiated what he has told you; after he had told you something and you subsequently substantiated it, of course you are at liberty to disclose that.

Miss GREER. I have substantiated some things that he told me, but in reference to some things that have been said on the witness stand, I would like to speak of one or two things in connection with that.

It has been asked why people do not locate on the land, do not go down and squat on the land, as it were. I have been told by different people and by Judge McLendon that a lot of people have done that at different times on the Irvine ranch, and the first time they left their tent, or whatever it was they were living in, they were burnt out.

I was also told by Judge McLendon that one man was killed who located on the Irvine ranch, squatted on it, and that he had an affidavit in his possession by the man who had committed the crime, that was made and certified to just before the man's death saying that he was hired to kill the man. Now, that is positive. Judge

McLendon told me he had certified proof of it, made by the man who committed the crime.

In reference to intimidation in the Land Office, there was a great deal of that and many people can testify to that. There was one lady whom Mr. VanHook questioned in this way: "Have you been on this land," and she said "I have." "How did you go down to the land," and she answered, "In an automobile." "Whose car was it," and she answered "Mine." "Who drove it," and she answered "I did." "And you have been on this land," and she answered "Yes; I got out and walked on it." Then he made some remarks to her. He said, "Well, I have told you that this is not public domain and you could never get this land; this is a private ranch and these people have"—I can not remember the term he used in relation to that—but I think he said that these people are just perpetrating a fraud, and I spoke up and said, "That is not for you to decide. That will be decided in Washington." I said, "You are simply a clerk in this office, a servant to the people, to help us and to facilitate our business, whatever business we bring to this office." Many times people who have been there with me have had the same experience, and the clerks in the office, many of them, have been very insolent and very ugly to the ladies that have been with me, and that I know personally. Several times in the office I have said, just as I said awhile ago, that this office is maintained by the people for the convenience of the people here.

Now, in reference to the remark I made in relation to Edith Campbell, I understood that because of Mr. Wilhelm's talk that Edith Campbell got very much excited about the land question; that we were not going to get the land and it was all a fraud. She talked with me at different times and wanted me to join with her in prosecution in connection with this gold mine in Alaska, that I mentioned, and I refused to do it, as I said I had no connection with it. She asked me to go on the witness stand and I said I would be willing to go on the witness stand and tell everything I knew, but as far as the mine was concerned that I had no connection with it whatever. When I went on the witness stand I found that nearly all the questions in the case were brought around to the land situation. We were questioned closely about filing on the land, and so on, which had no connection whatever with the case that was being heard. I answered the questions along that line, and after my testimony was over I found that I had antagonized both sides of the case, and the people who had called me to testify didn't like my answers because I had not brought out things that they wanted and I had defended Judge McLendon. They were trying to bring out points to incriminate Judge McLendon. I think that is all I recall at the present time in connection with that.

The CHAIRMAN. Thank you very much, Miss Greer.

Miss GREER. Then there are one or two other things I want to speak of.

Mr. JOHNSON. May I ask the witness a question?

The CHAIRMAN. Yes.

Mr. JOHNSON. Did McLendon ever tell you anything about what he saw in the Land Department at Washington? Did he ever tell you about how the maps were made that these filing were made from?

Miss GREER. I do not recall Judge McLendon telling me anything about maps. He did tell me about a map that was found hidden away, covered with dust, that was an official survey and had the sections and quarter sections on it. There is one other point I want to speak of. I had many conversations with Judge McLendon. I got a group of my friends to file on the land a very little while after the original group had filed on it; members of a society of which I was a member. Judge McLendon asked me to bring them to his office and introduce them to him, which I did. He offered to act as their attorney in the case, and when we signed an appeal to the Attorney General these friends of mine joined in that and they also contributed some money to fight the case, the amounts of which I do not know.

Now, in relation to the case against Judge McLendon, Clinton Johnson and others, I attended hearing after hearing when the case was continued, sometimes for just a week, and I believe at other times for two weeks. I made it a point to be there every time it was possible for me to be there. Judge McLendon told me he could not get a hearing. that he had tried very hard but couldn't get a hearing; that later, as they couldn't get a hearing, he asked for a dismissal of the case. There was another point I wanted to speak of but I do not recall it now. I would be glad to answer any questions.

Mr. WHEELER. I think, Miss Greer, that you have covered about all that would really be of interest to the committee.

Miss GREER. There was one or more points that I know I had, but I do not recall at this moment.

Mr. HARTKE. Are you employed by any interests who are filing these applications?

Miss GREER. How do you mean?

Mr. HARTKE. Well, in any way?

Miss GREER. Do you mean these gentlemen?

Mr. HARTKE. Anyone.

Miss GREER. No; not in any way.

Mr. HARTKE. You have received no pay for your activity in this connection?

Miss GREER. I have received no pay for any activity for the handling of this case, if that is what you mean. Is that what you are talking about?

Mr. HARTKE. Did you get paid for anything in connection with it?

Miss GREER. I got paid for certain information that I gave in one case.

Mr. HARTKE. What was that?

Miss GREER. Merely information. It was a private matter and I do not think it has any bearing on this case.

Mr. HARTKE. But it was in connection with the homestead situation?

Miss GREER. No; not connected with it as you refer to it.

Mr. HARTKE. Well, otherwise than as I refer to it?

Miss GREER. Pardon me?

Mr. HARTKE. What was it? Please tell the committee what it was with reference to the situation.

Miss GREER. I do not think it has any connection with this case.

Mr. HARTKE. Who paid you the money?
Miss GREER. Pardon me?
Mr. HARTKE. Who paid you this money?
Miss GREER. Well, I do not think that has any connection with this case either.
Mr. HARTKE. What amount did you receive?
Miss GREER. A very small amount.
Mr. HARTKE. I don't know what you consider a small amount. What amount did you get?
Miss GREER. Well, it was a very small amount. It was simply to cover the time that I had taken at the request of another person entirely.
Mr. HARTKE. You do not care to tell us what you did in that connection?
Miss GREER. I do not think it has any bearing on the case.
Mr. HARTKE. You have filed an application for homestead?
Miss GREER. I have.
Mr. HARTKE. On what property?
Miss GREER. On the Lomas de Santiago.
The CHAIRMAN. This employment of yours came after you had made your filing?
Miss GREER. Oh, yes. It wasn't employment at all. At the request of another person I attended to certain business and I received a very small remuneration for my time.
The CHAIRMAN. That is all.
Mr. WHEELER. Mr. L. C. Wheeler is here from the district attorney's office. I do not think it will take but a few moments to give the information that he can offer. Would you like to call him?
The CHAIRMAN. I have promised that we would first hear Mr. McCarron. After that we will hear Mr. Wheeler immediately.

TESTIMONY OF LIEUT. HUGH F. McCARRON, DETECTIVE FORCE, LOS ANGELES POLICE DEPARTMENT

(The witness was duly sworn by the chairman.)
The CHAIRMAN. Please state your full name.
Mr. McCARRON. Hugh F. McCarron.
The CHAIRMAN. What is your official connection?
Mr. McCARRON. Detective lieutenant of the Los Angeles police department.
The CHAIRMAN. Mr. Wheeler, you may proceed.
Mr. WHEELER. Mr. McCarron, two or three months ago you paid two visits to my office, did you not?
Mr. McCARRON. I did.
Mr. WHEELER. One in the morning, at which time we went through the homestead cases as thoroughly as we could in the time we had, and you asked me if I would like to give the facts of the case to your chief and I said that I certainly would love to do it and suggested that you have him come down to the office. Isn't that right?
Mr. McCARRON. That is right.
Mr. WHEELER. And you went back to the office and arranged a conference between your chief and myself in the afternoon, with yourself present and another party. I would like to have you, just for the purpose of the record—I do not know that it is necessary to

call all three witnesses to complete the record—but I would like you to give your impression of the evidence I showed you, as to whether it would be considered conclusive, or did it convince you I was right or did it convince you there was no title to the ground, just in order that the thing may be cleared up.

Mr. McCarron. The first talk I had with you was on the 19th day of December. You showed me a lot of maps and papers and one thing and another in regard to this land. I had gone to your office on orders from Inspector Finlinson, as a man who had a small place out in the San Fernando Valley, Mr. Landers, I believe the name was, had complained that some one had tried to swindle him out of $500, claiming he had no title to his land, that for $500 they would see that he could get title to it. I was informed that I could get information at your office either from you or from Mr. Summers.

Mr. Wheeler. May I ask if that was that we agreed to survey his land and thereby furnish him title?

Mr. McCarron. He did not mention your names at all. He said it was from two men who had called out at the ranch. There were no names given.

Mr. Wheeler. Did he speak of having a survey made?

Mr. McCarron. In what respect?

Mr. Wheeler. Did he speak of having a survey made?

Mr. McCarron. Yes, sir.

Mr. Wheeler. Did he mention it would be necessary to have a survey made in order to do this?

Mr. McCarron. That was the information we had at that time.

Mr. Wheeler. That happens to be something we had never done, but go ahead.

Mr. McCarron. We called at your office. After some little wait you came out and took us back into your private office. I told you why I was there. You showed me a lot of maps and papers and one thing and another which you said showed that the people out in the San Fernando Valley and all over the country had no title to their places and also said that south of Pico Street and west of Vermont the people were also in the same fix.

Mr. Wheeler. That is right.

Mr. McCarron. You told me I was a chump if I did not file on some of these lands, and it was then that I asked about bringing down the inspector and also my partner, who was at that time Lieutenant Bligh. Then I came down to your office on the morning of the 21st and talked to you, and in the afternoon Inspector Finlinson and Lieutenant Blight and I talked with you.

Mr. Wheeler. Wasn't that the same afternoon that you were there in the morning?

Mr. McCarron. I was there by myself the first time on the 19th.

Mr. Wheeler. But it was the same day?

Mr. McCarron. My books at the station house show that you and I talked on the 19th.

Mr. Wheeler. May I correct you to this extent, that on the morning that you were there, that very afternoon you came back with your associates. I remember that very distinctly and have witnesses in the office to show that.

Mr. McCarron. My book at the office shows that I talked to you on the 19th, you and I, and then on the 21st Inspector Finlinson,

Lieutenant Blight and I talked to you. I had called you by telephone between times, I know.

The CHAIRMAN. That is hardly material, is it?

Mr. MCCARRON. It doesn't make any difference.

The CHAIRMAN. Who caused the inquiry that you were making, Mr. McCarron?

Mr. MCCARRON. Inspector Finlinson sent me down there.

The CHAIRMAN. Were you approached by anyone other than Inspector Finlinson with relation to what information was to be obtained there?

Mr. MCCARRON. I was not.

TESTIMONY OF LUCIAN C. WHEELER, CHIEF INVESTIGATOR IN THE DISTRICT ATTORNEY'S OFFICE, LOS ANGELES COUNTY, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

Mr. WHEELER. Lucian C. Wheeler.

The CHAIRMAN. And your position?

Mr. WHEELER. Chief Investigator in the district attorney's office, Los Angeles County.

The CHAIRMAN. All right, Mr. Wheeler.

Mr. H. N. WHEELER. I would like to ask Mr. Wheeler to give to the committee what facts he has in relation to the investigation that was requested by the Department of Justice in connection with these so-called mail frauds, or whatever you wish to call them.

The CHAIRMAN. Mr. Wheeler, would such information be at all embarrassing in any way to the Department of Justice, would it compromise the department in any way?

Mr. L. C. WHEELER. No, I think not. I am not going into details too much.

The CHAIRMAN. You would not be violating in any way any confidence or obligation by virtue of your connection with the department?

Mr. L. C. WHEELER. No, I think not, not in merely making a general statement.

The CHAIRMAN. Very well, proceed.

Mr. L. C. WHEELER. My recollection is not entirely clear. I recall that there was an indictment pending against several parties. I think I recall McLendon as one, another man by the name of Johnson, and several others at that time. The indictment had been returned some time prior to my taking charge of the department here. Subsequently I was requested by the United States attorney, at that time Mr. McNabb, to make an investigation of the facts in that case, which I did, or caused to be done, and as a result of that investigation the United States attorney obtained permission from the Attorney General to dismiss that indictment. As to the causes or as to the evidence itself perhaps that would not be ethical for me to go into the indictment, but at any rate, the indictment was subsequently dismissed.

Mr. H. N. WHEELER. Just for the purposes of the record, I think he has answered all that I wished to ask him.

The CHAIRMAN. Mr. Gould?
(No response.)
The CHAIRMAN. Mr. Irvine, jr.

TESTIMONY OF JAMES IRVINE, JR., RANCHING, TUSTIN, CALIF.

(The witness was duly sworn by the chairman.)
The CHAIRMAN. Please state your full name.
Mr. IRVINE. James Irvine, jr.
The CHAIRMAN. And your present occupation, and your address.
Mr. IRVINE. My address is Tustin, Calif., and my occupation is ranching.
The CHAIRMAN. All right, Mr. Wheeler.
Mr. WHEELER. Senator, inasmuch as the records will show and the documents will show most of the points that I would like to ask Mr. Irvine about, and anything that he would give here would be evidence that would be just repetition, I think I would just as soon not question Mr. Irvine now but let Mr. Summers question him later.
Senator BRATTON. I desire to ask Mr. Irvine some questions. Your father's name is James Irvine?
Mr. IRVINE. It is.
Senator BRATTON. Where is he?
Mr. IRVINE. He is in San Francisco.
Senator BRATTON. Where has he been for the last 60 days?
Mr. IRVINE. Well, he was here. He left here the middle of February and has been in San Francisco since that time.
Senator BRATTON. Ever the since the middle of February?
Mr. IRVINE. Yes. He was here shortly after the first of the year, from about the 5th of January until some time in the middle of February.
Senator BRATTON. Here in Los Angeles?
Mr. IRVINE. I mean on the ranch at Tustin.
Senator BRATTON. Has he been abroad recently?
Mr. IRVINE. The last time he went abroad was about 20 years ago.
Senator BRATTON. Have you a brother?
Mr. IRVINE. I have a brother; yes.
Senator BRATTON. What is his name?
Mr. IRVINE. Myford.
Senator BRATTON. Where is he?
Mr. IRVINE. He is with my father in San Francisco.
Senator BRATTON. Has he been abroad recently?
Mr. IRVINE. He has not.
Senator BRATTON. Have you?
Mr. IRVINE. I have not. I have just recently returned from a trip to the Hawaiian Islands, and last October my father made a trip to South America, an excursion that was conducted by the Los Angeles Steamship Co., a trip for 60 days, and returned here the first part of December.
Senator BRATTON. The committee has been told that your father went abroad recently, had recently started for Europe. That is a mistake, is it?
Mr. IRVINE. I am sure it is a mistake. I heard the statement made, but to the best of my knowledge it is not so.

The CHAIRMAN. That is all unless there are other questions. Mr. Boone?

(No response.)

Mr. MUSICK. Mr. Chairman, the name of Lucas was referred to to-day or yesterday and I think that is a mistake. I think Lieutenant Blith is the man referred to. He is here and I think perhaps Mr. Wheeler would like to have him. He asked for a man by the name of Lucas.

Mr. WHEELER. I think to save the time of the committee I would just as soon not call on him. Mr. C. C. Grove is here and would like to be heard.

The CHAIRMAN. Are there other witnesses besides Mr. Grove?

Mr. WHEELER. There are some witnesses that I would like to have heard with respect to the statements of Mr. Wilhelm on the witness stand this morning. They are present in the room.

The CHAIRMAN. Are there many present?

Mr. WHEELER. I think there are three or four here but their testimony would only take a few moments.

The CHAIRMAN. Who would be the most likely witness of those three or four, if all four will testify to practically the same thing?

Mr. WHEELER. Mr. Ross.

The CHAIRMAN. Then we will hear Mr. Ross.

TESTIMONY OF ROY E. ROSS, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. State your name.

Mr. ROSS. Roy E. Ross.

The CHAIRMAN. Mr. Ross, you are one of the applicants for a homestead entry?

Mr. ROSS. Yes.

The CHAIRMAN. Mr. Wheeler, did you wish to examine him with relation to this matter?

Mr. WHEELER. If I may. It will not take but a moment. Mr. Ross, to your knowledge, at a certain hearing or conference that was held at the Top Shop of Clark in Pasadena, do you remember being present with Mr. George Clark at that hearing?

Mr. ROSS. There was one of the Clarks, but I do not recall his name.

Mr. WHEELER. Do you see Mr. George Clark present in the room?

Mr. ROSS. If I saw him I could tell whether he was there or not. If he is here I can tell.

Mr. WHEELER. Will you please stand up, Mr. Clark.

(A gentleman stood up.)

Mr. WHEELER. Was this the gentleman present in the room that day?

Mr. ROSS. Part of the time; in and out. He was waiting on customers, going back and forth. Is that true Mr. Clark?

Mr. CLARK. I do not know the time you have reference to.

Mr. WHEELER. Were the statements made by Mr. Jones and Mr. Walton that they had paid $500 to me on this homestead matter?

Mr. ROSS. No, sir.

Mr. WHEELER. Would you say that during the interview that Mr. George Clark was present, if at all, for more than five minutes.

Mr. Ross. It is pretty hard to tell. He was in and out waiting on customers.

Mr. WHEELER. What are the names of the witnesses who were present during that hour or so of the statement by Mr. Wilhelm? Will you give the names of the witnesses who were present and heard that statement?

Mr. Ross. There was Bob Campbell and Bob Miller.

Mr. WHEELER. Robert E. Miller?

Mr. Ross. Yes; and Walton, the top man.

Mr. WHEELER. E. R. Walton?

Mr. Ross. Yes, and Mr. Clark was there part of the time.

Mr. WHEELER. Was there present at that hearing a man by the name of Jones, Harold E. Jones?

Mr. Ross. Jones was there; in and out. He was there most of the time.

Mr. WHEELER. And when, during the hearing, would you say that I was present in the room?

Mr. Ross. All the time—you say present in the room?

Mr. WHEELER. How long was I present in the room? What stage of the interview was it I entered the room?

Mr. Ross. Just about the time it was half over.

Mr. WHEELER. Will you explain for the benefit of the committee here the attitude of Mr. Wilhelm when I entered the room with my notebook in my hand and he could see I had taken down what he had said. Give the committee his general attitude and some of the statements he made regarding the validity of the San Fernando grant.

Mr. Ross. He acted like he was sunk. He acted like a whipped dog.

Mr. WHEELER. Do you mean by that his expression?

Mr. Ross. His expression; yes.

Mr. WHEELER. Do you remember my asking him a question similar to this: "What do you think of the title to the San Fernando Valley now, Mr. Wilhelm?"

Mr. Ross. I remember you asked that question, yes.

Mr. WHEELER. Do you happen to remember his statement or reply to that?

Mr. Ross. I do not remember just the words of it, no.

Mr. WHEELER. In his reply did he make any reference to it having been a fraud or if it had been a fraud it wouldn't do us any good, or words to that effect?

Mr. Ross. Yes; he did.

Mr. WHEELER. Can you not, as a matter of fact, remember what he did say?

Mr. Ross. It has been a long time ago and I can not remember what he did say.

Mr. WHEELER. Did Mr. Harold Jones or Mr. Walton, either of them, make the statement at that time that they had paid me or paid Mr. Summers the sum $500 to represent them?

Mr. Ross. They did not.

Mr. HARTKE. Will you state to the committee what you paid on your application by way of retainer fee?

Mr. Ross. The retainer fee was $100.

Mr. HARTKE. Paid to whom?

Mr. Ross. It was made out payable to Judge Summers.

Mr. HARTKE. To whom?

Mr. Ross. To Judge Summers.

Mr. HARTKE. Explain to the committee what the occasion was of your filing your application, how you happened to do that.

Mr. Ross. How I happened to file a homestead?

Mr. HARTKE. Yes; where you first got the information that you had a right to file.

Mr. Ross. I was in the service station game in Pasadena. A number of the boys were talking about it. One thing and another came up, and I happened to get a hold of one fellow that was pretty well posted and I asked him what he thought about it. He brought me over to see Mr. Smith, Mr. Brainerd B. Smith, in the land office, and the way Mr. Smith talked about it gave me an idea to go back over to the office of Summers and want to know how about it, and they came back over with me after I gave them the lineup.

The CHAIRMAN. What did Mr. Smith say or do that caused you to feel that you wanted to know how about it?

Mr. WHEELER. May I correct this gentleman about his first filing? He has told about talking to Mr. Smith at the land office, where Mr. Smith told Mr. Ross of Mr. Summers and myself, that we were crooks, and Mr. Ross then, with his witness, came down to our office and told us, and I said, "All right," and I turned to Mr. Johnson, who was in the room, I said, "Let's go up and have a talk with Smith—"

Senator DARR. Mr. Chairman, this is entirely irregular during the examination of a witness.

Mr. HARTKE. Please state to the committee who first interviewed you in reference to the filing of an application?

Mr. Ross. I went up to the office when I heard about it.

Mr. HARTKE. From whom did you first hear about it?

Mr. Ross. I believe it was a young fellow by the name of Harland.

Mr. HARTKE. Was he connected with the office in any way?

Mr. Ross. No, sir.

Mr. HARTKE. Had he filed an application?

Mr. Ross. He had; ahead of mine; yes.

Mr. HARTKE. Did he go with you?

Mr. Ross. I don't remember whether he did or not.

Mr. HARTKE. At any rate, he told you about it?

Mr. Ross. Yes.

Mr. HARTKE. And you went to Mr. Summers' and Mr. Wheeler's office in the Heilman Building?

Mr. Ross. I did.

Mr. HARTKE. Who did you see there?

Mr. Ross. Mr. Johnson and Mr. Wheeler at that time.

Mr. HARTKE. Did you have a conversation with them?

Mr. Ross. I did. I asked them about it.

Mr. HARTKE. What was that conversation?

Mr. Ross. In regard to a homestead.

Mr. HARTKE. What was said; what did they tell you?

Mr. Ross. They showed me the papers that they had, and everything else, I guess, and they told me how it was, and that the retainer fee was a hundred dollars.

Mr. HARTKE. And you paid a retainer fee of a hundred dollars at that time?

Mr. Ross. Yes.
Mr. HARTKE. And you signed a contract?
Mr. Ross. I do not remember any contract.
Mr. HARTKE. Did you sign an application for homestead entry at that time?
Mr. Ross. I signed it for the land office, that is all.
Mr. HARTKE. And you went from there to the land office?
Mr. Ross. Yes.
Mr. HARTKE. Did they go with you?
Mr. Ross. I believe Mr. Wheeler was up there.
Mr. HARTKE. Mr. Wheeler went with you?
Mr. Ross. I think so.
Mr. HARTKE. Did you know where the land was that you were filing on?
Mr. Ross. Yes.
Mr. HARTKE. How did you know?
Mr. Ross. From a description of the map they gave me.
Mr. HARTKE. Had Mr. Wheeler told you where it was?
Mr. Ross. Mr. Wheeler or Mr. Johnson, one or the other. I have forgotten which.
Mr. HARTKE. That was the only information you had as to the location of the land at the time you filed your application for homestead entry, is that right?
Mr. Ross. I had the names of the streets and the names of the roads it was bounded by.
Mr. HARTKE. I want to say to you in fairness that I was inquiring as to the methods adopted there to get the information and not so much as to what you did You are not required to answer any questions that I ask you unless you want to answer them. You are entitled to the protection of the committee, and the committee does not want you to answer any questions that you feel you do not want to answer.
Mr. WHEELER. The witness will be glad to tell the exact truth of what happened and I would like to have all of them do that.
Mr. HARTKE. The witness is entitled to protection. Have you an attorney representing you here?
Mr. Ross. Mr. Summers is representing me.
Mr. HARTKE. And Mr. Wheeler is looking after your interests, also?
Mr. Ross. Yes.
Mr. HARTKE. And Mr. Westervelt?
Mr. Ross. I do not know Mr. Westervelt at all.
Mr. HARTKE. Is Mr. Routhe looking after you interests?
Mr. Ross. Not that I know of.
Mr. HARTKE. I don't think I want to ask the witness any more questions unless the committee wishes to. I do not believe he is properly protected.
The CHAIRMAN. Mr. Wheeler, would your other witnesses be along the same line?
Mr. WHEELER. There is one witness, Mr. Walton. I would like to have him testify and if you wish we can waive the rest of them.
The CHAIRMAN. Just a moment. The hour approaches when the committee must recess. The committee has given a reassurance that all persons who have any information to offer in connection with this

matter under inquiry will have opportunity to be heard. How many are there who wish to be heard? I know that Mr. Romero wants to be heard. How many more? Let those who so desire stand. Mr. Nieto, Mr. Grove, and Mr. Clark.

Mr. CLARK. I didn't care to be heard, but you called for me.

Mr. WHEELER. I wanted Mr. Walton to testify, as he can refute the statements of Mr. Wilhelm. Mr. Walton did not come, and we will have to let it go.

The CHAIRMAN. We will hear Mr. Grove.

FURTHER TESTIMONY OF C. C. GROVE, LOS ANGELES, CALIF.

The CHAIRMAN. What further do you wish to offer, Mr. Grove?

Mr. WHEELER. Mr. Grove volunteered to give a little further information along the lines that you are working on, and has just told me a moment ago that down here in the records are the survey and other maps showing these grants including the San Fernando Valley sectionalized, and that is one point I thought the committee would be interested in getting on the question of good faith.

Senator BRATTON. Mr. Grove, are you familiar with the map showing the section lines and quarter section lines of the San Fernando grant?

Mr. GROVE. He has made that statement a little wrong. Down here in the records, in the law of 1858 or 1860, the State legislature passed an act that no land should be assessed over 640 acres, and they went to work and had maps made, dividing this whole country into 640 acre tracts, those maps are all down there.

Senator BRATTON. Those are maps made by the State of California instead of the Federal Government?

Mr. GROVE. No, made by the county surveyor, I presume.

Senator BRATTON. Where are they of record?

Mr. GROVE. They are on file down here in the recorder's office, or they were.

Senator BRATTON. Do you know of any official map prepared, or recognized, by the Federal Government showing the section lines and the quarter section lines of the San Fernando grant?

Mr. GROVE. No, but they were subdivided into sections when they made the partition. That was done by Reynolds. They were used as assessment maps, divided into 640 acres. The township and range lines are drawn across them. Those were surveyed by the Government.

Senator BRATTON. But the sections and quarter sections were not drawn by the Government?

Mr. GROVE. Only where they ran offset lines to get around the hills or mountains.

Senator BRATTON. Well, to summarize it, you know of no official government maps?

Mr. GROVE. Nothing but the township maps.

Senator BRATTON. Do any of these grants show the section and quarter section lines on maps?

Mr. GROVE. Nothing but the township plat.

Senator BRATTON. But I am speaking now of sections and quarter sections.

Mr. GROVE. It isn't quarter sections, but under the partition map I talk about it is all divided into sections. They staked out the whole thing. All the ranches in the State were fixed that way.

Senator BRATTON. The committee has been told that you had some additional information to that which you gave us on yesterday. Have you anything else you want to state to us, Mr. Grove?

Mr. GROVE. The question came up last evening about this San Fernando, and there seemed to be some question about it yesterday, that this board didn't understand. There is only one document filed, and that is for 14 leagues, and it seems to me that there is a very vague idea about what the whole thing is about anyway.

Senator BRATTON. You mean that the committee has a vague idea about it?

Mr. GROVE. It seems so.

Senator BRATTON. No doubt, Mr. Grove, since you are so much more familiar with it than we are. You say there was only one document filed?

Mr. GROVE. Yes.

Senator BRATTON. What was that document?

Mr. GROVE. That is what you would call here a mortgage, a deed, or a grant. There was only one paper filed.

Senator BRATTON. In other words, whether it was a mortgage, or a grant, that is the only document to which you refer.

Mr. GROVE. Yes. What document was filed for 14 leagues of land. No description was given in that. The only description we got is San Francisco, in the county book, of that 14 leagues, and another one in the deed made by Pico over here in the recorder's office to the Catholic Church, for some 14 leagues. The commission confirmed that 14 leagues and the decree of the court confirmed that 14 leagues. The surveyor general ordered a survey and they surveyed 14 leagues. The surveyor goes out there—that was long after the court had got through with it, instructing the surveyor what to do—he goes out there and surveys 26 leagues, and most of that was done on paper, as has been proved by surveys subsequently made in the courts here. That 26 leagues was returned to the surveyor general and he certified it for 14 leagues and sends it down to Washington to the Interior Department and they go to work and say it is O. K., the metes and bounds containing 26 leagues for these 14 leagues. Then he goes to the President's private secretary, who sends for the patent. He doesn't know anything about it. Of course he just sends for the patent and that is made out for 26 leagues. That survey was made a great many years ago. The survey purports to have been made in 1858, but it was made prior to that, before any instructions were given by the surveyor general to make that survey. There was only one stake found and one tree out of the whole 120,000 acres that has ever been found since. The metes and bounds of those three surveys are in the publication that was given to Congress.

Now, they have this same ranch, with 36 others, in which Henry Hancock had his instructions issued to him the 1st day of September, 1858, and between that and the 1st day of January, 1859, these 36 ranches were all returned as surveyed and he puts in his bill for $10 a mile for the whole thing, 836 miles and some 71 chains. Some of them were patented and some were not, but how he could have done that with the same crew from September 1 to the following

January, 836 miles of exterior boundaries, besides the connections between them—how could he have done that? How could he have surveyed all those exterior boundaries with the same crew in that short time is a mystery. I would like to see the man who could do that. That was never done in that case, and the original notes, part of them, are here in town that Henry Hancock kept, I have seen them, and there was change after change made in pencil, where a pencil was drawn through one figure and another put in. Later, a fellow named Waldman, who was an employee of Hancock's, a draftsman, got into a quarrel with him and wrote the surveyor general a letter—I have seen it and there is a copy of it in Washington—saying that Hancock, instead of surveying that grant actually, simply ran lines here and there, calculating where it ought to be, and put these figures down, and that it was done on paper with regard to all of them. There never was any survey, and in 9 cases out of 10 you can not ever find the stake. The stake in the San Fernando case was changed as much as three-quarters of a mile by subsequent survey, and those records are right here in the superior court.

The CHAIRMAN. Mr. Grove, in your long years of experience with these titles, did a letter ever come to your attention in which Pio Pico, had affirmed the fact that after he left Mexico he had blanks, governmental blanks, in his possession which he could and would sell to those who might want to take advantage of the treaty?

Mr. GROVE. Yes; I have. He had plenty of stamped paper, and he said, "If any of my friends want any grants let me know."

The CHAIRMAN. And that was the purport of his letter?

Mr. GROVE. Yes.

The CHAIRMAN. Where is that letter now?

Mr. GROVE. The letter was in the surveyor general's office; the original letter. There is a copy of it in the United States district court in some of these cases.

Mr. WHEELER. May I ask one question there?

The CHAIRMAN. Yes.

Mr. WHEELER. Mr. Grove, was an inference given in there that he could make these grants and would make these grants, after the United States had taken the country over?

Mr. GROVE. He had run away at the time. He was down to Sonora at the time he wrote the letter.

Mr. WHEELER. That was after the country had passed to the United States?

Mr. GROVE. Sure. Edwin M. Stanton had that letter.

The CHAIRMAN. A copy of that letter is available in the district court, you say?

Mr. GROVE. In the district court. I think there is a certified copy there. It is cited in some case.

The CHAIRMAN. To whom was that letter written?

Mr. GROVE. It was a letter, I think—the letter was to Supelveda, who was a particular friend of Pico's when he was here.

The CHAIRMAN. Did the commission, which was authorized by the act of Congress, have knowledge of such letter?

Mr. GROVE. It was filed with them.

The CHAIRMAN. Filed with the commission?

Mr. GROVE. With the commission and with the United States district court. The original was left with the surveyor general. There are three certified copies, or four certified copies of those papers in existence now, outside of what was burned. One of the district courts in San Francisco, one in Sacramento, another one in the Interior Department, and another one in the Attorney General's office. I might say in reference to this San Fernando Ranch that there were a half dozen ranches on file, grants for land inside, there on file in the United States District Court. They were confirmed under the arrangement with the Government. Of course, in some way or another the court seems to explain it in this way. Here is a piece of land covering 26 leagues and 4 or 5 petitions for land inside of that. Now, there is no use to give a patent to all these people but we will just issue a patent to one and let them make arrangements for dividing it up among the claimants. That was one of the schemes out here on the San Feranda Ranch. There was one instance where the alcalda had granted one league of land right above the Mission of San Fernando; they made agreement with him that they would get the patent and he would not interfere and then they would grant him that league of land. Then those fellows brought suit to oust him. Judge Whitney was on the bench, but nothing was done about it and it ran along for a couple of years and nothing was done and Judge Whitney comes up there and, being a judge, he calls the case up before himself, orders the sheriff to throw the man off—he was an Indian—and he was 119 years old.

Senator BRATTON. In view of your familiarity with this whole subject matter, what do you think should be done about this situation?

Mr. GROVE. Well, I don't know. It was before the land commission and the Surveyor General, but it was worth a man's life then to growl about it years ago.

Senator BRATTON. Let me ask you this question, in all seriousness: Let us assume that there were irregularities in the manner in which the grants were made and confirmed; that notwithstanding such irregularities the grants were confirmed in each case and the patent issued, and based upon that as a source of the title, property values running into stupendous figures, have been built up and sold and resold and investments made upon that, and the committee now finds that situation to exist. What do you think should be done?

Mr. GROVE. I have spent over 50 years on the problem and I don't know. When it could have been done without any trouble it was refused, and the Government wouldn't do anything.

Senator BRATTON. In view of that statement I am sure you will overlook it if the committee has some vagueness in the matter, as you suggested a while ago.

Mr. GROVE. I don't know. It is like this: There is an old story about a king who died—long live the king.

The CHAIRMAN. I think that will be all, Mr. Grove, and the committee will reconvene to-morrow morning at 9.30. We are going to give Miss Frasier opportunity to be heard this evening before we recess.

Mr. GROVE. There is only one thing and that is there are some papers here that the Government would be interested in. Here was

a grant made for a piece of land north of the river and confirmed. They ordered a survey. Ten years after that the owner died and the surveyor went down there and surveyed on the other side of the river. The heirs had never sold this land on this side, but they got a patent for it that they never even applied for. Now, what do you do with those things? That patent is an absolute nullity. They never even applied for it. It never was granted by the Mexican Government. It never was decreed by the district court. It never was ordered surveyed, and still the Government surveyor, 10 years after the death of this woman, comes in and surveys a piece of land on the other side of the river.

The CHAIRMAN. How long ago was that?

Mr. GROVE. 1880, I think, was when that patent was issued.

The CHAIRMAN. Very well. We will now hear Miss Frasier.

TESTIMONY OF MISS WELMA S. FRASIER, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

Miss FRASIER. Welma S. Frasier.

The CHAIRMAN. Will you proceed, Miss Frasier?

Miss FRASIER. What I have to say will be very brief. The rest of the grant has been well covered, and I just want to make reference to a little personal experience I had in the year 1923 or 1924. I was approached by two gentlemen, one of whom was a cripple. His attitude and conduct was extremely insolent. He asked me why I didn't cash the check that was sent to me by the Government; that it was perfectly good money and why didn't I use it. I said I didn't need the money and preferred not to cash the check.

The CHAIRMAN. The check which you received from the Government was for what?

Miss FRASIER. They sent my check back saying that the case had been closed and that the land on which I filed was not public domain.

The CHAIRMAN. That was the check that accompanied your application?

Miss FRASIER. That accompanied my letter. I expect my application was inclosed, but I do not recall. I said I didn't need the money at present and preferred not to cash the check. So far as I can recall he said, "Well, did you get any money from filing on this land?" and I said "No, sir," and he said, "Did you pay anybody for filing on this land?" and I said, "I did not," and he said, "You are compelled to answer every question I ask you because I am an official, a Government official sent to summons you as a witness"; and I said, "This is a very peculiar way to be summoned, without a subpœna, and I don't feel obliged to answer." Then he said that these men knew that the lands were not public domain and that they were trying to fleece me and the other out of the money we had given them and that they were getting rich, or something like that; and I said, "I trust Judge McLendon absolutely. I have heard what he has done and hasn't done and I think he is perfectly honest, and Mr. Clinton Johnson, his associate, also." I certainly was provoked and indignant about it, as I suppose you can see.

The CHAIRMAN. You have referred to two men but you have not endeavored to name them.

Miss FRASIER. They did not give their names.

The CHAIRMAN. Did you know who they were?

Miss FRASIER. I did not.

The CHAIRMAN. Have you since learned who they were?

Miss FRASIER. I have not.

The CHAIRMAN. Do you see either of them here now?

Miss FRASIER. I think the gentleman sitting next to Johnson is one of them, and the other was a man with a crippled leg.

The CHAIRMAN. That is Mr. Wilhelm sitting there?

Miss FRASIER. I don't know his name. They didn't give names. They simply came up and almost insulted me, and I fairly closed the door in their faces after the conversation. That is all I have to say, except Judge McLendon informed me afterwards that there had been a special meeting of the Finance Committee in Washington held to make these checks valid or legal.

Mr. SMITH. I do not know anything about the occasion referred to, but the checks are returned to these people on these homestead applications and represent their filing fee of $16. Did you file on 160 acres?

Miss FRASIER. Yes.

Mr. SMITH. They were returned in the ordinary course of business under instructions from the Secretary of the Interior when the applications were finally rejected. On final rejection the checks are returned to the claimants and that is what she received from the Treasury Department.

The CHAIRMAN. To-morrow morning we want to hear Mr. Wilhelm, Mr. Smith, Mr. Bligh, and Mr. Romero, and if there are other witnesses who wish to be heard, if they will hand their names in to the clerk, opportunity will be given in the morning for them to be heard. At this time we will recess until to-morrow morning at 9.30.

(Whereupon, at 5.15 o'clock p. m., the subcommittee recessed until Friday, April 5, 1929, at 9.30 o'clock a. m.)

MEXICAN LAND GRANTS IN CALIFORNIA

FRIDAY, APRIL 5, 1929

SUBCOMMITTEE OF COMMITTEE ON PUBLIC LANDS AND SURVEYS,
UNITED STATES SENATE,
Los Angeles, Calif.

The subcommittee met, pursuant to the recess, at 9.30 o'clock a. m., in department 5, Superior Court, County of Los Angeles, Los Angeles, Calif., Senator Gerald P. Nye, presiding.

Present: Senators Nye (chairman), Dale, and Bratton.

Present also: The various representatives of the parties appearing before the committee.

The CHAIRMAN. The committee will be in order. We will here Lieutenant Bligh.

TESTIMONY OF LIEUT. JAMES BLIGH, LOS ANGELES POLICE DEPARTMENT

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

Mr. BLIGH. James Bligh.

The CHAIRMAN. And your occupation?

Mr. BLIGH. Detective lieutenant, Los Angeles police department, assigned to the bunco squad.

The CHAIRMAN. You have a statement you wish to make with relation to the matter which is under inquiry by the committee?

Mr. BLIGH. There was an investigation made by the police department in January, 1927, of which I have a report here, which may be of interest to the committee, if I may be allowed to read it.

The CHAIRMAN. Very well.

Mr. BLIGH (reading):

LOS ANGELES POLICE DEPARTMENT,
CAPTAIN'S OFFICE DETECTIVE DIVISION,
January 17, 1927.

J. F. WILLIAMS,
Acting Captain of Detectives,
Commanding Bunco and Pickpocket Detail.

Subject: Activities of Johnson & Summers, 571 I. W. Hellman Building.

SIR: Having been ordered by Chief of Detectives H. H. Cline, to make an investigation regarding "Spanish land grants" being handled by Johnson & Summers, 571 I. W. Hellman Building, the following report is submitted:

Acting upon the suggestion made by Chief Cline, a meeting was arranged with Mr. Fricke of the district attorney's office, Inspector Wilhelm of the United States Land Office, a representative of the press, Mrs. M. Dinuzzo (policewoman), and myself. At this meeting it was decided by Mr. Fricke that Mr. Tracy Becker of the district attorney's office would be a good man to handle this matter, and a request in writing was made by Mr. Fricke to Mr. Davis, asking that this assignment be made, which request was granted.

Mr. Becker then advised us regarding what information he desired, pertaining to the representations made by Mr. Johnson and Mr. Summers to persons who called on them relative to "Spanish land grants."

Through Mr. Alymar Harding, Hotel Fremont, 401 South Olive Street, who wrote a letter to the chief of police regarding the activities of Messrs. Johnson and Summers, a meeting was arranged with a woman named Gertrude Caldwell, 1160 West Twenty-seventh Street, who is an associate of Mr. Clinton Johnson. Mr. Harding and myself went to 1160 West Twenty-seventh Street and interviewed Gertrude Caldwell regarding Spanish land grants in California. We secured at this time a letter of introduction to Mr. Clinton Johnson, 571 I. W. Heilman Building.

Mrs. Lulu Lane and Mrs. Marie Dinuzzo, policewomen, called on Mr. Johnson at the above address and interviewed him to some extent concerning the above-mentioned land grants. Mr. Johnson at this time stated that he had two contracts that could be made, one for $100 and another for $1,000. He explained that the $100 contract called for 50 per cent share in whatever price the property acquired would amount to if their filing for a homestead claim in the United States Land Office should become a valid one, while the $1,000 contract called for 25 per cent of the valuation as their share of this land whenever the property filed on was secured.

This information was given to Deputy District Attorney Becker, who stated that he would like to see one of the contracts if it were possible to obtain one. From a list of homestead applications in the United States Land Office, appeared the name of William T. Carpenter, Badge 1045, address 3976 Third Avenue, a mail carrier employed at the Arcade Station. Arrangements were made to meet him, at which time his contract with Mr. Johnson and Mr. Summers, was obtained and photographed.

Mrs. Dinuzzo and myself called on Mr. Johnson in regard to these contracts he was making which concerned the filing of homestead claims in the United States Land Office of alleged fraudulent Spanish land grants.

We obtained the blank form of each contract that they had, one for $1,000 and one for $100. (See attached forms of contract.)

The points brought out by Mr. Johnson in the interview with Mrs. Dinuzzo and myself, were briefly these:

That homestead filings could be made at the local land office on the San Fernando grant; that this San Fernando grant was invalid and the land was Government domain and therefore open to homestead entry. A map was shown us by Mr. Wheeler, who is an employee in the office, showing San Fernando and vicinity, and a sketch was made from it showing several desirable locations that we could file a homestead entry against. (See sketch attached to this report.)

Mr. Johnson stated that he could not guarantee that we could get possession of this land; however, both he and Mr. Summers would fight in order that we might gain possession, should our filing be rejected, and if necessary, would carry our appeal right to Washington, D. C.

Mr. Johnson further stated that he had taken in about $22,080 from people he had interested in the filing of these homestead claims. We were told by Mr. Wheeler, when we objected to filing on any land on which a home had been built, that the owners of many such homes had filed claims with him; in other words, people who actually were bona fide owners of land have been convinced by these men that their titles to property are invalid, and as a result, had filed their claims with Johnson and Summers. We were shown maps which contained numbers of the contracts filed on by some of these property owners.

We also called at the local United States land office and interviewed A. A. Wilhelm, chief of the field division of the Interior Department of southern California, in regard to the claims made by Mr. Johnson. Mr. Wilhelm stated that briefly the facts were as follows:

No. 1. The land is embraced in an unrejected Mexican land grant.

No. 2. It is covered by an uncanceled patent valid on its face.

No. 3. Neither the United States land office nor the Secretary of the Interior has the power to ignore or to question the validity of the land grant.

No. 4. The issuance of patent deprived the land department of all powers to allow a homestead entry.

No. 5. The land can not be restored to homestead entry unless the patent should be canceled by the court of competent jurisdiction.

No. 6. No land can be entered until it has been opened to entry by an order of the Secretary of the Interior.

No. 7. If the land were subject to entry, former service men of the World War would have a 90-day preference right to entry.

No. 8. The land has not been surveyed and there is no such description as inserted on the applications offered.

Clinton Johnson was indicted with Ben McLendon and William R. Price, Virgil E. Clark, and Gertrude Caldwell for using the mails in a scheme to defraud in 1922, and Clinton Johnson is familiar with all the decisions rendered in the case at that time. Clinton Johnson was defended by Mr. Summers at that trial, and Johnson and Summers are now associated together and apparently are operating in the same manner as they were before. Price and McLendon, who were indicted with Johnson, et al., have since died.

Due to the fact that Mr. Becker, of the district attorney's office, is in Chicago, and Mr. McNabb, United States attorney, is ill, a meeting could not be arranged. However, as soon as Mr. Becker returns, they will hold a conference and reach a decision as to which department shall prosecute this case. Supplementary report will be submitted following the conference between Mr. McNabb and Mr. Becker.

Respectfully,

J. N. BLIGH,
Detective Lieutenant.

The CHAIRMAN. Are there any questions?

Mr. LAWLER. Are the papers referred to in that report attached to it as indicated?

Mr. BLIGH. We have those in our identification bureau at the police department. This is a copy I gave to the land office and they were kind enough to let me read it this morning. The originals are in our identification bureau and can be had.

Mr. LAWLER. You referred in the report, if I understood it correctly, to certain papers that were exhibited to you in the course of your investigation. Are those attached to this copy?

Mr. BLIGH. Not to this copy, but they are in the police department.

Mr. LAWLER. If the committee should desire to have they they can be made available?

Mr. BLIGH. I believe they can, Mr. Lawler.

The CHAIRMAN. Proceed, Mr. Bligh.

Mr. BLIGH. We had complaints concerning the activities of these men continually. I have made a brief report here of the call that Inspector Finlinson, Lieutenant McCarron and myself made, and of the conversation we had with Mr. Wheeler on September 21, 1928. This has already been testified to, but if you wish I will read this as relating to our conversation.

The CHAIRMAN. Proceed, Lieutenant.

Mr. BLIGH (reading:)

SEPTEMBER 21, 1928.

INSPECTOR FINLINSON: Inspector Finlinson, Lieutenant McCarron, and myself called on Mr. Wheeler, at room 571 I. W. Hellman Building, about 2 p. m. September 21, 1928, regarding a complaint from C. F. Lander, Chatsworth, Calif., and held conversation with him regarding this complaint, and among other things inquired of Mr. Wheeler if any of the hundreds of people he had taken money from to carry on a fight of their homestead claims that had been rejected by the land office had ever received anything for them. Mr. Wheeler stated "No, they had not." I then told him about he being investigated several years ago, and that it was just too bad we could not stop him from operating in this manner; that is, commercializing on some alleged flaw he may think existed in early Spanish land grants, and taking peoples money for the past several years. He replied by saying "Why man I have put my own money in this thing" and showed a picture of a beautiful home at the Palos Verde Estates that he stated was to be his some day, through a filing he had

made at the local Government land office. I asked him if he was really sincere in believing he could acquire such a valuable home as he showed me a picture of for a $16 filing fee at the local land office, and he replied that he was "never more sincere." I told him he "must be either insane or a good confidence man and left his office."

Respectfully,

JAMES BLIGH.

The CHAIRMAN. Do you have knowledge where the complaints upon which you acted had their origin or inception?

Mr. BLIGH. Well, we have had a lot of complaints. They would come to the police department in the form of letters. A lot of them are anonymous and are not signed by the people who wrote them, apparently because the people didn't want to get mixed up in any criminal investigation or any action that we might take in the matter; but we are receiving letters continuously, but unless they are signed by some respectable citizens we do not pay much attention to them.

The CHAIRMAN. Do you have any knowledge of whether or not any of these complaints under which you have operated have come from those who have made applications for homestead entry?

Mr. BLIGH. I do not believe any complaints have come to us from the homesteaders themselves. In fact, they seem to be of the opinion that their claims are perfectly sincere and honest in every way and they won't complain to us in that regard.

The CHAIRMAN. In other words, there seems to be no complaining on the part of those who have put their money into this thing?

Mr. BLIGH. None that we know of.

The CHAIRMAN. That is all. Is Mr. Harris here?

(No response.)

The CHAIRMAN. Is Mr. Leonard Barnes here?

Mr. WHEELER. Mr. Barnes just left here and will be back shortly.

The CHAIRMAN. Mr. Armstrong or Mr. Morris?

TESTIMONY OF RUFUS D. MORRIS, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

Mr. MORRIS. Rufus Daniel Morris.

The CHAIRMAN. And your residence?

Mr. MORRIS. I live at 5411 Hillmont Avenue, Eagle Rock.

The CHAIRMAN. Do you have a business or profession?

Mr. MORRIS. I am in the mining business.

The CHAIRMAN. The mining business?

Mr. MORRIS. Yes.

Senator BRATTON. Mr. Morris, where is your office located?

Mr. MORRIS. I have been for some time in the Hellman Building, No. 571.

Senator BRATTON. With whom were you associated?

Mr. MORRIS. I am not associated with anybody. I am associated with myself. I am not there all the time.

Senator BRATTON. Have you had any business association or connection with Mr. Summers and Mr. Wheeler?

Mr. MORRIS. Well, I am a homesteader.

Senator BRATTON. You are a homsteader?

Mr. MORRIS. Yes, sir.

Senator BRATTON. Upon what grant?
Mr. MORRIS. Lomas de Santiago.
Senator BRATTON. In what suite in the Hellman Building are your offices?
Mr. MORRIS. Nos. 571 to 576.
Senator BRATTON. Do you know the suite occupied by Mr. Summers and Mr. Wheeler?
Mr. MORRIS. Yes.
Senator BRATTON. Where is your office with reference to those rooms?
Mr. MORRIS. I have a little room that was previously occupied by Ben McLendon and when he left I took the office he had.
Senator BRATTON. Where is it with reference to the suite occupied by Summers and Wheeler?
Mr. MORRIS. It is across the hall from Mr. Wheeler.
Senator BRATTON. Just across the hall?
Mr. MORRIS. Yes.
Senator BRATTON. Are you and Judge Summers well acquainted?
Mr. MORRIS. Very well, yes.
Senator BRATTON. For how long have you been acquainted?
Mr. MORRIS. Well, I have known him ever since he took up this case.
Senator BRATTON. Have you discussed the matter with him frequently?
Mr. MORRIS. Yes, I have.
Senator BRATTON. That is the subject matter of making homestead entries upon these lands within these so-called grants?
Mr. MORRIS. Yes; I have.
Senator BRATTON. Mr. Morris, what can you tell us about Commissioner Spry, or Governor Spry, having stated in substance, here in the city of Los Angeles, that he would see the homesteaders in hell before any one of them could get a single acre of this land?
Mr. MORRIS. Well, I didn't hear him make that statement personally. Somebody else made that statement. I did not hear him make it.
Senator BRATTON. You have no personal knowledge of it?
Mr. MORRIS. No, sir.
Senator BRATTON. Can you account for the fact that Judge Summers furnished this committee with your name as a witness who would substantiate that statement?
Mr. MORRIS. Well, I can not substantiate the statement that I heard him say that because I have never seen Mr. Spry in my life.
Senator BRATTON. Did you know that your name was furnished the committee as a witness who would substantiate that fact?
Mr. MORRIS. I knew it after that book was published.
Senator BRATTON. You knew it then?
Mr. MORRIS. Yes.
Senator BRATTON. About when was that?
Mr. MORRIS. That I can not remember because I have been out of town and have been busy and don't remember the date.
Senator BRATTON. Well, approximate it for the committee; how long ago was it?
Mr. MORRIS. Oh, I judge it is a couple of years ago.

Senator BRATTON. How did it impress you? Were you surprised to learn that your name had been given to the committee as a witness to such a statement as that?

Mr. MORRIS. Yes, sir; because I did not hear Mr. Spry say that myself. I heard somebody else say that he said it in the Land Office.

Senator BRATTON. Whom did you hear say that he said it in the Land Office?

Mr. MORRIS. I think it was a man by the name of Armstrong.

Senator BRATTON. Where is Mr. Armstrong?

Mr. MORRIS. I can not tell you that; I have not seen him for many months.

Senator BRATTON. What is his business?

Mr. MORRIS. Why, I think he was a chemist.

Senator BRATTON. Was he a homesteader?

Mr. MORRIS. Yes; he was.

Senator BRATTON. And you have not seen him for several months?

Mr. MORRIS. No, I have not.

Senator BRATTON. Well, did he claim that he heard Commissioner Spry make that statement, or that in substance?

Mr. MORRIS. That is my recollection of it?

Senator BRATTON. That is your recollection of it?

Mr. MORRIS. Yes.

Senator BRATTON. And that is all you know about it?

Mr. MORRIS. That is all I know about that particular part of it.

Senator BRATTON. How long have you been acquainted with the general system pursued in filing these homestead applications on the Rancho Lomas de Santiago?

Mr. MORRIS. Well, I don't know anything in particular about it, only in the beginning, I met a man named McLendon and he showed me the records and said that that piece of ground was not even a grant; that it was a piece of ground between grants, and wanted me to file a homestead and go in court and try to get a decision.

Senator BRATTON. And you did that?

Mr. MORRIS. I did that?

Senator BRATTON. Have you invested any of your own money in the enterprise?

Mr. MORRIS. I spent a lot of money for the benefit of Ben McLendon.

Senator BRATTON. About how much have you put into it?

Mr. MORRIS. Oh, a number of thousands of dollars. I can not tell how much, because I didn't keep track of it. It was my own money and I paid no attention to it.

Senator BRATTON. In making these applications, did you know that a map was being used upon which section and quarter section lines had not been made or projected either by the Government, or upon a map recognized by the Government, but made by private persons entirely upon their own responsibility?

Mr. MORRIS. Well, I knew that it was certified, the county map was of record and it must have been certified in some way, or they couldn't sell it or lease it——

Senator BRATTON. It must be plain that that is not an answer to my question.

Mr. MORRIS. That was my understanding, that it must have been surveyed.

Senator BRATTON. Were you ever told that it was an official map, made or recognized by the Government, showing section lines and quarter section lines?

Mr. MORRIS. I believe I did see a photograph of the map from Washington showing the township lines, but I do not think that it showed the quarter sections.

Senator BRATTON. I am asking you entirely about sections and subdivisions of sections.

Mr. MORRIS. Yes; I have seen such a map, but I don't know just how it was produced or where it came from. I think Ben McLendon got a quarter section map that he went by, that he got from the Land Office in Washington, or had a copy of it. He said he got it from the Assistant Commissioner of the General Land Office.

Senator BRATTON. Showing sections and subdivisions of sections?

Mr. MORRIS. I think so.

Senator BRATTON. And he stated [illegible] that he got it from the Assistant Commissioner [illegible]?

Mr. MORRIS. Yes, sir.

Senator BRATTON. [illegible] Assistant Commissioner of the Land Office at that time?

Mr. MORRIS. I [illegible] his name was Wickham.

Senator BRATTON. George R. Wickham?

Mr. MORRIS. I think so.

The CHAIRMAN. Are there any further questions?

Mr. LAWLER. There was one question with reference to the Lomas de Santiago, the statement by Mr. Irvine that his check book was always used there and was ready still, and that was attributed to Mr. Morris.

Senator BRATTON. Yes; I [illegible] that. Mr. Morris, what can you tell the committee about Senator Irvine saying actually, or in substance, that [illegible] occupation of the [illegible] meaning the lands within [illegible], on former occasions he [illegible] use of his check book and that he would proceed to use it again?

Mr. MORRIS. Well, I heard that remark from a man in Tustin.

Senator BRATTON. [illegible]

Mr. MORRIS. In Tustin [illegible]

Senator BRATTON. Tell us [illegible] that it.

Mr. MORRIS. That is just below Santa Ana.

Senator BRATTON. Who is he?

Mr. MORRIS. I think his name was Williams. I can not give it exactly. I have got the name, but not with me.

Senator BRATTON. What was his business?

Mr. MORRIS. I think he was a real estate man. He lives down there, however.

Senator BRATTON. Was he a homesteader?

Mr. MORRIS. No; he was not.

Senator BRATTON. And that is all you know about that, that Mr. Williams told you that Mr. Irvine had made such a statement? How long ago was it that Mr. Williams told you that?

Mr. MORRIS. Oh, I guess about three years ago.

Senator BRATTON. Three years ago?

Mr. MORRIS. I think so.

Senator BRATTON. When was it Mr. Armstrong made the statement to you that you have already detailed to us?

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Mr. MORRIS. That was two or three years ago. I can not remember the exact date. It was when Mr. Spry was out here one time.

Senator BRATTON. You have no other information regarding any such statements coming from Mr. Irvine?

Mr. MORRIS. I didn't even know Mr. Irvine, sir.

Senator BRATTON. Aside from your acquaintance, have you any other information regarding such a statement coming from him.

Mr. MORRIS. Not personally.

Senator BRATTON. Well, have you from any other source?

Mr. MORRIS. I have heard lots of stories but they are only hearsay and don't mean anything, because I could not prove it.

Senator BRATTON. No; not a thing.

Mr. LAWLER. There is a statement attributed to the United States attorney, on page 33 of the hearings, that what was wanted is an indictment and not a hearing, in regard to the claim that the applicants were denied a hearing. That is also attributed to Mr. Morris.

Senator BRATTON. What do you know about that, Mr. Morris?

Mr. MORRIS. I do not know a thing about it.

Senator BRATTON. You never heard the United States attorney make such a statement?

Mr. MORRIS. I never knew him, only by reading the papers and from hearing people talk about him.

Senator BRATTON. Just by reputation?

Mr. MORRIS. Yes.

Senator BRATTON. And you never saw him that you know of?

Mr. MORRIS. Yes; I have seen him.

Senator BRATTON. Did you ever hear him discuss the case at all?

Mr. MORRIS. I never did.

Mr. HARTKE. Mr. Morris, I think you stated you were somewhat surprised when you found your name had been used with regard to these purported statements?

Mr. MORRIS. Well, I wasn't particularly surprised but I didn't know it until I had seen it there. You know how you would feel yourself.

Mr. HARTKE. Naturally. You didn't know you were going to have your name connected as a witness to such statements until it had been done, did you? Is that right?

Mr. MORRIS. Yes; that is correct.

Mr. HARTKE. Did you have any discussion with Mr. Summers after you discovered that your name had been used?

Mr. MORRIS. No; I did not.

Mr. HARTKE. You did not take up the matter with him at all?

Mr. MORRIS. No.

Mr. HARTKE. Did you try to correct the statement in any way with anyone?

Mr. MORRIS. It was no use to correct it. He put it there and I couldn't correct it.

Mr. HARTKE. You didn't make any effort to retract it?

Mr. MORRIS. Not at all.

Mr. HARTKE. Your office is a part of the general suite occupied by this homestead committee, is it not?

Mr. MORRIS. Yes, sir; it is one of the rooms in the hallway. There is a door that shuts it off from the rest of the building.

Mr. HARTKE. You have been active with them in their work?

Mr. MORRIS. Nothing to do with it at all.
Mr. HARTKE. I beg your pardon?
Mr. MORRIS. I have nothing to do with it at all.
Mr. HARTKE. Have you had in the past?
Mr. MORRIS. I never have had.
Mr. HARTKE. Have you been instrumental in getting other homesteaders?
Mr. MORRIS. I have put two or three on the Irvine ranch, when it first started, friends of mine.
Mr. HARTKE. Did you take them out and show them the land?
Mr. MORRIS. No.
Mr. HARTKE. Did they file without seeing the land?
Mr. MORRIS. No; they saw the land but I didn't take them there.
Mr. HARTKE. And you don't know whether they saw it or not?
Mr. MORRIS. Well, they said they did. That's all I know about it.
Mr. HARTKE. Do you know whether anyone else explained the situation to them as to what the requirements were?
Mr. MORRIS. I don't know a thing about it.
Mr. HARTKE. Do you know whether these various court decisions had been explained to them or not?
Mr. MORRIS. I did that myself, so far as I knew it.
Mr. HARTKE. Did you explain to them that the courts have passed upon the question of these titles in several cases?
Mr. MORRIS. Yes; and I also explained to them that I thought the court had nothing to do with it.
Mr. HARTKE. That the Supreme Court of the United States was wrong?
Mr. MORRIS. Absolutely; that either the committee was right or the others were right, one way or the other; and I thought that the committee was right.
Mr. HARTKE. So you advised them to rely upon your opinion as against that of the Supreme Court?
Mr. MORRIS. No. That was my opinion. They didn't need to rely on it; but that was my opinion and is still my opinion.
Mr. HARTKE. Mr. Morris, did you have any arrangement to participate in any moneys taken in at the office?
Mr. MORRIS. None whatever.
Mr. HARTKE. What was your purpose in putting any money in those cases?
Mr. MORRIS. To get a homestead.
Mr. HARTKE. Just for yourself?
Mr. MORRIS. Absolutely.
Mr. HARTKE. You had no interest in protecting the rights of your friends?
Mr. MORRIS. Not at all. They could protect themselves, just like I did.
Mr. HARTKE. Do you know whether your friends filed on property that was improved?
Mr. MORRIS. I could not tell you that.
Mr. LAWLER. In fairness to you, Mr. Morris, I am going to ask you the unequivocal question. Did you ever tell Mr. Summers or anyone connected with this establishment that Governor Spry had, in your presence, made any statement as is attributed to him here?

Mr. MORRIS. No; I did not.

Mr. LAWLER. You never told Mr. Summers or anyone else that these other statements that have been called to your attention this morning, as being attributed to you, were made in your presence or to your personal knowledge?

Mr. MORRIS. No, sir. I heard lots of things.

Mr. LAWLER. I beg your pardon?

Mr. MORRIS. I heard lots of stories from people but I didn't come in contact with them myself personally.

Mr. LAWLER. You never told anybody that you did have any personal knowledge of any such statement having been made; is that correct?

Mr. MORRIS. That is correct.

Mr. WHEELER. I would like to have Mr. Morris identify this map that shows the section lines. I have it here. I believe it was asked for on yesterday.

The CHAIRMAN. Let Mr. Morris identify it and offer it in the record.

Mr. JOHNSON. Is that the map I refer to in my testimony on yesterday afternoon?

Mr. WHEELER. You say that this map is one of the maps that shows the section lines [exhibiting map]?

Mr. MORRIS. That is the same map that I looked at, a photograph of it, but this was marked in afterwards [indicating].

The CHAIRMAN. Part of the map was marked in afterwards?

Mr. MORRIS. No; the section lines here [indicating].

Mr. WHEELER. As a matter of fact, as the map shows here, they were traced over the old lines as they ran across here [indicating]?

Mr. MORRIS. Yes.

Mr. WHEELER. Some of the lines have not been traced and some of the numbers have not been traced. These are merely traced to make them a little more distinct. Here are the field notes and the survey [indicating].

Mr. MORRIS. That is the same map.

The CHAIRMAN. The map will be placed in the files of the committee and marked "Exhibit AG."

Mr. WHEELER. There is one more thing I would like to have you identify; a map or reproduction of a map of Orange County, a county map showing a criss-cross survey, which I contend is an illegal survey.

The CHAIRMAN. Who is that map published by?

Mr. WHEELER. I think it is published by J. L. McBride, county surveyor of Orange County, Calif.

The CHAIRMAN. That map will be received as Exhibit AH, and also placed in the files of the committee.

Senator BRATTON. Mr Morris, refering to this map identified as Exhibit AG, did I understand you to say that when you first saw this map the section lines were not shown in the map?

Mr. MORRIS. I never saw those. They were not. It was a photograph showing just the outside lines, with the township lines.

Senator BRATTON. Just the exterior lines with the township lines inside?

Mr. MORRIS. Yes.

Senator BRATTON. When did you first see it with the section lines shown on it?

Mr. MORRIS. I can not tell you that. I can not remember the time.

Senator BRATTON. Who had the map when you first saw it with the exterior boundary lines shown and the township and range lines shown?

Mr. MORRIS. Ben McLendon. I think he got it in Washington.

Senator BRATTON. When did you first see it?

Mr. MORRIS. I can not tell you the date.

Senator BRATTON. Well, approximate it for us.

Mr. MORRIS. I think it was in 1922, I think so.

Senator BRATTON. And at that time did it show anything else with reference to the Lomas de Santiago grant except the exterior boundary lines of the township and range lines?

Mr. MORRIS. No; the photographs are just the same except that these lines were filled in afterwards and went clear across the page [indicating].

Senator BRATTON. How long was it after that until you saw it with the section lines shown on it?

Mr. MORRIS. I don't know. Some time during that year, I think. I don't know the exact time.

Senator BRATTON. Did you ascertain who placed the section lines on it?

Mr. MORRIS. No; I did not.

Senator BRATTON. What did you say is your business?

Mr. MORRIS. Mining.

Senator BRATTON. Mining?

Mr. MORRIS. Yes.

Senator BRATTON. Are you an engineer?

Mr. MORRIS. No, sir. I am not.

Senator BRATTON. Have you a homestead entry on that particular grant?

Mr. MORRIS. I have.

Senator BRATTON. Did you file before or after you saw the map containing the section lines?

Mr. MORRIS. I think I filed immediately after Ben McLendon came back from Washington. He had all these maps. I don't know whether I saw the maps then or whether I saw the maps afterwards.

Senator BRATTON. When you later saw the map in this condition; that is, showing the section lines, did you make any inquiry as to who had placed the section lines on it?

Mr. MORRIS. No; I did not.

Senator BRATTON. Didn't it attract your attention?

Mr. MORRIS. I knew the township lines were surveyed, and anybody could draw lines across to show where the quarter sections were.

Senator BRATTON. And did you assume that anybody had done it?

Mr. MORRIS. Anybody could do it. I supposed, of course, that it was all right. That is what I do in my business.

Senator BRATTON. It did not raise any question mark in your mind?

Mr. MORRIS. Not a bit.

Senator BRATTON. Did you think that anybody could put section lines and quarter section lines on a map without the Government's approval?

Mr. MORRIS. Well, I don't know about that.

Senator BRATTON. And that it would be official?

Mr. MORRIS. I don't mean that. I mean that anybody could approximate where the quarter section was.

Senator BRATTON. For filing purposes?

Mr. MORRIS. Yes, sir.

Senator BRATTON. And that was your understanding of it?

Mr. MORRIS. Yes, sir.

Senator BRATTON. Was your attention drawn to the fact that this map does not have a certificate from anybody respecting its authenticity?

Mr. MORRIS. I didn't pay much attention to that.

Senator BRATTON. Your attention is now directed to the fact that it is not certified by anybody, either on behalf of the State or the Government?

Mr. MORRIS. Well I didn't look at that. I couldn't tell you now whether it is certified or not.

Senator BRATTON. Well, it is not. Has this map been used through the years for the purpose of making application for homestead entry?

Mr. MORRIS. I could not tell you that. I have not been making any homestead applications and I don't know what they have been doing with them. I attend to my own business.

Senator BRATTON. Is this the map that has been used in connection with filing these applications, Mr. Wheeler?

Mr. WHEELER. I can not say as to that for the reason that I did not do the filing, but I understand that that map, signed by Henry Hancock, United States Government Surveyor, together with his field notes, is the thing that they relied on to locate their section corner down there in conjunction with this map, the one I just submitted here, and between the two maps they could ascertain within two or three hundred feet where the line would actually be.

Senator BRATTON. You have not answered my question as to whether this is the map that has been used in making these applications.

Mr. WHEELER. And my answer was that I did not know.

Senator BRATTON. Can't you tell us what map has been used in your organization in that connection?

Mr. WHEELER. My answer was that I did not file there. I did not handle the locations on the Irvine ranch.

Senator BRATTON. Who did handle those?

Mr. WHEELER. I believe Mr. Johnson and Mr. Price, I think between the two of them.

Senator BRATTON. Let me ask Mr. Johnson a question. Is this the map that has been used?

Mr. JOHNSON. I havn't examined that map sufficiently to determine whether it is or not. I have only seen it upside down on the bench there.

Senator BRATTON. Will you come here now and examine the map?

Mr. JOHNSON. Yes, I will be glad to. [After examination of the map.] I think this is the map to which I referred to yesterday in my

testimony as having these section lines drawn in here; and it appears to me that these lines have been traced over with heavier ink and the sections marked in. I notice that there are section lines here in the old original map, and for the purpose of making it more distinct some were traced over. I had nothing to do with tracing these lines and that map was not used in making locations by me.

Senator DALE. You mean this is a map that you stated yesterday that you drew the lines in? [Indicating map.]

Mr. JOHNSON. No; I mean that is the map the lines were in that I referred to in my testimony in speaking of having drawn lines in the map. I haven't had another map that the lines were drawn in. These lines [indicating] have been drawn over. They run through here [indicating] and were traced over with heavier ink by somebody unknown to me. These are not my figures nor my lines. These are the original lines in here, these section lines in the map.

Senator DALE. Drawn by whom?

Mr. JOHNSON. By the man who made the map. It seems that this map has been trimmed down by some one. The map apparently was very much larger.

Senator BRATTON. Then this map [indicating] does not show the lines that you projected on a map?

Mr. JOHNSON. No; this is the one that I described as having the lines projecting [indicating]. That map, in my memory, was considerably larger. Some one has trimmed the edges off of it.

Senator DALE. You were not guided by this map in drawing the other one?

Mr. JOHNSON. We had this map on hand. I think it was produced by McLendon at the time and we were guided by everything that we could get hold of. It says "Surveyed by John C. Hays," and gives the date of the survey, which indicates that he was some official surveyor.

Mr. MUSICK. For the purpose of the record, may it appear that this map is a blue print map showing the exterior boundaries of certain properties, and that across the face of certain portions thereof appears to have been placed in pen and ink certain lines and certain numbers within squares—this is a cross section—certain numbers within the squares apparently giving the effect that it is a section map. That is for the purpose of clearing the record.

Mr. JOHNSON. You have also certain lines that were put on the map, these blue lines showing the sections, and evidently those lines were traced across.

Mr. MUSICK. These blue lines referred to are the complete exterior boundaries of this particular ranch.

Mr. JOHNSON. Yes, and here is one with this line running through here [indicating on map].

The CHAIRMAN. I think the part that has been incorporated in the record is all that is material and essential.

Mr. WICKHAM. Mr. Chairman, there has been considerable testimony here with reference to a map certified by the Assistant Commissioner of the General Land Office, which map Mr. McLendon showed and used for the purpose of location. I would suggest that the committee inquire of Mr. Wheeler or Mr. Johnson, or whoever may have custody of that map to determine whether that

map alleged to have been certified to in the General Land Office can not be produced here at this hearing.

The CHAIRMAN. Mr. Wheeler, are those maps which you have offered here the same type of maps which you have used in making your homestead application?

Mr. WHEELER. May I correct that statement? I have not made those homestead applications and therefore I am not absolutely certain what maps were used.

The CHAIRMAN. Will you file with the committee the map or maps which have been used, in the event that you find that other than these have been used?

Mr. WHEELER. I will be very glad to find out which was the original map used there and supply it to you, if I can find that map.

Mr. MUSICK. Did you not offer to sell maps on various occasions for 50 cents a piece, Mr. Wheeler?

Mr. WHEELER. No, sir. Let me correct that. Maps are sold for 50 cents by the——

Mr. MUSICK (interrupting). Have you ever made the statement——

Mr. WHEELER. When a person wants a map to find a piece of ground I sometimes send them down to buy a map, or send them over to the Security Trust & Savings Bank. I know of only one case where a man wanted a map for which I had paid a dollar and I suggested that if he wanted that map he could pay me and I would get another one, or he could go down and buy himself a new one and I would keep that one.

Mr. MUSICK. Do you have any maps on the walls of your office that are used in connection with this homestead matter?

Mr. WHEELER. You mean in locating?

Mr. MUSICK. In any way.

Mr. WHEELER. I have many maps on the wall showing locations of the country and the general outlines of alleged grants. Some of them are certified maps of which I have copies here and some of them are county maps. Some of them are maps gotten up for the purpose of voting, and all that.

Mr. MUSICK. Are any of those maps used in connection with these homestead filings?

Mr. WHEELER. Those on the wall?

Mr. MUSICK. Yes; any of them.

Mr. WHEELER. There is no map on the wall in my office that is used in connection with locating except just in an explanatory way, to help locate the country.

Mr. MUSICK. Do you show property on any of these wall maps to prospective homesteaders?

Mr. WHEELER. I show the boundaries of the property on the maps, I just told you that.

Mr. MUSICK. Do those maps have section lines upon them?

Mr. WHEELER. Those maps have exactly the lines traced following the section lines shown on the county survey, and also on the outlines of the maps which show they are from the official record of the United States survey maps, which have the same section lines followed——

Mr. MUSICK. My understanding yesterday was that you told the committee you would produce the maps used by you in connection with the filing of these homestead entries.

Mr. WHEELER. Your understanding was entirely at fault, I believe.

Mr. MUSICK. That is incorrect?

Mr. WHEELER. I believe so.

Mr. MUSICK. Are you willing to do that?

Mr. WHEELER. If the committee asks for them I will be glad to furnish them the maps——

The CHAIRMAN. I think the committee already has made that request this morning, but if it is not understood that that request has been made, let it be so understood now.

Mr. WHEELER. Do you want maps that show the ground that has been located?

The CHAIRMAN. Yes.

Mr. MUSICK. Mr. Chairman, a note has been handed to me from some spectator here to the effect that Mr. Wheeler has offered for sale a map for 50 cents, apparently some printed map; that this was offered in connection with a solicitation by him of some party to file a homestead entry apparently, as the information comes to me, for the purpose of describing and locating the land upon which declaration was to be filed. I know nothing about the party who has sent the note. He is here and he thinks he can produce witnesses who will testify to these facts. I offer it to the committee for what it may be worth.

Mr. WHEELER. I think my explanation of that was just given.

The CHAIRMAN. Will the writer of the note, or any individual who has purchased maps from Mr. Wheeler please stand.

(A gentleman later identified as Mr. William F. McDaniel stood up in response to the request of the chairman.)

The CHAIRMAN. If there are no further questions of Mr. Morris he will be excused.

Senator DALE. I would like to know what this map is that Mr. Morris has.

The CHAIRMAN. It will be well to identify that at this time. That map has been recorded as Exhibit AG. What is the purpose of offering this, Mr. Wheeler?

Mr. WHEELER. My only purpose is that that would give the committee a little idea of the way the roads and the subdivisions of the Irvine Ranch could be checked with the other maps that was introduced in Mr. Johnson's testimony.

The CHAIRMAN. Are there any further questions of Mr. Morris?

Mr. LAWLER. Would it be permissable to let me inquire of Mr. Wheeler with reference to this map which has been marked "Exhibit AK;" that is, is that the map which you referred to in your statement as, according to your understanding, containing traverses or outline of the survey of the rancho de Santiago?

Mr. WHEELER. I do not know the statement you refer to, but I believe that map shows the quarter sections and the lines beyond any question of doubt running over that rancho.

Mr. LAWLER. No; you misunderstood me. You said this morning, if I understood you correctly, that the map you were producing and exhibiting to the committee, according to your understanding, showed the traverses of the Hancock survey of the rancho Lomas de Santiago.

I am simply asking for your understanding now. You refer to the map as containing the field notes of the rancho de Santiago. Is that what you refer to [indicating on map]?

Mr. WHEELER. That is what I refer to; yes.

Mr. LAWLER. You observe that this paper, marked "AG," is obviously part of some larger map, and on the left-hand side there is a portion of the legend which only partially appears hereon. From whom did you get the information, or how did you happen to assume or state, that the field notes, as you call them—and you point to a part which I think is called "traverses"—were field notes relating to the rancho Lomas de Santiago. Did some one tell you that?

Mr. WHEELER. That is what I was told. I do not know that I can tell you who told me.

Mr. LAWLER. Did you know that this was a photostatic copy from which this blue print was made?

Mr. WHEELER. No; I did not.

Mr. LAWLER. From what was a photostatic copy made, if you know?

Mr. WHEELER. I do not. That was there before my connection with the office.

Mr. LAWLER. So far as you know, and according to your understanding, this was a picture or reproduction of some other larger map?

Mr. WHEELER. My impression was that that was a blue print of a map in Washington.

Mr. LAWLER. I call your attention to the fact and the attention of the committee to the fact that the traverses to which Mr. Wheeler referred are as follows:

Field notes of part boundaries rancho Santiago de Santa Ana, comprising a part of 55.5 south, left bank—

I can not make it out entirely—

left bank Santa Ana River; thence down the left bank to end of section—

I can not make this out; but at any rate the traverses refer entirely to the rancho de Santa Ana and not to the Lomas de Santiago at all, and if I understand the map, it shows that the map of which this is a fragment is bounded, that the Santa Ana rancho is bounded by the heavy blue line running diagonally across toward the left-hand side of the map. Then there is a space where the section lines appear, to which attention has been paid. I may be able, with the aid of this microscope, and for the benefit of the reporter, to read the heading of these traverses or field notes, as Mr. Wheeler calls them. They read:

Field notes of a part of the boundaries of rancho Santiago de Santa Ana, commencing at post 55 (S) on left bank of Santa Ana River; thence down left bank to end of section 4, thence to center of river and end of section 5.

Senator BRATTON. Let me interrupt at that point, please. I have in my hand photostat of what seems to be the official map at Washington, certified to by the Surveyor General on January 10, 1867, approved February 1, 1868, by the Commissioner General of the Land Office.

The CHAIRMAN. May I ask at that point, to further identify the map, is that a map furnished, following inquiry by the Committee of the Secretary of the Interior for this map?

Senator BRATTON. That is correct. It was applied to this committee by the Secretary of the Interior at the request of the committee. I think it might be well to ask Mr. Smith at this time to examine this and see if it is the only official map of which he has knowledge, in which event I desire to ask a question of Mr. Morris in connection with it.

Mr. SMITH. So far as I know, that is the only map that I know anything about.

Senator BRATTON. Now, Mr. Morris, look at this map and state whether it is in substantially the same form as the map which was first exhibited to you by Mr. McLendon before the section lines were projected.

Mr. MORRIS. The lines are the same, but the map, I say, had the photographic lines across here [indicating].

Senator BRATTON. At the side?

Mr. MORRIS. Yes. I think I also saw this map later, or a copy of it.

The CHAIRMAN. The committee is very desirous of expediting matters this morning as quickly as we can and we hope we will get the cooperation of all of you in our endeavor to finish this morning.

Mr. LAWLER. I think what I had in mind is obvious now from a comparison of the two maps.

Senator BRATTON. In the interest of expedition, before we depart from that, the committee has a map of each grant furnished by the Secretary of the Interior at the request of the chairman, and for the information of all parties present I suggest, Mr. Chairman, that we have them now all identified and if any parties here desire to examine them they may do so.

The CHAIRMAN. Let there also be introduced at this time a letter dated March 12, 1929, from Secretary of the Interior Wilbur, having reference to these maps, and being in response to the request by the committee for information. The letter of the Secretary and accompanying maps will be designated as Exhibit AI. The maps will be placed in the files of the committee and the letter inserted in the record at this point.

EXHIBIT AI

DEPARTMENT OF THE INTERIOR,
Washington, March 12, 1929.

Hon. GERALD P. NYE,
Chairman Committee on Public Lands and Surveys,
United States Senate.

MY DEAR SENATOR NYE: Reference is had to your letter of March 7, 1929, inclosing copies of Senate Resolutions 291 and 329, authorizing and directing an investigation regarding titles to Mexican grants in California.

There are inclosed copies of the official plats of the grants, the titles to which have been questioned before this department, together with copies of the departmental and bureau decisions relating thereto. There follows a list of the grants by name, together with a brief history of each, a list of the decisions of the Supreme Court of the United States which are considered by this department as bearing on the questions under consideration, and the names of the parties who have been representing applicants for lands in said grants.

1. Rancho Lomas de Santiago (Docket 356). Confirmed by the Board of Land Commissioners on August 15, 1854, under the act of March 3, 1851 (9

Stat. 631), according to described boundaries and as containing 4 square leagues, more or less. Upon review of the case by the United States District Court for the Southern District of California, the decree of confirmation was affirmed December 11, 1856. No appeal was taken to the Supreme Court and the decree of confirmation accordingly became final. A survey was duly made in accordance with the decree, and the grant was patented to Teodocio Yorba, February 1, 1868 (patent record vol. 6, pp. 479 to 487, inclusive), for a total of 47,226.61 acres. Copies of departmental decisions of April 30, 1923, and June 7, 1923 (49 L. D. 548, and 49 L. D. 561), are inclosed.

2. Rancho de Los Palos Verdes (Docket 534). Confirmed by the Board of Land Commissioners on December 20, 1853, under the act of March 3, 1851, supra. The decree of said board was affirmed by the United States District Court for the Southern District of California by decree dated December 10, 1856. Subsequent to the final decree, survey of the grant was made, but some question thereafter arose as to the correctness of that survey, the district attorney contending that it did not conform to the final decree and upon hearing, the court ordered that certain corrections should be made by a new survey. From that decree the case was taken upon appeal to the Supreme Court of the United States where it was held that with the surveys following the decrees of the Board of Land Commissioners, the district court had nothing to do. United States *v.* Sepulveda (68 U. S. 104). The grant was patented to José Loreto Sepulveda and Juan Sepulveda, June 22, 1880 (patent record vol. 11, pp. 326 to 350, inclusive), for a total of 31,629.43 acres. A copy of departmental decision of September 22, 1926 (51 L. D. 591), is inclosed.

3. Rancho Topanga Malibu Sequit (Docket 487). Confirmed by the United States District Court for the Southern District of California at its October term, 1864, acting under authority of the act of March 3, 1851, supra. Appeal from that decision was taken by the Government to the Supreme Court of the United States, and by decree of March 10, 1865, the appeal was dismissed on the motion of the Attorney General. At the October term, 1865, the said district court declared the decree of confirmation final. The land was duly surveyed and a patent was issued to Matthew Keller August 29, 1872 (patent record vol. 9, pp. 40 to 56, inclusive), for 13,315.70 acres. A copy of departmental decision of September 19, 1928 (Los Angeles 043056), is inclosed.

4. Ex-mission of San Fernando (Docket 467). Confirmed by said board of commissioners July 3, 1855, under the act of March 3, 1851, supra. An appeal was dismissed and the confirmation became final by decree dated March 15, 1858. A decree was rendered by said district court regarding the boundaries of the grant August 14, 1865. A survey of the grant in accordance with the latter decree was duly made and a patent was issued to Eulogio de Celis, January 8, 1873 (patent record vol. 9, pp. 140 to 163, inclusive), for 116,858.46 acres. A copy of departmental decision of January 26, 1929 (Los Angeles 046070), is inclosed.

5. Rancho Guadalasca (Docket 374). Confirmed by said district court at its December term, 1855, and no appeal having been taken to the Supreme Court, the decree of confirmation was made final by said court at its December term, 1856. The tract confirmed was duly surveyed and a patent was issued to Ysabel Yorba, September 1, 1873 (patent record vol. 8, pp. 412 to 419, inclusive), for 30,593.85 acres. Copies of departmental decisions of January 17, 1927, and May 16, 1927 (Los Angeles 041660), are inclosed.

6. Rancho San Joaquin. (Docket 359.) Confirmed by the Board of Land Commissioners April 25, 1854, and upon review by the United States District Court for the Southern District of California, at its December term, 1856, to the extent of 11 square leagues, and no appeal having been taken to the Supreme Court, the confirmation became final. The tract confirmed was duly surveyed and a patent was issued to Jose Sepulveda September 19, 1867 (vol. 6, pp. 437 to 452, inclusive), for 48,803.16 acres. A copy of the decision of the Commissioner of the General Land Office dated February 13, 1929 (Los Angeles 046708), is inclosed. No departmental decision has as yet been rendered in connection with the title to said grant.

7. Rancho Santiago de Santa Ana. (Docket 578.) Confirmed by the Board of Land Commissioners on July 10, 1855, and upon review thereof by the United States district court at its June term, 1857, the said decree was affirmed and declared final. The tract was duly surveyed and a patent was issued to

Bernardo Yorba and others, December 21, 1883 (patent record vol. 12, pp. 250 to 295, inclusive), for 78,941.49 acres. A copy of the decision of the Commissioner of the General Land Office dated February 14, 1927 (Los Angeles 042667 et al), is inclosed. No departmental decision has as yet been rendered in connection with the title to said grant.

8. Boca de Santa Monica. (Docket 558.) Confirmed by said board of commissioners by decree dated April 4, 1854, and that decree was affirmed by said district court by decree dated December 12, 1856. The latter decree was made final by decree of the latter court dated March 4, 1858. A survey was duly made in accordance with the confirmation, and a patent was issued to Isidro Reyes, and others, July 21, 1881 (patent record vol. 11, pp. 447 to 458, inclusive), for 6,656.93 acres. A copy of the decision of the Acting Commissioner of the General Land Office dated August 12, 1927 (Los Angeles 043965 et al), is inclosed. No departmental decision has as yet been rendered in connection with the title to said grant.

9. Rancho El Encino. (Docket 468.) Confirmed by said board of commissioners by decree dated March 20, 1855. The decree was affirmed by the said district court at its December term, 1857. An appeal was allowed to the Supreme Court of the United States, but the order allowing the appeal was vacated and the decision of the said district court became final under a mandate of the Supreme Court.

A survey was made in accordance with the confirmation, and a patent was issued to Vicente de la Ossa and others, January 8, 1873 (patent record vol. 8, pp. 287 to 292, inclusive), for 4,460.73 acres. I inclose a carbon copy of the decision of the Commissioner of the General Land Office dated January 31, 1929. No appeal has as yet been made to this department.

The Supreme Court decisions are set forth as follows: Atherton *v.* Fowler (96 U. S. 513); Lyle *v.* Patterson (228 U. S. 211); Cunning et al *v.* Morrison et al. (246 U. S. 208); Whitney *v.* United States (181 U. S. 104); United States *v.* Cambuston (20 Howard 59, 631); United States *v.* Vallejo (1 Black, 541); United States *v.* Vigil (13 Wall. 449, 450); Interstate Land Grant Co. *v.* Maxwell Land Grant Co. (139 U. S. 569, 578); United States *v.* Coe (170 U. S. 681, 696); United States *v.* Pico (23 Howard 321); Beard *v.* Federy (3 Wall. 478); Thompson *v.* Los Angeles Farming & Milling Co. (180 U. S. 72); ex-mission of San Fernando grant); Adam *v.* Norris (103 U. S. 591); Miller et al. *v.* Dale et al. (92 U. S. 473); United States *v.* Charles Fossatt (21 Howard 445); Newhall *v.* Sanger (92 U. S. 761); United States *v.* Benjamin Flint et al. (4 Sawyer 42); United States *v.* Throckmorton (98 U. S. 61); LeRoy *v.* Clayton et al. (2 Sawyer 493, 502); Germania Iron Co. *v.* United States (165 U. S. 379, 385); United States *v.* Hancock (133 U. S. 193, 197); United States *v.* Sepulveda (68 U. S. 104), (Rancho de Los Palos Verdes grant); Botiller *v.* Dominguez (130 U. S. 238, 249); Barker *v.* Harvey (181 U. S. 481).

Messrs. Mason, Spalding, and McAtee, Woodward Building, Washington, D. C., are the resident attorneys who have represented applicants applying for lands embraced in the above-mentioned grants; while Mr. Williamson S. Summers, 571–6 I. W. Hollman Building, Los Angeles, Calif., has been the nonresident attorney for the applicants.

Mr. Albert Sidney Brown, 502 Hibernian Building, Los Angeles, Calif., represented the homestead applicants in the matter of the Guadalasco grant, but he is not now representing any of the applicants in the matter of their appeals before this department.

Mr. William C. Ring, 416 West Eighth Street, Los Angeles, Calif., has asked for instructions regarding the filing of appeals in connection with two cases, but so far he has not represented any of the parties in the matter of their appeals to this department.

An examination of the records did not disclose the names of any other parties who have in recent years represented homestead applicants for any of the lands in question.

There are on file in this department copies of the Mexican maps, documents, and other evidence submitted to the said Board of Land Commissioners, and copies of the decisions of the Board of Land Commissioners and of the United States District Court for the Southern District of California, relating to said grants.

Very truly yours,

RAY LYMAN WILBUR.

STATEMENT OF LEONARD S. BARNES, ATTORNEY FOR BENJAMIN ROMERO, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. State your name, please.

Mr. BARNES. Leonard S. Barnes. Mr. Chairman, Mr. Benjamin Romero is the administrator of an estate that he claims has never been terminated, depending on a patent issued in 1843. The grantor of this deed died in 1851, after the grant was confirmed. It has nothing to do with fraud, other than during the administration certain parties bought quitclaim deeds from 4 of the 11 heirs. In 1855 Wilson Sanford bought quitclaim deeds from the 4 heirs and got confirmation of their claims with the reservation that in construing the fifteenth section, the confirmation of these patents should not affect the interest of the three parties. Now Mr. Romero claims, as to the other seven heirs, that that is what this referred to and that they knew it at the time. All of his evidence is documentary, in that it will be certified copies either of grants, court decrees or orders issued, and he asks permission to submit that evidence in the form of certain certified copies of decrees.

The CHAIRMAN. Can you remain long enough, Mr. Barnes, to put in this documentary evidence if we put you on the stand at this time?

Mr. BARNES. No, Mr. Chairman. I just waited to make this statement because I am engaged as counsel in a case and they are waiting for me.

The CHAIRMAN. Is Mr. Romero prepared to present it?

Mr. BARNES. No. He has a great portion of it, but he hasn't all of it.

The CHAIRMAN. If he has more than he is prepared to leave now the committee will gladly receive it if he will submit it.

Mr. BARNES He will be glad to do that, Mr. Chairman.

STATEMENT OF BENJAMIN ROMERO, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Mr. Romero, do you understand what the agreement was with relation to your matter?

Mr. ROMERO. I think I did. I have some of those copies that I would like to submit at your convenience.

The CHAIRMAN. We will try to give you an opportunity to present them. How long would you be?

Mr. ROMERO. Do you mean this week?

The CHAIRMAN. I mean how long would you be in presenting your material to the committee?

Mr. ROMERO. You mean in collecting the data?

The CHAIRMAN. Yes.

Mr. ROMERO. I could not tell. I want to get the whole thing straightened up.

The CHAIRMAN. Would it be convenient for you to come to the quarters of the committee at the Biltmore Hotel at 10.30 o'clock on Saturday morning?

Mr. ROMERO. Oh, certainly, Mr. Chairman.

The CHAIRMAN. Very well, that will be the understanding and you may submit any statement you wish to make.

Has Mr. Armstrong come in yet?

Mr. JOHNSON. I would like to make a statement for Mr. Armstrong, in regard to this statement with reference to Commissioner Spry, or rather, that Commissioner Spry made certain statements. I believe he told me, if my memory serves me right, that that whole thing was made in triplicate, the quotation by Mr. Brainerd B. Smith. I think Mr. Smith has testified that that statement never was made in his presence. I do not say that a quotation from anybody of Mr. Smith's would have any weight against Mr. Spry, when Mr. Smith denies that the statement was ever made. Mr. Armstrong's telephone number is Washington 66506, but I do not think he is there except in the evenings.

Mr. SMITH. Just to correct the record. I haven't said any such thing, regardless of what Mr. Armstrong or anybody else has said.

The CHAIRMAN. Mr. Smith, have you anything you wish to present?

Mr. SMITH. No; I have not.

The CHAIRMAN. Mr. Wilhelm, do you wish to be heard any further?

Mr. WILHELM. I do not think it is material, Mr. Chairman.

The CHAIRMAN. Mr. Wilhelm, if I may ask you this question: In your operations in connection with the group or association of which Mr. Wheeler is the representative, under whose orders were you operating?

Mr. WILHELM. Mr. J. H. Favorite, who is chief of the field division.

The CHAIRMAN. The gentleman who was here on yesterday?

Mr. WILHELM. Yes.

The CHAIRMAN. Is Mr. Favorite here today?

Mr. FAVORITE. Yes; Mr. Chairman.

The CHAIRMAN. Will you please take the stand.

TESTIMONY OF J. H. FAVORITE, CHIEF OF THE FIELD DIVISION OF THE GENERAL LAND OFFICE, DEPARTMENT OF THE INTERIOR.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

Mr. FAVORITE. J. H. Favorite.

The CHAIRMAN. And your official position?

Mr. FAVORITE. Chief of the field division of the General Land Office.

The CHAIRMAN. How long have you been such, Mr. Favorite?

Mr. FAVORITE. Ten years.

The CHAIRMAN. And your headquarters are where?

Mr. FAVORITE. In San Francisco.

The CHAIRMAN. You are conversant with the work which Mr. Wilhelm has done here?

Mr. FAVORITE. I am.

The CHAIRMAN. Was he operating under orders from his superior in his efforts?

Mr. FAVORITE. He was.

The CHAIRMAN. Has there been a complaint filed with you about Mr. Wilhelm's conduct, charging him with conduct as not in keeping with the regulations in doing his work?

Mr. FAVORITE. No; there have been no complaints made to me.

The CHAIRMAN. Have you given consideration and study to Mr. Wilhelm's operations and work?

Mr. FAVORITE. I have been in very close touch with Mr. Wilhelm's work in this case, and related cases, ever since the investigation started.

The CHAIRMAN. Has it ever been charged that Mr. Wilhelm was serving others, removed from the governmental service?

Mr. FAVORITE. No; there have never been any charges of any kind made to me. May I make a statement in connection with the case, Mr. Chairman?

The CHAIRMAN. We shall be very glad to have you do so Mr. Favorite.

Mr. FAVORITE. The case has been a very difficult one to handle, for the reason that all of the persons who were induced to file these homestead applications had been so thoroughly convinced by McLendon and Price, and later on by Summers and Wheeler, that all of this land was in reality public land, that the patents were all fradulently acquired, and that all of the agencies of the Government was in league to prevent these people from having their homesteads allowed, that it was practically impossible to get any of them to give any information. In fact, I know, from having talked with Mr. Wilhelm about the case, and from my own experience in investigating similar cases, that instead of cooperating with him, he has been rebuffed, and insulted and has been treated in such a infamous manner, that I think he should be very highly commended for continuing to pursue the investigation. He was attempting to protect these people, to help them, if possible to recover some of the money that they had spent; but instead of getting any assistance from them, you can see the reaction that has been caused by his efforts.

The CHAIRMAN. If that is all, I will thank you, Mr. Favorite.

FURTHER TESTIMONY OF C. C. GROVE, LOS ANGELES, CALIF.

The CHAIRMAN. Mr. Grove, you were going to bring us some papers this morning.

Mr. GROVE. Yes, sir.

The CHAIRMAN. Documentary evidence that you thought would be of interest to the committtee. Are you prepared to present it at this time?

Mr. GROVE. Yes; I have it here. I guess I will have to point out to you where it is. There is so much stuff. Here is a lot that was shown to the Attorney General and other parties that had been sent out here by the Government. I do not know whether you have these or not.

The CHAIRMAN. This is a petition to the Congress of the United States asking for the document written apparently by Montgomery in behalf of the settlers and the general public——

Mr. GROVE (interrupting). Yes; that was presented to Congress. There are some affidavits in the end of that.

The CHAIRMAN. This does not appear to be dated Mr. Grove.

Mr. GROVE. It is a reprint. It was sent to Congress. I think you will find the date in there, or at least the date of my affidavit.

The CHAIRMAN. The 31st of December, 1895. That will be received as Exhibit AJ.

EXHIBIT AJ

PETITION TO THE PRESIDENT AND CONGRESS OF THE UNITED STATES, ASKING FOR LEGISLATION FOR THE HONOR OF THE GOVERNMENT AND THE PROTECTION OF HOME-SEEKING SETTLERS, INVOKING THE RESTORATION TO THE PUBLIC DOMAIN OF $250,000,000 WORTH OF CALIFORNIA LANDS NOW IN THE GRASP OF WRONGFUL HOLDERS

(By ZACH. MONTGOMERY, on behalf of the settlers and the general public)

TO HIS EXCELLENCY GROVER CLEVELAND, PRESIDENT, AND TO THE UNITED STATES SENATE AND HOUSE OF REPRESENTATIVES, IN CONGRESS ASSEMBLED:

In behalf of American settlers and other citizens, asking for the immediate repeal of so much of an act of Congress passed March 3, 1891, entitled "An act to repeal the timber culture laws and for other purposes," as limits to five years from said date the time in which the Government may bring suits to annul patents therefor issued, etc.

And asking also for such a modification of the homestead laws as will enable homestead settlers to prosecute suits at their own expense to test the validity of land patents believed in good faith to be wholly or partly void or voidable on account of fraud or other illegality, in order to rescue from the grasp of illegal and fraudulent holders and restore to the Government and people at least $250,000,000 of valuable land, the property of the United States.

The undersigned petitioner, Z. Montgomery, a citizen of the United States and of the State of California, respectfully represents to the President and Congress that owing to various causes hereinafter specified, vast bodies of the most valuable public lands in California, the rightful property of the United States, have been, from the earliest settlement of this State by Americans and are now, wrongfully held in large tracts by corporations and individuals to the utter exclusion of American citizens who are entitled to and desire them for settlement.

The public lands thus illegally held may be chiefly divided into the following classes, namely:

I. Lands held under United States patents absolutely void and conveying no title either legal or equitable, because resting on pretended grants void on their face, and based upon void decrees of confirmation, rendered in cases over which neither the lands commissioners nor the courts had any jurisdiction whatever.

II. Lands held under patents that are void because based on mere imaginary surveys, and therefore incapable of being located on the ground.

III. Lands held under fraudulently procured patents, that are not wholly void, because resting upon decrees of confirmation rendered in cases over which the land commissionaries and the courts had jurisdiction; but which are nevertheless voidable, except in cases where the fraudulently procured, but legal, title has passed into the hands of purchasers in good faith for a valuable consideration.

IV. Lands claimed under patents embracing large tracts of country wrongfully and fraudulently included in official surveys greatly in excess of the amount, either granted by the Spanish or Mexican Government, or confirmed to the claimants by the United States land commissioners or the courts.

First. There are lands under patents absolutely void because resting on pretended grants, void on their face and upon void decrees of confirmation.

In this connection the attention of the President and Congress is especially called to the act of Congress entitled:

"An act to ascertain and settle the private land claims in the State of California, passed March 3, 1851."

Section 8 of this act, in fixing and limiting the jurisdiction of the board of land commissioners; by designating the nature and character of the land claims which the board should hear and determine, provides:

"SEC. 8. And be it further enacted that each and every person claiming lands in California by virtue of any right or title derived from the Spanish or Mexi-

can Government, shall present the same to the said commissioners, when sitting as a board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claim; and it shall be the duty of the commissioners, when the case is ready for hearing to proceed promptly to examine the same upon such evidence and upon the evidence produced in behalf of the United States, and to decide upon the validity of the said claims," etc.

This board of land commissioners was not a court of general jurisdiction with power to hear and determine all kinds of cases in law and equity that might come before it, nor was it clothed with power to determine all kinds of claims to land; but it was a special tribunal created for a special purpose, namely, to hear and determine in the language of the act, the claim of "Each and every person claiming lands in California, by virtue of any right or title derived from the Spanish or Mexican Government."

Now it is true that the jurisdiction of the board did not depend upon the ultimate fact (to be proven upon the trial) as to whether the claimant did or did not have a claim to land "by virtue of any right or title, derived from the Spanish or Mexican Government," so that if upon a hearing, it had turned out that a claimant had no such right or title, yet the case might still be within the jurisdiction of the board. The jurisdiction of any judicial tribunal does not depend, as a rule, upon the ultimate facts to be proved upon the trial, but upon the issues made or tendered by the pleadings.

"The subject matter of jurisdiction is to be found in the allegations of the litigants, and not to be ascertained outside of them. If the complaint filed presents a case entitling the plaintiff to the action of the court, then there is a subject matter, though no evidence can be adduced to support any of the allegations in the complaint." (Sec. 17, American State Reports, p. 143.)

Bearing this principle in mind, it becomes apparent that the jurisdiction of the California board of land commissioners over a claim presented to them for confirmation depended on the question as to whether or not the petition asking for confirmation taking its allegations of fact as true, showed "a right or title derived from the Spanish or Mexican Government."

If the petition itself showed that the claimant had no such title, or if it failed to show affirmatively that he had such title, then it is clear that it presented a case over which the board had no jurisdiction, since its jurisdiction was limited to that class of cases named in the act and extended to no others.

In the case of Beard *v.* Federy, the United States Supreme Court put a construction on the language above quoted from section 8 of the act of 1851, and held in effect that in order to give the said board jurisdiction over a claim for a Spanish or Mexican grant, the petition for confirmation must contain allegations sufficient to show a title derived from either Spain or Mexico. In that case while overruling an objection to the jurisdiction of the board, the court after quoting the averments of the claimant's petition for a confirmation of his claim, says:

These averments clearly present a case within the jurisdiction of the board of commissioners. They show a claim by virtue of a right or title derived from the Spanish or Mexican Government, which is all that is required by the act of 1851." (See 5 Wallace, p. 479.)

Most clearly then, according to this decision, in order to give jurisdiction to the board, it was necessary that the petitioner for confirmation of a land claim should at least allege facts sufficient to show that he claimed the land "by virtue of a right or title derived from the Spanish or Mexican Government."

Now the truth is that a large number of claims for vast tracts of California lands were confirmed by those commissioners in compliance with petitions that not only failed to show any right or title derived from the Spanish or Mexican Government, but which showed conclusively, that there was no right or title whatever derived from either of said governments.

For example, in the case of the petition of one Eulogio de Celis, asking for the confirmation to him of the so-called San Fernando Mission grant; the said petition filed October 7, 1852, stated facts which showed clearly that the grant was in direct violation of law and utterly void. Said petition alleged and the so-called grant accompanying the petition showed that instead of a grant made in pursuance of the Mexican law, it was an attempted sale in violation of law for $14,000, of a tract of land alleged to contain about 14 square leagues.

For petition and translation of grant see appendix A.

In the case of the United States *v.* Vallejo, in passing on an attempted sale of land by Governor Pico, made about the same time and for the same alleged purpose of raising money to defend the country against the American forces, the Supreme Court of the United States said:

"The main object to this grant is the want of power in the governor to make it"; and after fully considering the question, the court holds that there was no such power; and on that ground held that Vallejo had no title." (See 1 Black, p. 541 and following.)

Again, in the case of the United States *v.* Workman, the Supreme Court said:

"The Governor of California had no power on the 8th day of June, 1846, either under the colonization law of August 12, 1874, and the regulations of November 1, 1828, nor yet under the dispatch of March 10, 1846, from the minister of war, nor under the proclamation of Mariano Paredes Y Arrilaga, president ad interim of the Mexican Republic, dated March 13, 1846—these two last being made in anticipation of the invasion of California by the forces of the United States, nor under any other authority, to make a valid sale and grant of the mission of San Gabriel, in California." (See 1 Wallace, p. 745.)

But if a pretended sale of the San Gabriel Mission lands made on June 8, 1846, by the Governor of California, was absolutely void for want of power in the governor to make it; was not another sale just like it, by the same governor, embracing the San Fernando Mission lands made nine days later equally void for the same reason?

And if such a sale was absolutely void, then, when the claimant presented his petition for confirmation to the Board of Land Commissioners, setting out as he did the very facts that made his claim void, can it be said that the claim so presented came within the description of that particular class of claims over which the act above quoted gave the board jurisdiction to hear and determine? That is to say, did such a petition show that the petitioner was a "person claiming lands in California by virtue of a right or title derived from the Spanish or Mexican Government"? On the contrary; if the Supreme Court decisions above cited are to be taken as the law, and they have never been overruled, did not the petition of the claimant show conclusively that the petitioner was a "person claiming lands in California, by virtue of" no "right or title derived from the Spanish or Mexican Government"?

Bearing in mind that it is the petition that determines the question of the jurisdiction of the Board of Land Commissioners over claims presented for its consideration; let us suppose that the claimant in his petition instead of stating facts, showing as he did that Governor Pico had without any authority of law, deeded to him the land claimed; had stated as his source of title that the land had been deeded to him by the Russian Fur Co., could it be pretended that the board would have had any jurisdiction to consider such a claim, or to hear evidence in its support? And yet, would not a sale of these lands by the Russian Fur Co., without any legal authority from the Mexican Government come as near conveying a "right and title derived from the Spanish or Mexican Government" as would a sale made by Governor Pico without any legal authority to make such sale?

The position here taken is greatly strengthened when considered in the light of other portions of said act creating said board and defining its powers and duties. Congress seems to have been well aware of the existence of the Mexican law, denying to the Governor of California the power to grant mission lands; and hence by section 16 of the act referred, it is provided:

"That it shall be the duty of the commissioners herein provided for to ascertain and report to the Secretary of the Interior the tenure by which the mission lands are held; and those held by civilized Indians, and those who are engaged in agriculture or labor of any kind, and also those which are occupied and cultivated by pueblos or rancheros Indians."

Here is a specific and clearly defined and limited duty, pointed out to the board by the very law of its own creation with reference to these mission lands. Congress, knowing that they had not been and could not under the Mexican law be granted, and knowing, too, that the civilized Indians were occupants and cultivators of these mission lands, evidently intended to treat at least that much of California's domain as Government property, subject to certain rights of the occupants. Hence it was, that the whole matter was relegated to the Secretary of the Interior, who, under the law, was and still is charged with the duty of supervising and managing and protecting the public domain.

Undoubtedly the reason for requiring the board to "ascertain and report to the Secretary the tenure by which the mission lands were held," was to enable

him to deal justly with the occupants, and to recommend such legislation as might be deemed necessary for the protection of these Indians, the tenants and wards of the Government.

In thus prescribing by law the action that the commissioners should take with reference to mission lands—under the universally recognized maxim "expressio unius exclusio alterium"—the board was as effectually prohibited from taking any other action with reference to these mission lands as if Congress had in terms forbidden it to do so.

If, then, the de Celis claim was void in law, as shown on the face of the claimant's petition, and if the commissioner's decree of confirmation was void for want of jurisdiction, it clearly follows that all subsequent proceedings, including the decree of affirmance by the United States district court, as well as the surveying and patenting of the land, were also void. It is settled law that where a lower court has no jurisdiction, "it necessarily follows that the appellate court could not acquire any by appeal." (See Levy *v.* Shurman, 42 American Decisions, 692.)

This decree of confirmation having thus been made without jurisdiction, and void, it is a necessary consequence that the land patent resting thereon is also void.

Section 13 of the act above quoted for the ascertation and settlement of private land claims in California, designates the cases in which patents for land claims shall be issued. It provides among other things that—

"For all claims finally confirmed by said commissioners, or by the said district or Supreme Court, a patent shall issue to the claimant upon his presenting to the General Land Office an authentic certificate of such confirmation and a plat or survey of the said land, duly certified and approved by the surveyor general of California, whose duty it shall be to cause all private claims which shall be finally confirmed, to be accurately surveyed," etc.

Thus it is clear that there was no authority to either survey or patent a private land claim in California until the same had been "confirmed"; which, of course, means validly confirmed, for a void confirmation is no confirmation. (See Williams *v.* Case, 67 American Decisions, 374.)

Indeed the authorities in support of this principle run through all the books and are innumerable and without conflict.

Here, then, are the nature and source of the so-called title, under which two corporations are to-day holding some 26 square leagues, or about 116,000 acres of the most valuable lands in southern California, directly adjacent to the great and growing city of Los Angeles, and worth, exclusive of improvements, at least twelve millions of dollars. Perhaps the question may be asked, how it was possible that, while only 14 leagues were embraced in this so-called decree of confirmation, yet 26 leagues were covered by the patent?

In answer to this inquiry, your petitioner does not hesitate to declare that whoever will scrutinize carefully the official acts of those public functionaries, who have, from time to time, been entrusted with the responsible duty of either adjudicating or fixing bounds to these Spanish and Mexican land claims in California, will be forced to the conclusion that, in very many instances, neither law nor justice, nor common sense has had a feather's weight with these officials, as against the grasping greed of fraudulent land claimants. Nor is this charge made without thoroughly weighing the words in which it is couched. Let the law and the facts speak for themselves. For example: The Mexican law forbade the granting of more than 11 leagues of land to any one individual.

"A grant by the Governor of California, of more than 11 leagues to one person was void as to the excess." (U. S. *v.* Hartnell, 22 Howard, 286, and U. S. *v.* Larkin, 18 Howard, 557; U. S. *v.* Central Pacific R. R. Co., 11 Federal Reporter, 449.) So that, even if this grant of San Fernando mission lands had not been otherwise void, as a grant, it would certainly have been void as to 3 of the 14 leagues, attempted to be granted, simply for the want of power in the governor to make so large a grant to one person. In other words, 3 leagues out of the 14 would still have been Government lands; and the commissioners would have had no more legal authority to award to the claimant these 3 leagues of the public domain, than they would have had to award him 3,000 leagues.

If this is not sound doctrine, then where shall we draw the line of limitation? Where shall we set a boundary to the land-granting power of this board of commissioners?

And if, without any authority, and in defiance of law, these commissioners could donate three leagues of Government land, to Mr. de Celis, so as to make his claim three leagues larger than the law allowed, all by virtue of a self-

assumed power, why could not a United States deputy surveyor, with equal propriety and by the exercise of the same kind of arbitrary authority, add 12 leagues more, so as to make it 26 instead of 14 leagues?

At all events, this is just what was done, and what still remains without having been undone. But even this is only one specimen of the startling usurpations perpetrated by said board and by the United States surveyors, in the way of robbing the Government and the people of their most valuable lands.

According to a carefully prepared report now in the hands of your petitioner, notwithstanding the law above referred to making void all grants of more than 11 leagues of land to any one person, it is a fact, that, by means of the combined usurpations of said board of land commissioners and the United States surveyor and the illegal cooperation of other Government officials, there stand patented to one claimant, namely, one "Jose de la y Guerra Noriega," some 53 square leagues of land, aggregating 236,525 acres, being 42 leagues in excess of what the law allowed.

Returning again to the action of the board in confirming claims based on pretended sales, or grants on mission lands, in cases over which it had no jurisdiction—for reasons already stated—the said claim of de Celis for the mission lands of San Fernando, and said void decree of confirmation followed by a void patent, only opened the way for the confirmation and patenting of several other claims of the same class.

For example: Besides said mission San Fernando, patented for over 116,000 acres, there is the following:

Mission of San Fernando, 116,858 acres; Mission of San Diego, 58,875 acres; Mission Vieja de Purissima of, 4,413 acres; Mission Vieja or La Paz of, 46,432 acres; Mission La Purissima of, 14,735 acres; Mission San Buenaventura of, 48,823 acres; Mission de Soledad of, 8,900 acres. Aggregating in all some 299,036 acres.

It is a well-known fact that the missionary fathers of California exercised remarkable sagacity and good judgment by locating their missions in the very garden spots of the country. Hence, in being despoiled of these mission lands, our Government and people suffer a loss almost beyond computation.

FICTITIOUS AND FRAUDULENT SURVEYS

As already indicated, another instrumentality, utilized by unscrupulous and fraudulent land claimants to further their nefarious schemes, has been the surveying department.

A few years ago the whole country was startled and astounded by reports touching the alleged frauds perpetrated on the Government in the matter of what were popularly known as the Benson surveys. Many of these so-called Benson surveys were said to have been in fact no surveys at all, but to have consisted chiefly of maps and field notes skillfully prepared in a private office without any actual survey having been made on the ground to correspond therewith. And that consequently, while both maps and field notes seemed all straight and fair, there was no possibility of tracing on the ground the land supposed to have been surveyed, for the reason that neither the stakes nor natural monuments named in the field notes could be found.

Whatever may have been the nature of the Benson surveys, it is quite evident that his were not the first, nor the only California surveys made wholly or in great part in a surveyor's office instead of on the ground.

Returning again to the survey and patenting of the San Fernando Rancho, embracing, as before stated, some 26 square leagues, what was supposed to have been an official survey of this tract, was reported as made in December, 1858, by Mr. Henry Hancock, a deputy United States surveyor. And upon this reported survey a patent was issued. On paper, the survey seems unimpeachable, except for the fact of its embracing about twice as much land as was even claimed by the patentee. The surveyor's courses and distances, as given in his report, refer to natural and artificial monuments, such as mountain peak, marked trees, stakes, and stones, etc., and also to certain Government section corners, with such seemingly clearness that one would naturally suppose there could be no possible difficulty in tracing his lines on the ground. And yet, in 1871, when a Los Angeles court was called upon to partition this ranch between two companies, it was impossible to find its boundaries; and a new survey was made at great expense by one Reynolds, in order, if possible,

to find the land that had been patented. In making this second survey, none of the Hancock stakes could be identified with any certainty, and so indefinite and uncertain were the natural monuments referred to, and so much at variance both with his courses and distances and with the said Government section and quarter section corners, were his supposed natural monuments, that in attempting to follow them, Reynolds excluded from one side of the ranch several thousand acres of land, consisting of a strip half a mile wide and several miles long, that had been previously claimed under the patent, and took in a corresponding quantity of better land on another side that had not until then been claimed by the grant holders. But even this second survey was so unsatisfactory to the claimants that in 1892, they employed a third surveyor—one Ensign, at a cost of $4,000—to make still another survey. But no two of these surveys agree, so that now the whole thing is, if possible, in a worse muddle than ever before. For a comparison of these surveys, see field notes, Exhibit B.

Besides the impossibility of tracing on the ground the evidences of any patent survey of this San Fernando Ranch, there are many other convincing reasons for believing that no patent survey was ever in fact made. One of these additional reasons is that Hancock reports his survey as having been made in December, 1858, under orders received in September previously; and that in running his lines he commenced at the southeast corner of the ranch and ran the east line first and closed by running the south line last; while one R. Pico, one of Hancock's assistants, who doubtless was not familiar with Hancock's report, testified on the trial of a recent ejectment suit in Los Angeles that the survey was made, not in December, but during the summer of 1858; and he swears positively that instead of running the east line first and the south line last, as indicated by Hancock's field notes, they ran in the opposite direction, and surveyed the south line first and the east line last. But a still more convincing proof that Hancock's surveys, not only of the San Fernando Ranch, but of many other ranchos, were chiefly made, not on the ground, but in his office, is found in the fact of the enormous and impossible quantity of surveying he reports as having been done by him about that time. The appended tabulated statement, marked "Exhibit C," taken from the records in the surveyor general's office, shows that, beginning with September 1, 1858, and ending in December, 1858, Hancock was ordered to make surveys of some 36 private land claims in southern California, ranging in size—according to the surveyor's report—from 5 miles and a fraction, up to 61 miles and more in circumference, and aggregating some 826 miles. The first preliminary affidavits of Hancock's assistants are dated September 6, and the last of these reputed surveys bears date the — day of December following (1858). Supposing it to have been the last day of December, the time employed in surveying these 36 immense claims would be just 3 months and 25 days, Sundays and holidays included. And these months, it should be remembered embrace the shortest days in the year. Your petitioner is no surveyor, but from information gathered from those who are surveyors, he pronounces it an utter impossibility for Mr. Hancock to have accomplished the work reported, within the time reported. In confirmation of this statement your petitioner refers to the official letter of deputy United States surveyor of California, Mr. Ralph Norris, which will be found at pages 224 and 225 of the report of the commissioner of the General Land Office for 1858, where he asserts positively that "not more than two of these ranchos can be surveyed per month." As might have been reasonably expected the patenting of these immense tracts of land upon the basis of entirely or partially fictitious surveys, without either natural or artificial monuments on the ground to correspond with those mentioned in the surveyor's field notes, and in the patent, makes it impossible for any human being to find their boundaries, or to locate the division lines between those Mexican land claims and the Government lands that remain unclaimed. This condition of things opens wide, and keeps perpetually standing open, a door for other and unlimited frauds on the part of greedy land claimants.

There being no sufficient marks or monuments of any kind to identify the land claimed under the patent, wherever the unfortunate settler may pitch his tent or build his cabin, the chances are that by the time his improvements are well under way, he will be notified by the agent of some land corporation, or some landed multimillionaire, that he is within the patented boundaries of a Mexican claim, and that he must either pay for the land or quit the country. And to prove to him what an unprincipled land pirate he (the settler) is, this agent will unroll a formidable looking map and read to him the surveyor's field

notes, referring to various trees and stones, mountain peaks and little running rivulets, as boundary monuments, and finding the whole country abounding in trees and stones, and peaks and rivulets, this agent can without the least difficulty select as boundary monuments, just such as will suit his purpose in order to prove to the settler that he is within the patent boundaries of a Mexican land claim. But whether the settler is satisfied with the explanation given or not, he knows very well that he has not the pecuniary ability to cope successfully in the courts with men of millions. And therefore he either buys the land or leaves the neighborhood.

Knowing as they do the utter folly of a poor man's attempting to combat single-handed and alone these men of millions, and knowing that in union there is strength, they sometimes form associations, and combine their scanty means, for the purpose of making a united stand against the unjust demands of claimants under these elastic and floating patents, that never find a resting place. But whenever one of these associations is formed, with as honorable, as honest, and as praiseworthy a motive as ever united a band of patriots, and just as soon as it becomes apparent that they propose to make a united and determined effort to expose land frauds, defend their homes against robbers, and expose to the public gaze the infamous plots and schemes resorted to by vile men in broadcloth, to despoil them of their's and the Government's property; that moment are they denounced not only as thieving squatters and land pirates but because of the united efforts in the cause of justice, they are branded as "conspirators" and threatened with a felon's doom.

A REMARKABLE CASE, UNIQUE EVEN AMONG CALIFORNIA FRAUDS

The case of the rancho Lomas de Santiago presents these remarkable features:

The petition to the Mexican governor asking for the grant was dated October 10, 1846, upward of three months after the country had passed under the dominion of the United States, and the grant is dated in May, 1846, about five months before it was petitioned for. Who will deny that this grant was made after the conquest and dated back?

But worse still, this false grant was confirmed for 4 leagues, seemingly surveyed for 4 leagues and afterwards patented for 11 leagues. But where its boundaries now are is a matter that principally depends upon the will of its present proprietor, one Irvine, who seems to keep the whole country thereabouts in a whirlpool of litigation.

Adjoining this claim is another—the rancho San Joaquin—a claim confirmed for 11 leagues, a report of survey of 11 leagues and a patent for 11 leagues, but never having seemingly been surveyed on the ground, like other patented claims based wholly or chiefly on fictitious surveys, it is susceptable of being slid north, south, east or west, just as the lust for more land may suggest.

WHO IS RESPONSIBLE FOR THESE FRAUDS?

On wholly unacquainted with the personal history as well as the personal professional and political interests of those to whom has been chiefly entrusted the duty of protecting the public lands of California against the insatiable grasp of unscrupulous land claimants, would find it difficult to understand, in the first place, how it was that not only fraudulent grants but that so many absolutely void grants were permitted to pass to confirmation and to patent; or how it is that so much more land has been patented than was either claimed by or confirmed to the original petitioners. And still more difficult is it to understand how it was and why it was, that these illegal claimants have been allowed so long to hold and enjoy their spoils.

Your petitioner will now attempt to explain this singular problem.

Briefly stated, the explanation is found in the fact that the legislation, the litigation and the adjudication affecting the Spanish and Mexican land grants in California has to a preponderating extent been intrusted to those who were either directly or indirectly interested against the Government, or else to those whose judgments had been previously warped against the rights of the Government by reason of their having been employed professionally as attorneys and paid for their services on the opposite side, and who for their elevation to office were indebted to the money and influence of the very men whose ruling passion was a grasping greed for grants.

CONGRESS IN THE CLUTCHES OF GRANT HOLDERS

March 3, 1851, when Congress passed an act (already referred to) for the settlement of California land claims, Gen. John C. Fremont, a claimant for an immense Mexican grant—usually known as the Mariposa grant—was representing California in the United States Senate. Not only was Fremont, himself a large grant claimant, but so was his brother-in-law, Mr. William Carey Jones. And both Fremond and Jones were the son-in-law of the Hon. Thomas H. Benton, then also a United States Senator. And nobody ever heard of Senator Benton ever having neglected the interests of his own household. It was on the very last day of the senatorial career, both of Benton and Fremont, that the act referred to was passed.

The thirteenth section to this act, in defining what shall constitute public lands in California, amongst other things, provides:

"That all lands, the claims to which have been finally rejected by the commissioners in manner herein provided, or which shall be finally decided to be invalid by the district or Supreme Court, and all lands the claim to which shall not have been presented to the commissioners within two years after the date of this act, are considered as a part of the public domain of the United States."

Under this law, it is clear that throughout the broad domain of California, there was not one solitary acre that was allowed to be treated as public land until the expiration of two years from the date of said act, because no lands were to be deemed public lands for which claims shall have been "presented to the said commissioners within two years." And no man living, unless endowed with the gift of prophecy, could tell how many or what kind of claims, either genuine or forged, might be presented within the next two years after the passage of said act. It is in fact a matter of history that before two years had gone by, nearly the entire State was literally plastered over with real or pretended Mexican land grants, a very large proportion of which have since been ascertained to have been made in violation of law and utterly void, while in other cases they were either forged or made by an ex-governor of California, and antedated, after the Territory had passed under the dominion of the United States.

So that even after the expiration of the two years for presenting land claims had expired, still there was very little land, that under said law of March 3, 1851 was allowed to be regarded as "public land."

In perfect keeping with this singular law that ought to have been entitled "A law to encourage the forging of Mexican land grants." Congress on March 3, 1853, passed another law entitled "An act to provide for the survey of the public lands in California, the granting of pre-emption rights therein and for other purposes."

Although neither the Hon. Thomas H. Benton nor General Fremont, was then in the Senate they were evidently not indifferent to congressional legislation, touching the interests of grant claimants in California. At all events, good care was taken that no California settler should obtain a foothold upon an acre of land that was coveted by the claimant of any sort of a grant, real or pretended. Hence it is provided in section 6 of this act that the pre-emption laws in California, should not apply to any "lands claimed under any foreign grant or title."

So that no difference whether the grant was genuine or forged; whether valid or utterly void; and no difference whether the quantity of land claimed was limited to that called for in the real or pretended grant; or whether it was a hundred times more; still no settler was allowed to pitch his tent or build his cabin within its boundaries.

Under this law, coupled with the act of March 3, 1851, any thief or robber might forge a grant—as many did—and hold as many leagues of land as he pleased. And woe to the unfortunate settler who ventured to set foot within his self-assumed bounds, or who dared to question his title in a court of justice.

As a result of a lawsuit between settler and grant claimant, the poor settler generally went out of court taxed with a heavy bill of costs and branded as a land pirate by opposing counsel, if not by the court, while the real land pirate walked forth with head erect, honored, flattered, and applauded as a good law-abiding citizen.

After closing the doors of the courts and the land department against the settlers and their attorneys, by the laws above quoted, the next step was to enlist in their service, for large contingent fees, consisting generally of half

the land they claimed, the ablest, most cunning, and often the most unscrupulous lawyers in the country; while on the other hand they so managed matters at Washington through their emissaries, either on the floor or in the lobbies of Congress, as to prevent any sufficient appropriation to defray the expenses of detectives, witnesses, or documentary evidence, or for employing able and honorable counsel, who might oppose and defeat their plans.

Attorney General Black, in a letter addressed to Hon. R. H. Hunter, under date of May 26, 1858, complains most bitterly of the defeat of a bill to appropriate $40,000 in order to enable him to protect public lands in California. In that letter he says:

"The communications I have heretofore made to the proper committees and to the Speaker of the House, will show, if they are examined, that the Government is very deeply concerned. The title of the United States to all the valuable buildings in San Francisco and Sacremento, including the fortifications which constitute the only defense of the former city, is disputed. One person has demanded public property, the value of which is estimated at $12,000,000, and private property worth three times as much more. There are many other claims, not much smaller, equally entitled to vigorous opposition.

"I devoutly believe them to be based on forged papers and supported by the basest perjury. But these fabricated titles have been skillfully made and the false oaths are perilously bold, so that some of them have found favor in the eyes of the local courts.

"To expose and defeat them will require labor, energy, and talents, which can not be got without paying for them."

Yet the United States House of Representatives seemed unwilling to pay for labor, energy, and talent to defeat these frauds. And it was in keeping with this same spirit so pleasing and so profitable to these bold bad men, who were enriching themselves by appropriating public property, that in 1852 Congress, as the only means of opposing the immense array of legal talent enlisted in behalf of fabricated lands claims, provided that the Government should be represented before the board of land commissioners by a single law agent, or his assistant. Upon these two law agents was devolved not only the legal work in court, but the still more onerous legal work out of court. And, as if to guard against the danger of getting a law agent of too much talent and ability, it was carefully provided by the act in question:

"That the compensation of the agent and his associate shall not exceed $5,000 each." A sum at that day little more than sufficient to pay for a man's board and lodging at a respectable California hotel. These law agents were expected, not only to attend all the sessions of the commission, examine and cross-examine witnesses, but upon them devolved the duty also of ransacking the State for the evidence, oral and written, to prove the grant forgeries, and to disprove the false testimony of armies of trained witnesses, large numbers of whom—as subsequent events have shown—were simply swearing in their own behalf.

In thus limiting to $5,000 a year the compensation of the two legal representatives, charged with the duty of protecting hundreds of millions of dollars worth of its valuable property against a band of as cunning and unscrupulous a combination of forgers, perjurers, and suborners of perjury as ever cursed the earth; while I will not assert positively that Congress intended thereby to legislate in the interest of fraud, I will say that if Congress had so intended it could not possibly have made laws better suited to carry out their intentions.

I ask, in all candor, if it would be possible to find anybody, man or woman, not requiring the guardianship of a lunatic asylum, who, in the face of like difficulties, and in opposition to a like array of legal talent, would undertake the defense of hundreds of millions of dollars worth of his own property, by letting out the job to a couple of young attorneys for a fee scarcely sufficient to pay for their board and lodging?

Small, however, as was this compensation, in some instances at least, it was far in excess of the value of any honest services received by the Government in exchange therefor. For, as we shall see further on, at least one of these agents during a good part of the time of his law agency, was carrying on a very large law practice against the Government in behalf of certain claimants of these Mexican grants.

The Government being thus crippled and handicapped in the board of commissioners, thus overmatched in available resources, both for the procurement of evidence and the employment of counsel, these antedated and forged grants generally achieved an easy victory. When these cases were appealed to the

United States district court, the contest was, if possible, still more unequal. There the entire work of representing the Government as against the antagonistic array of able lawyers devolved on the United States district attorney, who was as yet a stranger to the cases he was to try; while the land claimant's side of each case stood represented by one or more able counsel who, from having already once tried the cases, was thoroughly familiar with the law and the evidence relied upon.

In line with what is here said, I will quote from a communication of Hon. Jere. S. Black, United States attorney general, addressed to the chairman of the Senate Judiciary Committee April 22, 1858. Among other things he says:

"The interests of the United States with reference to these land claims in California, have heretofore generally been in the hands of the successive district attorneys. * * * But one person can not possibly perform the great labor required by them, even if the other business of the office did not require his whole attention. There is no authority to employ an assistant or even a clerk."

Fortunate it would have been for the interests and honor of the Government if even that one attorney charged with the tremendous duty of protecting its interests in the courts had always proved true to his trust.

But in harmony with their undeviating policy of fraud and corruption these claimants of illegal grants, made it a point, whenever possible, to secure the appointment to the office of United States district attorney, especially for the southern district of California, a lawyer, who was himself, either a claimant, or attorney for claimants of grants as spurious as their own. Accordingly the Hon. Pacificus Ord was appointed to this responsible office, and held the same from December, 1854, to July, 1858.

Your petitioner is not guessing at his facts, when he says that Mr. Ord, while undertaking to represent the Government in opposition to Mexican grant claimants, was himself both claimant and attorney for such claimants.

By turning to 23 Howard's United States Supreme Court Reports, page 332, in an opinion delivered by Mr. Justice Wayne in the case of United States *v.* Gomez, we read:

"Mr. Ord was originally the attorney of Gomez before the board of land commissioners, and filed his petition there as such on the 9th of February, 1853. He was not then district attorney, but he became so on the 1st day of July, 1854, before the land commissioners decided the case against his client.

"After his appointment and after an order had been obtained, at his instance to remove the cause from the northern district of California to the southern, of which he was the district attorney, and whilst the cause was pending in the latter, he took from Gomez, for the nominal consideration of $1, a transfer to himself for one-half of the land in controversy.

"[The claim being for 4 square leagues.] This Mr. Ord admits, in his affidavit presented to this court by counsel, the conveyance bears date on the 24th of November, 1856. * * * No record of the conveyance to him was made until after the claim had been confirmed by the district judge, upon his representation as district attorney that there was no objection to its confirmation: in other words, that he thought the claim a valid claim and within the rulings of the court in other claims of the same kind."

What earthly chance did the Government have, in a case like this, where its own attorney was interested to the extent of 2 leagues of land in defeating the Government.

But, according to Mr. Ord's own sworn statement, his interest, as against the Government, reached much farther than this one case. In an affidavit of his, published in connection with the opinion above quoted, wherein he attempts to excuse his official conduct in representing the side of the Government as against himself and getting the Goverhment so badly worsted in the contest, he makes this statement, namely:

"Affiant says that he wrote to the Attorney General of the United States shortly after assuming the duties of the office of district attorney, about December, 1854, stating that he had been employed as counsel, and was interested in several claims then pending on appeal, in his district, from the land commissioners, and requested that he would cause some attorney to be specially named to represent the United States in such cases."

This, he says, the Attorney General neglected to do.

But what good would it have done for the Attorney General to have named special counsel to represent the Government in those particular cases, in which the district attorney was interested adversely to the Government, while

the district attorney was still representing the Government in a multitude of other cases of the very same class, and which could not be decided in favor of the Government without making precedents that must prove disastrous to his own and his clients' claims? For all practical purposes, he might just as well have represented the Government in those cases where he was part owner and attorney on the other side, as to have represented the Government in the very same class of cases, the decision of which must necessarily control the decision of his own.

INTERESTED LAW AGENTS

It seems that Mr. Isaac Hartman, the Government's chief law agent for southern California, was just about as disinterested a patriot as was its district attorney.

In 23 Howard's United States Supreme Court Reports, page 334, in the case already referred to, the Supreme Court, speaking of Mr. Hartman, couples his name very significantly with that of Mr. Ord, where it declares that certain conduct of "Hartman in the case, shows a connection between himself and Mr. Ord which throws suspicion upon both, that is aggravated by Hartman's deposition, by that of other persons, and by the narrative given by Ord of his conduct in the suit."

Notwithstanding that Hartman seems to have been hand and glove with Ord in this remarkable proceeding wherein Ord undertook to represent the Government's side of a suit against himself; and notwithstanding the further fact that from February 14, 1856, to April 7, 1862, either Hartman alone, or the firm of Sloan & Hartman, of which he was a member, represented, as against the Government, some 48 large Mexican land claims. Mr. Hartman, during the same period, in the great magnanimity of his patriotic heart, and in order to protect the Government against fraudulent land claimants, appeared in 11 different cases as United States law agent.

In nearly all the cases where the Government was despoiled of its mission lands, Mr. Hartman figured as United States law agent. For a tabulated list of these cases wherein Hartman so generously divided his valuable services between the Government and those who were swindling the Government out of its lands, see Exhibit D hereunto appended. A careful examination of this exhibit will also reveal the fact that in two of the cases, namely, that of San Diego Mission and San Luis Obispo, Hartman was attorney for the Government while his firm was attorney against the Government. Other Government law agents played a similar part, but Mr. Hartman held the chief laboring oar in that kind of work.

Surveying for the Government and attorney against the Government—in the selfsame cases, at the same time.

Not content with enlisting in their service the Government attorney and the Government law agent, these scheming land pirates, also had as their hired counsel in numerous cases, one of the United States deputy surveyors. We have already seen how Henry Hancock, a deputy United States surveyor, managed by means of his field notes to so magnify a 14-league claim as to make it cover 26 square leagues of the finest land in California, upon the outskirts of Los Angeles City, where nobody has ever been able to find its boundaries.

And the records of the courts reveal the fact that both before and after reporting that survey, this same Government surveyor was the hired and acting attorney against the Government, aiding, abetting, concocting, and consummating this stupendous wrong against his country and his country's laws.

Exhibit F, appended hereto, will show that while Hancock was acting as deputy United States surveyor, locating and magnifying Mexican land claims, he was at the same time practicing in the Federal courts representing an immense number of these claims, including that of the said mission lands of San Fernando.

Inasmuch as these land attorneys frequently worked for a one-half interest in the claims they represented, when, after winning their cases, they were accorded the blessed privilege of surveying their own and their client's lands, practically without any limit as to quantity, nobody need certainly be surprised at their having given themselves full measure, heaped up and running over.

But the surveyor who would swindle his Government for a fee in land, would not hesitate to render the same service for money. Whether these lawyers were working for land, or money, or purely for the love of the rogues they were serving, your petitioner does not now know. Nor does he know just

how many there were of these Mexican claims, the surveying and locating of which was entrusted by the Government to other attorneys for claimants, just as was done in the cases of the San Fernando Mission claim, the Los Cerritos claim, the San Pascolito claim, and the Las Bolsas claim, all of which were surveyed by Hancock, the counsel for the claimants. But certain it is that, as a rule, the surveyors never allowed the Government to get any advantage of the claimants, either in quantity or quality of the land to be embraced in their claims. Somehow or other, the odds were generally in favor of the claimant. Sometimes double, sometimes treble, and sometimes even more. For example: The Ausaymas rancho embraced but four square leagues, or 17,776 acres; but the surveyor made it 35,504 acres. The Huerhuoro rancho was confirmed to M. Bonnilla, for 1 league, or 4,444 acres; but the surveyor, in the excessive generosity of his great heart, made it nearly four times that much, namely 15,684 acres. The San Jacinto rancho was confirmed to J. A. Estudillo for 4 square leagues, or 17,776 acres; but the surveyor made it 35,503 acres.

The Canada de Verde was confirmed to A. Alvarado for one-half a league, or 2,222 acres; but the surveyor augmented it to 6,659 acres.

The Ballona rancho was confirmed to A. Machado for 1 league, or 4,444 acres; but the surveyor concluded to donate enough more to make it 13,919 acres. The La Puenta rancho was confirmed to Juan Roland et al. for 4 square leagues, or 17,776 acres; but the surveyor expanded it to 48,790 acres.

HOW LONG MUST A CRIME BE PERPETUATED TO MAKE IT A VIRTUE?

Mr. Justice Field, sitting as circuit judge, in deciding the case of the United States v. Flint and others, seemed to consider the rights of the Government in these lands of which it had been defrauded too "stale" to entitle them to the consideration of a court of equity. (See 4 Sawyer 42–87.)

But your petitioner begs leave to suggest that until the passage of the limitation act of March 3, 1891, there was no statute of limitations as against the United States. And with all due deference to the distinguished author of that decision, it seems but proper to say, that those Government officials, whether legislative, executive or judicial, whose official action has mostly largely contributed to uphold, as against the Government and people, these iniquitous Mexican claims, ought not now to virtually plead their own aches as an excuse for making this great wrong perpetual.

Without undertaking to assail or discuss the motives of Mr. Justice Field's actions, the fact is undeniable that for more than 45 years past the whole weight of his great talents and learning, first as a lawyer, and then as a judge, has been wielded in the support of spurious land claims as against the rights of the Government, and the just demands of the settlers.

Your petitioner well remembers as far back as the early fifties, when Gen. John A. Sutter and his grantees, claimed 33 leagues of land under two alleged grants, one genuine for 11 leagues, and the other spurious for 22 leagues. At that time Hon. Stephen J. Field was the leading counsel for a large and wealthy clientage who sought to eject from their homes settlers occupying lands claimed under the grants referred to.

These grants purported to be within a territory known as the New Helvetia, covering about 40 square leagues. At the time mentioned there had been no patent and no survey of the genuine grant or the spurious one. So that, even if both grants had been valid, no one could have told whether a given quarter section was a part of the 33 leagues claimed under Sutter, or whether it was a part of the other 11 leagues conceded to belong to the United States.

Under these conditions, even Mr. Field, with all his forensic powers, aided by a willing court, was not able to pursuade an honest jury of his country to guess these settlers out of house and home, and turn over both land and improvements to those voracious speculators.

But the great land grant claimants of California knew full well that Mr. Field, as a supreme court judge, could serve them far more efficiently than as a lawyer. Therefore, in the year 1857, he was elected to that exalted position, and his old clients soon found that neither their labors nor their money used in placing him on the bench had been spent in vain. Shortly after Mr. Justice Field's election to the California supreme judgeship, he rendered his celebrated decision in the case of Ferris v. Coover, in which he broadly laid down the law to be that whenever there was a Spanish or Mexican grant of a given quantity of land within definite boundaries embracing a larger tract than was

granted, until the grant was located, "the right of the grantee remained good to the possession of the entire tract within the designated boundaries." (10 Calif. 590.)

This decision had been preceded by one nearly as bad by another, but less able judge, and also found some color of support in the congressional legislation before mentioned, whereby all sort of claims under all sorts of foreign grants, great or small, real or pretended, genuine or forged, were excluded from the operation of the preemption laws. Under the operation of this decision nearly all the choice lands or this State, whether granted or ungranted, were virtually turned over into the hands of grant claimants.

At the time of its rendition, the 40 leagues of land within the boundaries of New Helvetia, all of which was splendid agricultural land, lying in the very heart of the great valleys of Sacramento and Feather River, surrounded and partly covered with thriving towns and cities, including the cities of Marysville and Sacramento, the capital of the State, was dotted over with little farms, occupied, cultivated, improved and made valuable by the toil and sweat and invested capital of the settlers.

This decision enabled the owners of the Sutter grant, of 11 leagues, to force every one of these settlers within this space of 40 leagues to either purchase, without getting a title, the land he occupied, and the improvements he himself had made, or else abandon his home and begin life's struggle anew, without a penny, and without a well-grounded hope, that a second venture to build a home, on the public domain, would prove any less disastrous than the first. For who could tell how soon some other land robber—under color of the law, and with the sanction of the courts—would turn him out of doors in order to appropriate the fruits of his labor?

This very same decision that enabled unscrupulous speculators to sell and pocket the ill-gotten price of 29 leagues of Government land, within the boundaries of New Helvetia, applied as well to hundreds of other leagues of surplus lands, within the vast limits of other districts, wherein were some sort of claims for Mexican grants either genuine or spurious, and, in order to enable the claimant to utilize that decision, either forged or otherwise illegal grants, were just as effectual as genuine ones. This same construction of our land laws has also been incorporated into the United States Supreme Court decisions.

After more than 45 years of law practice in California, your petitioner asserts, without fear of successful contradiction, that the value of the lands and improvements, which the above, and other like decisions of our courts—State and Federal—have enabled fraudulent grant claimants under color of law, to unjustly extort from the settlers of this State, far surpasses in amount all the money and property, real and personal, that during the same period has been acquired within the same limits, by every other species of fraud, theft, and robbery combined.

In this estimate your petitioner has taken no account of the uprisings, the bloodshed, and the loss of valuable lives, resulting from a vain effort on the part of the settlers, to defend their just rights against legalized wrong.

Of course, there are tens of thousands of individual wrongs, such as those referred to, that neither Congress nor any court except the high court of Heaven can ever set right. Those settlers who were forced by the courts to purchase Government lands and their own improvements, without getting a title, were eventually forced by the land department to purchase again the same lands from the Government, at the Government price, and there the matter rests. But while this class of land frauds can not now be reached there is another class that can and ought to be remedied, namely, that class embracing such cases as the San Fernando Mission claim and the Lomas de Santiago claim and others of like character, where immense areas of the most valuable lands in California, without any right, are held by individuals and corportions.

While the Government doubtless has the legal power to recover its lands from all occupants holding without title, yet in view of the fact that thousands of such occupants are small holders for actual use, and for home purposes, and because of the fact that they have been virtually forced to purchase these void titles, for peace sake, on account of the dereliction of Government officials, it seems but right and proper that this class of occupants of Government lands, whether they hold the same under patents absolutely void or only voidable, should, to a just and proper extent, be protected in their holdings. But, as to corporations or individuals who are holding their worthless titles in terrorum over the heads of the people, for speculative purposes, and sliding

them periodically from place to place to take in better land and more of it, the sooner their ill-gotten possessions are turned over to the rightful owner the better for the country.

It is true that in those cases where the legal title has passed from the Government into the hands of a purchaser, for value and without notice of fraud, and without sufficient information to put the purchaser on inquiry for fraud, the rules of equity will protect the holders of such titles.

But, in view of the barefaced villainy which, almost from the very birth of this State, notoriously characterized the proceedings by which these claims were pressed to confirmation, it is almost impossible to believe that anybody ever purchased one of these fraudulently procured patents in good faith.

One of the strongest evidences that this statement is true is found in the fact of the strenuous, persistent, and expensive schemes perpetually resorted to for the purpose of preventing investigation into the question of fraud. The man who, knowing that he is suspected of having a stolen horse and who vehemently denies the charge, but keps his stable door locked and a sentry standing guard, so as to prevent anyone from seeing whether he tells the truth or not, ought not to be surprised if people generally consider him a thief.

The letter of Attorney General Black of May 26, 1858—already quoted—in describing the means resorted to by fraudulent California land claimants to prevent an exposure of their villainy, among other things, says:

"I have been informed, and I do verily believe, that the California claimants referred to, have their agents, accomplices, and spies in this city and about the lobbies of Congress."

But, as time rolls on, and as their ill-gotten lands grew more valuable, and as the rottenness of the foundations on which rest their pretended titles become more and more apparent to the whole world, the unlawful holders of these immense properties can not trust exclusively to mere lobbyists and spies to do their work. Hence they stand represented to-day upon the floor of the United States Senate Chamber by one of the most able and distinguished lawyers of this State. While, as a Member of that august body, he is charged with the grave, responsible duty of protecting the public domain of the United States against all sorts of wrongful claimants, he is at the same time the hired and leading counsel in the courts for a wealthy California corporation, aiding it in its efforts to maintain its grasp upon 60,000 acres of the San Fernando Mission lands, which, upon investigation—as your petitioner verily believes—will be found to be the property of the United States.

A circumstance that greatly aggravates the enormity of this claim is the fact that the land now claimed by it is almost equal to the amount of land originally confirmed to the claimant, but is only about half the land embraced in the so-called patent survey, which survey, it will be remembered, was made by Hancock, the claimant's own counsel.

How is it possible—or whether or not it is possible—even for so able a man as California's senior Senator to properly represent the antagonistic interests of so great a Government and so large a corporation at one and the same time remains to be seen. But if the United States District Attorney Ord and United States Law Agent Hartman, and United States Surveyor Hancock, could do so on a small scale, it may be possible for United States Senator Stephen M. White to do so on a still larger one.

Vast as are the pecuniary interests of our Government involved in the subject matter of this petition, it unquestionably embraces considerations of public honor that cast far into the shade all questions of mere property values. The fact is painfully apparent to every patriotic American that our Government is fast losing its hold on the respect and confidence of the great mass of the people. Already there is a widespread and deep-seated suspicion rapidly ripening into a conviction that neither law nor justice, but aggregated wealth is the power that rules this country.

If, in addition to all the other accumulated evidence, tending to foster and confirm this suspicion, the edict is now to go forth from the American Congress, that while no settler, no toiler for his daily bread, can be allowed to hold even a 40-acre tract of Government land, in violation of the settlement laws, yet corporations and millionaires, who have grown rich on the fruits of forgery, fraud, and perjury, must, without any valid title, either legal or equitable, be protected in their illegal holdings, to the extent of hundreds of thousands of acres of the Government's best lands, and that as these holdings have never been actually surveyed or marked on the ground, the illegal holders shall, in the future, as in the past, be privileged to float at pleasure their claims so as

to embrace both the lands and improvements of any settler, who has unfortunately cast his lot in the same neighborhood, and if all this is to continue in the name of law and Government, how long will Americans cling to the idea that ours is the "best Government on which the sun has shone?"

Under such treatment as this, how long will the toiling millions of America so love their Government as to willingly shoulder their muskets and sacrifice their lives in its defense, either against foreign or domestic foes?

Will our great armies of laboring people willingly rush to the defense of their country's flag, if once convinced that the stars emblazoned thereon only symbolize the glittering splendor that adorns the gilded palaces of their heartless oppressors, while its stripes but typify the cruel lashes of injustice and tyranny that have driven them and their loved ones to beggary, misery, and despair?

Protection for reputation, life, liberty, and property are the price that a Government must pay for the love and obedience of its citizens; when that protection fails, love perishes, and obedience—except the obedience of slaves—is at an end.

Perhaps the question may be asked:

Why this petition comes so late, and why not signed by thousands of citizens?

Your petitioner's answer is briefly this: It was only a short time ago, and after carefully reviving and considering the repeated and futile efforts that had been made under existing laws to obtain relief from the evils herein complained of, when he became convinced that an appeal to Congress for appropriate legislation was the best, if not the only course to be pursued with any hope of obtaining a remedy for these evils. Having reached this conclusion the next question was as to the most effectual means of procuring the needed legislation.

Believing that the presentation of a strong array of existing facts, such as this petition sets forth, gathered mainly from official sources to which Congress could readily refer for their verification, would be far more efficacious than any conceivable number of names signed to a petition, that presented no facts, he has employed his limited time and that of his coworkers in procuring these facts.

Startling as may seem the foregoing evidences of official depravity by which the Government and people have been swindled out of their property in California, they form but an epitome of the proof which the Government records can be made to reveal if thoroughly and properly investigated.

That your petitioner and his colaborers did not earlier nor more thoroughly make these investigations, is accounted for by the fact that they were neither backed by Government funds, nor the abundant financial resources of the men who have grown rich by the wrongful appropriation of Government lands, but have been compelled to look for assistance to a class of men whose mainspring of action is their devotion to the cause of justice rather than the hoarding of ill-gotten millions. Hence it is that it was not until this late day, December 28, 1895, that your petitioner has been able to complete the gathering of the facts incorporated herein.

Therefore, without waiting for further signatures, he will at once sign this petition and hurry it on to its destination, trusting to the God of truth and justice, the President, and the American Congress to grant the prayer for relief, either in substantial accordance with the subjoined plan, or some better one to be devised, before the adjournment of Congress.

All of which is respectfully submitted.

ZACH. MONTGOMERY.

EXHIBIT A

Before the Commissioners to ascertain and settle private land claims in the State of California

Eulogio de Celis gives notice that he claims a tract of land situated in the present county of Los Angeles, known by the name of mission of San Francisco, bounded as follows: On the north by the rancho of San Francisco, on the west by the mountains of Santa Susanna, on the east by the rancho of Miguel Trunfo, and on the south by the mountains of Portesuelo, which tract is supposed to contain 14 square leagues.

Said land was sold to the said Celis by a deed of grant dated the 17th day of June of the year 1846, by Pio Pico, constitutional governor of the Californias, thereto duly authorized by the supreme government of the nation and by a decree of the departmental assembly of April 3, 1846. Said sale was made for the sum of $14,000, which was paid by the said Celis to the said Pio Pico, who acknowledged receipt thereof as will more fully appear by reference to the aforesaid deed of grant, copy whereof marked A is hereto annexed, together with a certified copy of the instructions from the minister of war and navy to the governor of the Californias, marked "B," and a certified copy of the entry made in the archives of the former Spanish and Mexican territory of department of Upper California, of the aforesaid deed of grant marked "C," which said documents are hereto annexed.

Claimant avers that the aforesaid deed of sale contains the condition that the Government of Mexico shall have the right to annul the contract by reimbursing to this claimant the aforesaid sum of $14,000 with the current rates of interest, and in case said sum is not reimbursed within said eight months, said mission of San Fernando shall be his in full property. And this claimant avers that said sum of $14,000 was never reimbursed to him by the Mexican government or by any person whatsoever.

Said mission of San Fernando was leased by the Government of Mexico to Andres Pico in December, 1845, for the term of _____ years, which lessee has been in the occupancy of the said property up to the present date.

Claimant further avers that he knows of no other claim to the aforesaid mission, and he relies on the documents above referred to and witnesses he shall produce to substantiate his claim.

N. HUBART,
Attorney for Claimant.

[Translation]

The undersigned constitutional governor of the department of Californias, in virtue of the powers vested unto him by the supreme government of the nation, and virtue of a decree of the honorable departmental assembly of April 3 of the present year, to raise means for the purpose of maintaining the integrity of the territory of this department, for the sum of $14,000 which he receives, sells unto Don Eulogio de Celis and his heirs, the ex-mission of San Fernando with all its properties, estates, lands and movables with the exception of the church and all its appurtenances, which remain for public use. Said purchaser obligating himself to maintain on their lands the old Indians on the premises during their lifetime, with the right to make their crops, with the only condition that they shall not have the right to sell the lands they cultivate and any other which they possess, without anterior title from the departmental government. For all of which the aforesaid Senor Celis shall be acknowledged as the legitimate owner of the aforesaid ex-mission of San Fernando, to use the same as to him shall seem best, guaranteeing unto him as this government does guarantee, that he is well possessed of the aforesaid estate with all the prerogatives granted by law to purchasers, with the only condition that the above mentioned purchaser shall not take possession within the space of eight months from the date hereof, within which delay the government shall have the right to annul this contract by reimbursing to the aforesaid Senor Celis the sum of $14,000, with interest at the current commercial rates; but if this reimbursment is not operated within the aforesaid eight months, this sale shall be valid.

The above mentioned purchaser binds himself to warrant to the father minister of the aforesaid establishment his subsistence and clothing, with all possible decency, together with the rooms assigned to him or those which he justly requires.

And for the establishment of this fact and the security of the purchaser, the present document is issued and shall be acknowledged and respected by all the authorities of the department for its better accomplishment.

And in faith of which the undersigned and secretary of the department grant their authority and affix their signatures in the city of Los Angeles, on this ordinary paper for want of stamped paper, the 17 of June, 1846.

PIO PICO,
JOSÉ MATIAS MORENO,
Secretary pro tempore.

EXHIBIT B

1858	1871	1892
Hancock survey	Reynolds' survey	Wright & Ensign
1. N. 20½°, W. 210.00	N. 20½°, W. 210.68	N. 19° 37', W. 211.86.
2. N. 8°, W. 627.00	N. 8°, W. 622.00	N. 7° 10', W. 386.46.
3. S. 81°, W. 10.50	S. 81°, W. 10.50	N. 7° 26', W. 232.69.
4. N. 82½°, W. 21.50	N. 82½°, W. 21.50	S. 81° 08', W. 10.61.
5. N. 74½°, W. 64.00	N. 74½°, W. 64.00	N. 82° 15', W. 21.80.
6. S. 82°, W. 49.50	S. 82°, W. 49.50	N. 74° 15', W. 64.65.
7. N. 41°, W. 22.50	N. 41°, W. 22.50	S. 82° 30', W. 49.51.
8. N. 20°, W. 12.00	N. 20°, W. 12.00	N. 40° 53', W. 22.52.
9. N. 3°, W. 53.50	N. 5°, W. 53.50	N. 19° 58', W. 12.05.
10. N. 50°, E. 6.00	N. 50°, E. 6.00	N. 3° 00', W. 53.50.
11. N. 16½°, E. 105.00	N. 16½°, E. 105.00	N. 50° 00', E. 6.00.
12. N. 66°, W. 80.00	N. 66°, W. 80.00	N. 17° 01' 30", E. 105.37.
13. S. 86°, W. 276.50	S. 86°, W. 276.50	N. 66° 00', W. 79.79.
14. N. 54½°, W. 132.00	N. 54½°, W. 132.00	S. 86° 33', W. 276.50.
15. S. 47½°, W. 182.00	S. 47° 0', W. 182.00	N. 54° 07' 50", W. 137.43.
16. N. 76½°, W. 194.00	N. 80¾°, W. 154.63	S. 47° 44' 10", W. 187.02.
17. S. 75°, W. 26.50	S. 75°, W. 26.50	N. 74° 35' 10", W. 149.29.
18. S. 38°, W. 15.00	S. 38°, W. 15.00	S. 57° 36' 30", W. 26.90.
19. S. 42¼°, W. 62.50	S. 42¼°, W. 62.50	S. 38° 00', W. 14.95.
20. S. 77½°, W. 60.00	S. 77½°, W. 60.00	S. 4° 47', W. 62.64.
21. S. 13½°, W. 88.00	S. 13½°, W. 88.00	S. 77° 37', W. 61.01.
22. S. 7°, E. 27.00	S. 7°, E. 27.00	S. 13° 38', W. 88.05.
23. S. 83°, W. 1.00	S. 83°, W. 1.00	S. 7° 05', E. 28.12.
24. S. 7°, E. 10.50	S. 7°, E. 10.50	S. 82° 55', W. 6.20.
25. S. 24°, E. 2.50	S. 24°, E. 2.50	S. 6° 50' 30", E. 9.66.
26. S. 15°, W. 5.00	S. 15°, W. 5.00	S. 23° 49', E. 2.41.
27. S. 5°, W. 1.00	S. 5°, W. 1.00	S. 15° 11', W. 4.97.
28. S. 22½°, W. 7.00	S. 22½°, W. 7.00	S. 5° 11', W. 1.00.
29. S. 41°, W. 6.00	S. 41°, W. 6.00	S. 22° 41', W. 6.94.
30. S. 38°, W. 272.00	S. 38°, W. 272.00	S. 41° 11', W. 5.97.
31. S. 39°, W. 8.30	S. 39°, W. 8.30	S. 38° 03', W. 273.64.
32. N. 85½°, W. 72.00	N. 85½°, W. 72.00	S. 39° 18', W. 8.32.
33. S. 12½°, W. 203.00	S. 12½°, W. 205.10	N. 85° 12' 10", W. 71.38.
34. S. 84°, E. 105.34	S. 84°, E. 105.34	S. 11° 42' 30", W. 203.19.
35. S. 6°, W. 105.34	S. 6°, E. 105.34	S. 83° 56', E. 105.80.
36. N. 84°, W. 105.34	N. 84°, W. 105.34	S. 5° 53', W. 105.79.
37. S. 33½°, E. 158.00	S. 32° 37', E. 161.51	N. 83° 41', W. 105.84.
38. S. 53½°, E. 93.00	S. 30¼°, E. 76.70	S. 32° 48', E. 161.32.
39. N. 58½°, E. 25.00	N. 58½°, E. 25.00	S. 36° 40', E. 76.55.
40. N. 89°, E. 39.00	N. 89°, E. 39.00	N. 59° 44', E. 24.73.
41. S. 65°, E. 272.00	S. 65¼°, E. 272.00	N. 88° 34', E. 38.97.
42. N. 84°, E. 345.00	N. 87½°, E. 327.97	S. 65° 24', E. 257.23.
43. S. 83¼°, E. 668.00	S. 87°, E. 680.50	N. 88° 33', E. 329.00.
44. N. 12° 37', E. 57.79	N. 7¼°, E. 61.34	S. 86° 57', E. 683.36.
		N. 7° 05', E. 61.09.

EXHIBIT C.—*List of surveys of private land claims in California, reported by Henry Hancock as U. S. deputy, between Sept. 1, 1858, and Jan. 1, 1859*

L. C. No.	Date of instructions	Name of rancho	Names of assistants				Date of preliminary oaths	Date of survey
			Compassman	Chainmen	Flagman	Axeman		
446	Sept. 1, 1858	Los Palos Verdes	Ebenezer Hadley	Warren and Virgin.		E. C. Evertsen	Sept. 6, 1858	Sept. 6, 1858.
368	do	San Jose de Buenos Ayres	do	Virgin & Evertser.	Romulo Pico	Ramon Mendebil	Sept. 1858	Do.
422	do	City lands of Los Angeles	do	Warren and Virgin.	do		Sept. 13, 1858	Sept. 13, 1858.
374	do	Azusa (Duarte)	do	do	do			Do.
372	do	Las Cienegas		do				Do.
373	do	Paso de Bartolo	do	do	Romulo Pico	E. C. Evertsen	Oct. 18, 1858	Sept. and Oct. 1858.
433	do	Santa Ana del Chino	do	do	do	do		Nov. 17, 1858.
434	do	Santa Ana del Chino (Ad.)	do	do	do	do		Nov. 22, 1858.
308	do	San Antonio	do	do	do	Ramon Mendebil		Oct. 1858.
432	do	Potrero de Felipe Lugo	do	do	do	do		Dec. 1858.
364	do	San Jose Addition	Francis H. Howard	do	do	E. C. Evertsen		Oct.-Nov. 1858.
404	do	Los Alamitos	Ebenezer Hadley	do		Ramon Mendebil		Oct. 1858.
405	do	Los Bolsas Chico	do	do	Romulo Pico	do		Do.
388	do	San Jose Addition	do	do	D. B. Nichols	E. C. Evertsen		Do.
329	do	Rincon de la Bres						Oct.-Nov. 1858.
364	do	Azusa (Dalton)	Francis H. Howard	Warren and Virgin.	Romulo Pico	E. C. Evertsen		Nov. 14, 1858.
401	do	La Habra	Ebenezer Hadley	Warren	do	do		Nov. 25, 1858.
360	do	Canada de los Nogales	do	Warren and Virgin.	do	do		Do.
384	do	El Rincon	do	do	do			Do.
440	do	El Canon de Santa Anita	do	do	do	E. C. Eversten	Dec. 2, 1858	Dec. , 1858.
378	do	El Mission de San Fernando	do	do	do	do		Do.
463	do	Jurupa	do	do	do			Do.
421	do	Lomas de Santiago	do	do	do	E. C. Evertsen		Do.
406	do	San Joaquin	do	do	do	do		Nov. 1858.
383	do	Los Nogales	do	do		D. B. Nichols		Dec. 1858.
402		Los Bolsas						Do.
317	Dec. 1858	Canada de los Verdugos	Ebenezer Hadley	Warren and Virgin.		Ramon Mendebil		Do.
456	Sept. 1, 1858	Sausal Redondo	do	do	R. Mendebil	E. C. Evertsen		Do.
416	do	Los Feliz	do	do	do	Romulo Pico		Do.
403	do	San Rafael	do	do	Romulo Pico	E. C. Evertsen		Do.
464	do	Tujunga	do	do	do	do		Do.
		Courteny Tract					Sept. 6, 1858	Do.
318		San Francisco	Ebenezer Hadley	Warren and Virgin.	Romulo Pico	E. C. Evertsen		
556	Sept. 1, 1858	San Enemedio	A. F. Waldemar	Warren and Brooks	R. Mireles			
		Tract near San Babriel						Oct. 1858.
365		San Jose						

L. C. No.	Date of instructions	Name of rancho	Assessments where verified	Before whom verified	Date of final oath of assessments	Where verified by deputy	Before whom verified	Date of verification by deputy	Miles	Chains	Links
446	Sept. 1, 1858	Los Palos Verdes		Henry Hancock	Sept. 16, 1858	San Francisco	Royal H. Thayer	Aug. 31, 1859	32	72	80
363	do	San Jose de Buenos Ayres	At camp	do	Dec. 26, ——	do	Robt. C. Page	June 30, 1859	11	8	41
422	do	City lands of Los Angeles		do	Oct. 9, 1858	do	do	do	22	45	37
374	do	Azusa (Duarte)		do	Dec. 26, 1858				14	68	81
372		Las Cienegas				San Francisco	Henry Hancock	May, 1861			
373	Sept. 1, 1858	Paso de Bartolo		Henry Hancock	Sept. 9, 1858				34	66	16
433	do	Santa Ana del Chino		do	Dec. 26, 1858	San Francisco	Robt. C. Page	June 30, 1859	30	25	80
434	do	Santa Ana del Chino (Ad.)		do	do	do	do	do	45	73	30
308	do	San Antonio		do	Nov. 22, 1858	do	Royal H. Thayer	Aug. 31, 1859	30	59	39
422	do	Potrero de Felipe Lugo		do	Dec. 26, 1858	Los Angeles	do	May 31, 1859	2	3	90
364	do	San Jose Addition		do	Dec. 22, 1859						
404	do	Los Alamitos		do	Dec. 26, 1858	San Francisco	James Rice	Dec. 7, 1860	31	69	47
435	do	Los Bolsas Chico		do	do	do	Robt. C. Page	Dec. 4, 1860	31	48	47
388	do	San Jose Addition		do	Nov. 22, 1858	do	James Rice	Dec. 7, 1860	11	12	8
329	do	Rincon de la Brea		do	do				11	71	90
364	do	Azusa (Dalton)		do	Dec. 22, 1859				11	52	40
401	do	La Habra		do	Nov. 22, 1858	San Francisco	Royal H. Thayer	May 31, 1859	14		80
360	do	Canada de los Nogales		do	Dec. 26, 1858				5	49	10
384	do	El Rincon		do	Dec. 6, 1858	San Francisco	Robt. C. Page	Dec. 19, 1859	13	43	18
440	do	El Canon de Santa Anita		do	Dec. 22, 1858	do	do	Aug. 1, 1859	28	8	69
378	do	El Mission de San Fernando	At camp	do	Dec. 26, 1858	do	Royal H. Thayer	May 31, 1859	6	15	32
463	do	Jurupa		do	Dec. 16, 1858	do	James Rice	Dec. 10, 1860	40	58	58
421	do	Lomas de Santiago		do	Dec. 22, 1858	do	do	Dec. 7, 1860	28	28	
406	do	San Joaquin		do	do	do	Royal H. Thayer	Aug. 31, 1859	52	61	87
353	do	Los Nogales		do	Dec. 1858			Dec. 8, 1860	16	74	90
402		Los Bolsas							39	73	48
317	Dec. 1858	Canada de los Verdugos		Henry Hancock	Dec. 26, 1858	San Francisco	Robt. C. Page	June 30, 1859	17	7	60
453	Sept. 1, 1858	Sausal Redondo		do	do	Los Angeles	K. H. Dimmock	Feb. 20, 1861	41	62	48
416	do	Los Feliz		Henry Hancock	Dec. 26, 1858	do	James Rice	Dec. 8, 1860	16	47	64
403	do	San Rafael		do	do	do	K. H. Dimmock	Feb. 20, 1861	34	8	72
464	do	Tujunga		do	do	do	Royal H. Thayer	May 31, 1859	16	61	50
		Courtney Tract		do							
318		San Francisco	Los Angeles		Mar. 6, 1858				30	61	82
566	Sept. 1, 1858	San Enemedio		W. W. Shore	Feb. 5, 1859	San Francisco	Robt. C. Page	June 30, 1859	25	20	35
				Henry Hancock	June 24, 1859						
		Tract near San Gabriel									
365		San Jose							22	69	70
		Total							836	14	89

EXHIBIT F

The minutes of the United States District Court for the Southern District of California show the firm of Sloan & Hartman, or Isaac Hartman, personally appeared before the above-named court at the dates shown. The times that Isaac Hartman appeared as counsel for the United States are designated by a star. (*)

District court No.	Land commission No.	Name of rancho	Name of claimant	Date of appearance	For whom acting
340	176	Island of Santa Cruz	J. Monomany	Feb. 14, 1857	For claimant.
224	625	Monserratte	J. M. Alvarado	Feb. 16, 1857	Do.
243	27	San Miguel de Trinidad	J. R. Gonzalez	do	Do.
206	673	Zanjon de Santa Rita	F. S. Soberanes	Feb. 18, 1857	Do.
361	565	Natividad	R. Butron	Feb. 21, 1857	Do.
68	562	San Benito	J. Watson	do	Do.
100	566	San Andres	G. Castro	do	Do.
18	27	San Miguel de Trinidad	J. R. Gonzalez	Feb. 24, 1857	Do.
393	569	Panoche Grande	V. Gomez	June 3, 1857	Do.
393	569	do	do	June 5, 1857	Do.
206	673	Zanjon de Santa Rita	F. Soberanes	June 6, 1857	Do.
255	600	Laguna de Tache	M. Castro	June 8, 1857	Do.
356	554	Canada de los Segunda	Fletcher M. Haight	Jan. 4, 1858	Do.
179	703	Canada de los Osos	M. Castro	Jan. 5, 1858	Do.
160	615	Corral de Padilla	M. A. Pico de Castro	do	Do.
309	371	Rosa del Castilla	Alacleta Lestrade	do	Do.
255	600	Laguna de Tache	M. Castro	Jan. 6, 1858	Do.
267	601	do	Jeremiah Clark	do	Do.
314	782	Cienega del Gabalin	Jose y Limantour	do	Do.
383	747	Rincon de San Pedro	T. Russell	do	Do.
356	554	Canada de los Segunda	Fletcher M. Haight	do	Do.
323	597	Aquajito	Gregoria Tapia	do	Do.
356	554	Canada de los Segunda	Fletcher M. Haight	Jan. 7, 1858	Do.
323	597	Aquajito	G. Tapia	Jan. 17, 1858	Do.
267	601	Laguna de Tache	Jeremiah Clark	Jan. 7, 1858	Do.
383	747	Rincon de San Pedro	T. Russell	do	Do.
255	600	Laguna de Tzche	M. Castro	do	Do.
314	782	Cienega de Gabalin	Jose y Limantour	do	Do.
255	600	Laguna de Tache	M. Castro	Feb. 1, 1858	Do.
267	601	do	Jeremiah Clark	do	Do.
383	747	Rincon de San Pedro	T. Russell	do	Do.
314	782	Cienega del Gabalin	Jose y Limantour	do	Do.
393	569	Panoche Grande	V. Gomez	Feb. 3, 1858	Do.
323	597	Aquajito	G. Tapia	Feb. 9, 1858	Do.
267	601	Laguna de Tache	J. Clark	Feb. 10, 1858	Do.
179	703	Canada de los Osos	M. Castro	June 15, 1858	Do.
347	175	Mission San Diego	S. Arguello	June 13, 1859	Do.
366	224	San Luis Obispo	Juan Wilson	do	Do.
*339	348	San Luis Rey y Pala	W. C. Jones	do	For the United States special agent.
*318	479	Mission San Buenaventura	M. R. de Poli	do	Do.
*385	752	Orchard of San Juan Bautista.	C. Panaud	June 14, 1859	Do.
*318	479	Mission San Buenaventura.	M. R. de Poli	do	Do.
*369	538	Mission Santa Inez	J. M. Covarrubias	do	Do.
*338	621	Mission Santa Barbara	R. S. Den	do	Do.
*345	697	Mission San Gabriel	J. Workman	do	Do.
*342	574	do	W. Workman	do	For the United States.
*366	224	San Luis Obispo	Juan Wilson	do	Do.
*339	348	San Luis Rey y Pala	W. C. Jones	do	Do.
44	305	Las Milpitas	Y. Pastor	June 16, 1859	For the claimant.
*347	175	Mission San Diego	S. Arguello	Sept. 12, 1859	For the United States.
*339	348	San Luis Rey y Pala	W. C. Jones	do	Do.
*385	752	Orchard of San Juan Bautista.	C. Panaud	do	Do.
*338	621	Mission Santa Barbara	R. S. Den	do	Do.
*366	224	San Luis Obispo	Juan Wilson	do	Do.
*345	697	Mission San Gabriel	J. Workman	do	Do.
*369	538	Mission Santa Inez	J. M. Covarrubias	do	Do.
*318	479	Mission San Buenaventura.	M. R. de Poli	do	Do.
44	305	Las Milpitas	Y. Pastor	Oct. 20, 1859	For the claimant.
35	35	Bolsa de San Cayetana	J. de J. Vallejo	do	Do.
88	383	Los Nogales	M. de la Garcia	May 12, 1860	Do.
88	383	do	do	May 25, 1860	Do.

District court No.	Land commission No.	Name of rancho	Name of claimant	Date of appearance	For whom acting
88	383	Los Nogales	M. de la Garcia	June 1, 1860	For the claimant.
44	305	Las Milpitas	Y. Pastor	June 2, 1860	Do.
378	390	Cajon de Muscupiabe	J. J. Warner	Aug. 6, 1860	Do.
44	305	Las Milpitas	Y. Pastor	Aug. 10, 1860	Do.
101	502	Rincon de la Puenta del Monte.	T. Gonzalez	Nov. 1, 1860	Do.
223	551	San Bernardo	M. Soberanes	....do	Do.
206	673	Sanjon de Santa Rita	....do	....do	Do.
204	153	Buenavista	M. Malarin	....do	Do.
204	153	....do	....do	Nov. 2, 1860	Do.
88	383	Los Nogales	M. de J. Garcia	Nov. 8, 1860	Do.
35	35	Bolsa de San Cayetana	J. de J. Vallejo	Nov. 13, 1860	Do.
242	543	Santa Barbara	City of Santa Barbara	....do	Do.
101	502	Rincon de la Puenta del Monte.	G. Castro	Dec. 4, 1860	Do.[1]
242	543	Santa Barbara	City of Santa Barbara	Feb. 28, 1861	Do.
255	600	Laguna de Tache	M. Castro	Mar. 8, 1861	Do.
300	679	El Tucho	V. Gomez	....do	Do.
88	383	Los Nogales	M. J. de Garcia	Mar. 18, 1861	Do.
373	414	Temescal	J. Montalva	Mar. 22, 1861	Withdrawal as attorney.
*93	446	Los Palos Verdes	J. L. Sepulveda	....do	For the United States.
35	35	Bolsa de San Cayetana	J. de J. Vallejo	Apr. 1, 1861	For the claimant.
*93	446	Los Palos Verdes	J. L. Sepulveda	Apr. 9, 1861	For the United States.
157	564	Pescadero	J. C. Gore	....do	For the claimant.
218	254	Aguage Caliente	J. Mora Moss, Intervener.	....do	For the intervener.
157	564	Pescadero	J. C. Gore	Apr. 10, 1861	For the claimant.
157	564	....do	....do	....do	Do.
88	383	Los Nogales	J. de J. Garcia	Apr. 15, 1861	Do.
210	552	El Pijo	Heirs of J. Soto	Jan. 28, 1862	For intervener S. L. Johnson.
*347	175	Mission San Diego	S. Arguello	Jan. 29, 1862	For the United States.
109	152	Guadalupe	M. Mallarin	Feb. 3, 1862	For the claimant.
108	151	Zanjones	....do	....do	Do.
255	600	Laguna de Tache	M. Castro	Apr. 7, 1862	Do.
100	566	San Andreas	G. Castro	Apr. 8, 1862	Do.
100	566	....do	....do	Apr. 14, 1862	Do.
300	679	El Tucho	....do	Apr. 16, 1862	Do.
9,396	62	----------	A. German	Apr. 18, 1862	Do.
223	551	San Bernardo	M. Soberanes	Apr. 19, 1862	Do.
101	502	Rincon de la Puente del Monte.	T. Gonzales	....do	Do.
108	151	Zanjones	M. Mallarin	....do	For the United States.[2]
110	154	Chanlar	....do	....do	Do.[2]
314	781	Cienega del Gabilin	T. O. Larkin	June 25, 1862	For the claimant.
256	603	Los Virgines	Heirs of D. Carillo	Oct. 6, 1862	Do.
314	781	Cienega del Gabilin	Jesse D. Carr	....do	Do.
*308	402	Las Bolsas	Ramon Yorba	Oct. 7, 1862	For the United States.
255	600	Laguna de Tache	M. Castro	Oct. 19, 1862	For the claimant.
314	781	Cienega del Gabilin	Jesse D. Carr	....do	Do.
255	600	Laguna de Tache	M. Castro	....do	Do.
328	550	Santa Paula y Saticoy	J. P. Davison	....do	Do.
328	550	....do	....do	Oct. 22, 1862	Do.
144	469	Valle de San Jose	S. Portilla	Aug. 10, 1864	Files mandate in favor of claimant from Supreme Court.
314	781	Cienega del Gabilin	Jesse D. Carr	....do	Do.
44	305	Las Milpitas	Y. Pastor	....do	Do.
383	747	Rincon de San Pedro	T. Russell	....do	Do.
274	716	Tract in Tucho	Thomas Coal	....do	Do.
300	679	El Tucho	V. Gomez	....do	Do.
187	610	Los Laureles	L. Ransom	....do	Do.
328	550	Santa Paulay Saticoy	J. P. Davison	....do	Do.
127	385	La Puenta	Workman & Roland	Aug. 24, 1864	Do.
317	700	Santa Margarita y las Flores.	Pio Pico	Aug. 26, 1864	Do.
158	570	Salinas	Heirs of G. Espinosa	....do	Do.
323	597	Aguajito	Gregoria Tapia	....do	Do.
165	576	La Cienega	A. Olvera	....do	Do.

[1] Represented by E. Reynolds.
[2] Entry probably error of court clerk.

The minutes show that Henry Hancock acted as attorney for the claimants in the following cases:

District court No.	Land commission No.	Name of rancho	Name of claimant	Date of appearance	When surveyed by H. Hancock
219	473	Santa Rita	J. R. Malo	Dec. 24, 1856	
251	471	Cuca	Maris de los Angeles	do	
294	474	Santa Rosa	M. J. S. de Cota	do	
343	378	Mission San Fernando	J. M. Sanchez	Dec. 29, 1856	
217	347	La Merced	F. P. F. Temple	do	Dec. 2, 1858.
235	376	Sexton Tr. at San Gabriel	D. Sexton	do	1858.
153	521	Temescal	M. Anguisola	Dec. 30, 1856	
374	414	do	J. Montalva	do	
35	35	Bolsa ded San Cayatena	J. de J. Vallejo	Jan. 8, 1857	
17	351	Los Cerritos	Juan Temple	Jan. 12, 1857	
55	435	Temecula	Pablo Apis	Feb. 19, 1857	July, 1866.
371	478	San Antonio	M. R. Baldez	Feb. 21, 1857	
374	414	Temescal	M. Anguisola	Dec. 18, 1857	
96	489	Near San Gabriel	Arno Maube	do	
131	409	Rincon de los Bueyos	F. Higuera	do	
269	443	San Jacinto y San Gregoria	L. Rubideux	do	
227	512	San Pedro	G. Ortega	do	
229	413	Cajon de los Negros	W. Workman	do	
248	477	San Pascaulito	Juan Gallardo	do	
77	65	Bolsa de San Felipe	F. P. Pacheco	do	November, 1867.
356	554	Canada de la Segunda	A. Randall	Jan. 4, 1858	
323	597	Aguajito	G. Tapia	Feb. 8, 1858	
252	520	La Goleta	D. Hill	do	
331	320	Six Leagues	R. B. Neligh	Dec. 16, 1858	
269	443	San Jacinto y San Gregoria	L. Rubideux	Nov. 21, 1859	
374	414	Temescal	J. Montalva	Feb. 28, 1860	
269	443	San Jacinto y San Gregoria	L. Rubideux	do	
227	512	San Pedro	G. Ortega	Feb. 29, 1860	
229	413	Cajon de las Negros	W. Workman	Sept. 19, 1860	
150	517	Dos Pueblos	N. A. Den	Feb. 20, 1861	
12	316	San Bernardino	J. del C. Lugo	Mar. 18, 1861	
374	414	Temescal	J. Montalva	do	
131	409	Rincon de los Bueyos	J. Higuera	Mar. 20, 1861	
374	414	Temescal	J. Montalva	Mar. 22, 1861	
227	512	San Pedro	G. O. de Chapman	Apr. 9, 1861	
131	409	Rincon de los Bueyos	F. Higuera	Apr. 10, 1861	
287	487	La Brea	A. J. Rocha	do	
13	9	Nipoma	W. G. Dana	Oct. 1, 1862	
150	517	Dos Pueblos	N. A. Den	do	
287	487	La Brea	A. J. Rocha	Oct. 3, 1862	
12	316	San Bernardino	J. del C. Lugo	Oct. 2, 1862	
287	487	La Brea	A. J. Rocha	Oct. 4, 1862	
343	378	Mission San Fernando	E. de Cells	Oct. 21, 1862	
208	402	Las Bolsas	Ramon Yorba	June 3, 1863	Dec. 2, 1858.
287	487	La Brea	A. J. Rocha	Mar. 15, 1864	December, 1858.
343	378	Mission San Fernando	E. de Cells	Mar. 17, 1864	Dec. 2, 1858.
287	487	La Brea	A. J. Rocha	Mar. 21, 1864	
150	517	Dos Pueblos	N. A. Den	do	
343	378	Mission San Fernando	E. de Cells	do	
74	314	San Miguelito	M. Abila	Mar. 22, 1864	Dec. 2, 1858.
121	364	Azusa	H. Dalton	Dec. 3, 1864	
287	487	La Brea	A. J. Rocha	do	October, November, 1858.
110			M. de la G. Latailade	July 10, 1865	
104	67	Cuyama	do	do	

Exhibit D

For dates of appearances as shown by minutes of the court, see Exhibit F. The numbers refer to the district court case numbers.

Isaac Hartman, acted as attorney for the Government in the following cases:

No. 93. Los Palos, Verdes, J. L. Sepulveda.
No. 208. Las Bolsas, Ramon Yorba.
No. 318. Mission San Buenaventura, M. R. de Poli.
No. 338. Mission Santa Barbara, R. S. Den.
No. 339. San Luis Rey y Pala, William Carey Jones.
No. 342. Mission San Gabriel, W. Workman.
No. 345. Mission San Gabriel, J. Workman.
No. 108. Zanjones, M. Malarin.
No. 109. Guadalupe, Llanito de los Cerreos, M. Malarin.
No. 110. Chualar, M. Malarin.

No. 127. La Puente, Workman and
No. 347. Mission San Diego, S. R. Arguello.
No. 336. San Luis Obispo, Juan Wilson.
No. 369. Mission Santa Inez, J. N. Covarrubias.
No. 385. Orchard of San Juan Bautista, C. Panaud.

Sloan & Hartman, acted as attorney for the claimants in the following cases:

No. 18. San Miguelito de Trinidad, J. R. and M. Gonzales.
No. 35. Bolsa de San Cayetano, J. de J. Vallejo.
No. 44. Las Milpitas, S. Portilla.
No. 68. San Benito, J. Watson.
No. 88. Los Nogales, M. de la Garcia.
No. 100. San Andres, G. Castro.
No. 101. Rincon de la Puente del Monte, T. Gonzales. Roland.
No. 144. Valle de San Jose, S. de la Portilla.
No. 157. Pescadoro, J. C. Gore.
No. 158. Salinas, heirs of G. Espinoza.
No. 160. Corral de Padilla, M. A. Pico de Castro.
No. 165. La Cienega, A. Olvera.
No. 179. Canada de las Osos, M. Castro.
No. 187. Los Laureles, L. Ramson.
No. 204. Buenavista, M. Marlin.
No. 206. Sanjon de Santa Rita, F. Soberanes.
No. 210. El Pioji, heirs of Joaquin Soto.
No. 218. Agua Caliente or Valle de San Jose, J. J. Warner.
No. 223. San Bernardo, M. Soberanes.
No. 224. Monserate, Y. M. Alvarado.
No. 225. Cahuenga, N. Morahon.
No. 237. Nochebueno, J. Monmany.
No. 242. Santa Barbara, city of Santa Barbara.
No. 255. Laguna de Tache, M. Castro.
No. 256. Las Virgines, heirs of D. Carrillo.
No. 267. Laguna de Tache, J. Clark.
No. 300. El Tucho, G. Castro.
No. 309. Rosa del Castilla, A. Lestrade.
No. 311. Laguna de Tache, Jose Y Limantour.
No. 314. Cienega del Gabilan, Jose Y Limantour.
No. 317. Santa Marguerita y las Flores, Pio Pico.
No. 319. Arroyo de las Calsoncillos, J. M. Castanares.
No. 323. Aguajito, G. Tapia.
No. 328. Santa Paula y Saticoy, J. P. Davidson.
No. 340. Island of Santa Cruz, J. Monmany.
No. 343. San Miguel de Trinidad, J. R. Gonzales.
No. 347. Mission San Diego, S. Arguello.
No. 356. Canada de la Segunda, F. M. Haight.
No. 361. Natividad, R. Butron.
No. 366. San Luis Obispo, Juan Wilson.
No. 374. Tract in Tucho, Thomas Coal, J. Warner.
No. 378. Cajon de Muscupiabe, J. Warner.
No. 383. Rincon de San Pedro, T. Russell.
No. 393. Panoche Grande, V. Gomez.

Henry Hancock, acted as attorney for claimants in the following cases:

No. 12. San Bernardino, J. del C. Lugo.
No. 13. Nipoma, W. G. Dana.
No. 17. Los Cerritos, Juan Temple.
No. 35. Bolsa de San Cayetano, J. de J. Vallejo.
No. 40. Arroyo Seco, Joaquin de la Torre.
No. 55. Temecula, Pablo Apis.
No. 65. San Miguel, R. Olivas.
No. 74. Bolso de San Felipe, F. P. Pechaco.
No. 86. Santa Anita, Henry Dalton.
No. 96. Near San Gabriel, Arno Maube.
No. 104. Cuyama, Lataillade.
No. 121. Azusa, H. Dalton.
No. 131. Rincon de Los Bueyes, F. Higuera.
No. 150. Dos Pueblos, N. A. Den,

No. 153. Temescal, M. Angisola.
No. 208. Las Bolsas, Ramon Yorba.
No. 217. La Merced, F. P. F. Temple.
No. 219. Santa Rita, J. R. Malo.
No. 227. San Pedro, G. Ortega.
No. 229. Cajon de los Negros, W. Workman.
No. 235. Sexton Tract, B. Sexton.
No. 243. Protrero Grande, J. M. Sanchez.
No. 248. San Pasquilito, Juan Gallardo.
No. 251. Cuca, Maria de los Angelos.
No. 252. Lo Goleta, D. Hill.
No. 269. San Jacinto y San Gregorio, L. Rubideux.
No. 287. La Brea, A. J. Rocha.
No. 294. Santa Rosa, M. J. S. de Cota.
No. 323. Aguajito, G. Tapia.
No. 331. Six Leagues, R. B. Neligh.
No. 343. Mission San Fernando, E. Celis.
No. 353. Las Cienagas, J. Abila.
No. 356. Canada de la Secunda, A. Randall.
No. 364. San Marcus, N. A. Den.
No. 371. San Antonio, M. R. Baldez.
No. 374. Temescal, M. Anguisola.
No. 389. La Purissima, J. R. Malo.

STATE OF CALIFORNIA,
County of Los Angeles, ss:

C. C. Grove, a citizen of the United States, and of the State of California, of lawful age, being duly sworn, deposes and says:

The petition and grant as set forth in the foregoing Exhibit A are correctly printed from copies certified by the United States surveyor general of California.

Also, that the foregoing field notes of the San Fernando mission lands, according to the reported patent survey of Henry Hancock, and the subsequent surveys of W. B. Reynolds, and Ensign & Wright, as found in the foregoing Exhibit B are correctly copied from the files of documentary evidence, relied on and produced in the Superior Court of Los Angeles County, Calif., by claimants under the United States patent for said lands. Also, that the facts and figures set forth in Exhibit C are correctly copied by me from original documents now in the office of the United States surveyor general of California; and that the facts and figures set forth in the above-named exhibits, to wit, Exhibits D and F, were copied by me from the records of the United States District Court for the Southern District of California, now in charge of the clerk of the district court of the northern district of said State, and that the same are true and correct.

C. C. GROVE.

Subscribed and sworn before me this 31st day of December, 1895.

GEO. D. HOWLAND, *Notary Public.*

The CHAIRMAN. And this is what?

Mr. GROVE. That is an abstract.

The CHAIRMAN. That will be received as Exhibit AO, and also inserted in the record at this time.

EXHIBIT AK

RANCHO LOE FELIZ

Book 1 of prefecture, page 286: Upon the petition of Julio Verdugo complaining of his lands in connection with San Fernando Mission the following decree was made:

ANGELES, *July 23, 1840.*

The agent of San Fernando Mission will please report upon the contents of this petition especially to the reference therein made of rodeos of cattle

held by said mission on his lands and prohibiting him as owner and return to this perfecture for further action.

Book 1 of prefecture, page 290: On the petition of Julio Verdugo the following second decree was given:

On this date I have sent a communication to the agent in charge of the San Fernando Mission to notify all of his employees and vacqueros that when gathering cattle they are not to go over the boundaries of petitioners lands and when they find it necessary to do so they shall first notify him as provided by law in such cases.

Book 1 of prefecture, page 354: On the petition of Julio Verdugo asking possession of his rancho, the following decree was entered:

ANGELES, *March 29, 1841.*

In conformity with the laws and regulations regarding the matter the judge of primary court will investigate regarding the petition made by the citizen (a survey of the rancho first being made) and contents of proceeding herewith, specifying in said report whether the plat annexed is in conformity with the land granted by Senor Fages to the petitioners father and whether said petitioner has only one sister, and in case there are others, the reason why they do not enjoy the same rights to the rancho or place referred to, and then return the report to this prefecture for further action.

"A."

Book 1 prefecture, page 404: On the petition of Julio Verdugo complaining that in the grant made to de la Ossa part of his land was included, the following decree was entered:

The second justice of the peace of this city will make inquiry regarding the petition in which petitioner complains that part of his land was included in the possession given to party therein mentioned, and return his report to this prefecture.

Book 1 prefecture, page 357: Decree on petition of Maria Ygnacia Verdugo on her claim to Rancho San Rafael as one of the heirs.

The foregoing petition is referred to the judge of first instance of this city who will annex same to the proceedings on petition of Julio Verdugo regarding the possession of his Rancho San Rafael and report on same.

Book 1 of prefecture, page 366:

On the expediente of Julio Verdugo praying possession of the Rancho San Rafael the following decree was given:

YOUR EXCELLENCY: The prefecture of this the second district, having before it the petition and documents which accompany the same in these proceeding can not pass with indifference the attempt which is made to surprise the Government with chimerical allegations, the party interested claiming to own all the extension of land shown by the adjoining map for the term of 57 years when it clearly appears that the provisional commission of Senor Fages the boundaries are limited from the Arroyo Hondo now generally called Arroyo Seco, the road from San Gabriel to Monterey, the point of the Cahuenga Peak which is the place where the Los Angeles River turns and reservoir of water of this town. There is no doubt that the land from the aforesaid Cahuenga Peak toward Tujunga and which has been granted to Francisco and Pedro Lopez has never belonged to the Rancho San Rafael as your excellency will see from the documents of the petition, but has been recognized as belonging to the Mission of San Fernando which facts were before the court and this prefecture when they gave the report in favor of said individuals.

Berdugo also represents that he has only one sister who has a right to the Rancho San Rafael and this prefecture being aware of the fact that he has two other sisters, one of them making a representation about the same time he did, on which we asked the court of this city for information resulting in the demand being made on plaintiff to present the documents which she has in her possession which are annexed to this, pages 9 to 15, for your excellency's infirmation.

This prefecture, therefore considering that said Verdugo has no evidence to support his claims to the land granted to the Messrs. Lopez and which he included in his plat "diseno" nor much less to appropriate to himself the "Corte de Madero" which he mentions because he does not own an inch of land from

the Monteret Road northerly toward the Sierras, does not believe in justice he should be given possession of all of it but only that portion which was granted to his deceased father by Messrs. Fages and Borica and in which grant, as I understand it, Julio Berdugo can not exclude his sisters as I consider that it extends to all the family, but on investigation of the matter your excellency will decree as is deemed convenient.

Proceedings instituted by Dona M'a Ygnacia Verdugo, soliciting the place named Los Felis. No. 350. Preceedings instituted by Dona Maria Ygnacia Berdugo and the Citizen Ramon Orduno, year 1842

(L. S.) To His Excellency:

In compliance with your excellency's superior decree of the 1st instant affixed to the petition of the widow Dona M'a Ygnacio Verdugo, I caused her and the neighbor Don Ramon Orduno to appear before me, in order that in view of the documents of either the dispute relative to the Rancho Los Feliz might be settled, and Senor Orduno having presented none I rendered the decree which seemed to me to be just, of which I have the honor to enclose a copy for the knowledge of your excellency.

I reiterate to your excellency my distinguished consideration of my particular esteem and respect.

God and Liberty.

Angeles, August 24, 1843.

Manuel Dominguez.

To His Excellency the Governor and Military Commandant of this Department.

MARGINAL DECREE

Angeles, *August 18, 1843.*

This prefect's office having waited until to-day for the presentation of Don Ramon Orduno of the documents proving his right to the rancho named De Los Feliz he has not done so, and I have to settle the dispute between him and the widow Dona M'a Ygnacio Verdugo as I am directed by the foregoing superior decree of the 1st instant, in view of the legal documents presented by Senora Verdugo sufficiently accrediting that she is the sole owner of the said rancho of Los Feliz, I have thought proper in the administration of the law to decide that Don Ramon Orduno not having proved his right within the time prescribed by this office, he must quit forthwith the said rancho together with the livestock he may have thereon, and leave Senora Verdugo and her family in the free enjoyment and profit of her property, in favor of whom the same was declared by a title issued by the superior departmental Government on the 22d March of the present year, and that both parties being notified, a certified copy of this decision be issued to the interested party for her security and further purposes and that the record of proceedings be filed in the prefect's office in due evidence thereof, reporting the same to his excellency the governor and military commandant of this department for his superior knowledge.

NOTIFICATION TO THE PARTIES.

On the same day the parties of Dona M'a Ygn'a Verdugo and Don Ramon Orduno being present, they were notified of the foregoing decision, and having understood it, the first says she hears it and conforms therewith, and second party does not conform and would protest against it, that the Rancho Los Feliz has only a few oxen. This is what they answered and not knowing how to sign, I, the prefect and the secretary subscribed the present.

Manuel Dominguez.
Narcisso Botello.

I certify that this is a copy.

Angeles, *August 24, 1843.*
Narcisso Botello, *Secretary.*

Approved.

Dominguez.

To His Excellency:

We, Maria Ygnacio Verdugo and her son Jose Antonio Feliz, both of them Mexican citizens by birth, to your excellency with respect in due form of law do say, that being in possession of the tract of land named Los Felis whereon we have lived over 30 years under the permission given by the superior authority to our predecessors, we have not as yet had the satisfaction of obtaining the title of ownership, the uncertainty whereof subjecting us to drawbacks which are undoubtedly well known, but now when fortunately your excellency is at the head of public affairs in this department, we denounce in all due form the foresaid land whereon there is no other livestock or buildings but those which belong to us, for which purpose we hereto annex the respective map.

We therefore pray your excellency that in view of the foregoing and the fact that Juan Felis, husband of first party herein, served 23 years in the army up to his promotion as sergeant, having a considerable amount due as pay, and the second party, the son of the deceased, also served three years in the same glorious career your excellency will please admit this denouncement in order that a title of ownership be issued to us whereby we shall receive the greatest benefit; while we swear we do not act in malice and make the necessary oaths, etc.

We do not know how to sign.

Angeles, *January 23, 1843.*

Marginal decree.

Angeles, *January 42, 1843.*

Don Manuel Caserin, secretary of state to the Government will please make his report hereon asking for such other information and report as he may deem convenient.

Micheltorena.

Agreeably to the orders of his excellency in his superior decree of the 24th instant, this record is forwarded to the first justice of this city that he may please to order an inquiry as to whether the boundaries are marked on the annexed map do not belong to nor prejudice the lands claimed by any corporation, pueblo, or private person, and every thing he may deem proper, to report upon the contents of the foregoing petition.

Manuel Jimeno.

Angeles, *January 27, 1843.*

To his excellency, the Governor:

I, Ramon Orduno, a resident of this city, to your excellency with respect and in due form of law do represent, that when by accident I received notice that the tract of the rancho of San Jose (alias) Los Felis had been solicited by the widow and children of the late Don Juan Felis I made to the prefect of this district the representation which I hereunto annex for the purpose therein indicated, and as that functionary makes it appear in his decree that he does not know whether in fact that tract was asked for, I have thought it my duty in accordance with my rights and interests to submit to your excellency's knowledge the matter contained in the said representation, which as I have said I hereto annex in its original form in order that in view of my claim your excellency may consider the same in due time.

I therefore pray your excellency to please grant me this favor whereby I shall be much obliged, while I pray you to excuse the use of common paper as there is none of the corresponding seal.

Los Angeles, *February, 11, 1843.*

Marginal decree

Angeles, *March 2, 1843.*

Let the present be annexed to the record of proceedings had in the court of the first justice of the peace of this city for the purposes to be considered this day. Thus I decreed.

Micheltorena.

To the honorable PREFECT:

I, Ramon Trinidad Orduno, a Mexican by birth and a resident of this city, before your honor in due form of law appear and say that having learned that the widow and children of the late Juan Feliz have solicited for their benefit and that of their family the tract of land contained in the rancho of San Jose (alias) De Los Feliz, and considering myself as one of the principal heirs desiring to obtain my right to those lands for the very just claims which in due time I shall make known to the superior government of this department, I ask your honor to please delay the decision in this direction, that I may be invited in time in order that I may set forth what is due to my rights in relation to the matters promising to do so in due form and integrity required.

Therefore I ask and pray your honor to please accede to and decree in accordance to my petition. Be pleased to excuse the use of common paper in default of that of the corresponding seal.

RAMON TRINIDAD ORDUNO.

ANGELES, *February 6, 1843.*

MARGINAL DECREE

ANGELES, *February 8, 1843.*

This petition was presented and admitted in due form of law, and as this prefect's office is not aware of there having been made a grant to the widow and children of the late Juan Feliz for the place to which the petitioner considers he has a right, let the present petition be returned for such purpose as may be convenient.

ARGUELLO.

To HIS EXCELLENCY:

From the fact that the secretary of the superior departmental government directed that by order of his excellency an investigation should be made to ascertain whether there was any dispute about the boundaries of the said rancho, I proceeded in person to that place and having made proper investigations, I ascertained that the only person who says he has a right thereto is Ramon Orduno, who up to the present time has not presented any document whatsoever; and in order to make a full report I examined all the tract to ascertain what quantity of livestock it contained, and to whom the same belonged, and I saw over 200 of neat cattle appertaining to Dona Maria Ygnacia Verdugo and her family, some horses, house, and corral belonging to her.

I also saw that a portion of the tract may appertain to the commons of this city and that a portion is free. Wherefore your excellency will decide whatsoever is proper.

This is all I can report in compliance with the superior order to me communicated.

MANUEL DOMINGUEZ,
BASILIO VALDEZ, *Assistant.*

ANGELES, MARCH 9TH, 1843.

ANGELES, *March 17, 1843.*

ASS'T YG'NO CORONEL:

Let the honorable the prefect give his opinion in accordance with justice, in view of the allegations of the two parties, Orduno and Verdugo.

To HIS EXCELLENCY:

In compliance with your excellency's decree of the 17th instant and annexed to the record of both, the widow M'a Ygnacia Berdugo and the citizen Ramon Orduno, the former asking for a title of ownership by her denouncement of the rancho Los Feliz. And that a knowledge may be had of the proceedings in the matter I shall insert herein the report I made to the superior authority in consequence of the superior decree to the petition of the widow which I hereto annex and on which I inscribed the report as follows:

"To His Excellency: I forward to your excellency's hands the annexed petition of the widow M'a Y.nacio Verdugo and her son, Jose Antonio Feliz. In view of the marginal superior decree of your excellency of the 27th of June, 1840, affixed to the petition of her late husband, the retired sergeant, Juan Feliz, and the fact that they have uninterruptedly resided at the place named the ranch de Los Feliz, this perfect's office considers the petitioners as being entitled to the grant they solicit of your excellency, should you think proper to order that the title be issued to them. Since on that side the measurements of the commons of this town have been made and the said tract is included therein, remembering that the former prefect sent to the superior authority the corresponding seal-paper for that purpose, as by the aforesaid superior decree it is found that the customary investigations have been made, the only thing this office has to do is to report the same for your excellency's resolution thereon."

On that occasion the citizen, Ramon Orduno, presented a petition claiming to have a right to the rancho of Los Feliz on the part of his wife, and for the knowledge of the superior chief, I forwarded on the same date, March 14, the record annexed to that of Orduno with the following report:

"To His Excellency: At the request of the applicant in this case I forward his petition to your excellency stating by way of a report that in the dispute with the widow he wishes to make it appear that he is heir to a tract which his ancestors without title of juridical possession occupied only by permission or tolerance at that time which reason this office considers that the right thereto is with the person who first solicited the superior authority for it and finding that it was done some years ago by the late Juan Feliz as appears by the superior decree of the 27th June, 1840, the reason now alleged by the petitioner are not considered sufficient since in so long a period of time he has kept silence until the widow prevented Orduno from putting up a building near her home but that he might build it where he wished before, so that no detriment should result against her; hence have arisen disputes, the documents in relation to which must exist in the justice's court which are against Orduno according to the accompanying certificate; nevertheless this office wishing, in its opinion for a proper issue, represents the case to your excellency in order that with your well-known rectitude your excellency may decree according to your superior pleasure."

From the foregoing exposition, your excellency will perceive that when the late Juan Feliz solicited the place there was no objection made by those who considered they had a right thereto and for this reason I made my report in the matter, put up the records together and thus forwarded them to the superior authority for the resolution thereon, with the understanding that the said authority had directed the title to be issued in favor of the late Juan Feliz so soon as the commons of this town should be marked out, as appears by the decree of the 27th June, 1840, herein referred to, stating also in the report I inscribed on the petition of Orduno the opinion of the prefect's office relative to his application and the causes which elicited his objection to the grant.

I have the honor, sir, to submit the case to your excellency and state that in the inspection made by the justice of the peace to ascertain the allegations of Orduno shows manifestly that he has nothing there but what is abandoned. Nevertheless, I shall repeat that, desiring the best issue from your excellency's opinion I set forth the facts with all the antecedents, satisfied that your excellency's well known rectitude will resolve according to your superior pleasure.

Angeles, *March 20th. 1843.*

S. Arguello,
Jose R. Arguello, *Secretary.*

Los Angeles, *March 22, 1843.*

I concur with the opinion of the prefect of this second district. Let the title be issued to the widow M'a Ygnacia Verdugo who has the undisputable right of possession and first occupation.

Micheltorena.

Angeles, *March 22, 1843.*

In view of the petition at the head of this record of proceeding, the reports of the honorable the prefect of the second district, that of the first justice of

the peace of this city, and everything else that was properly considered; in conformity with the laws and regulations in the matter, I declare Dona M'a Ygnacia Berdugo and her son Jose Ant'o Feliz owners in fee of the tract of land named Los Feliz, bounded on the east by the lands of Citizen Juan Moreno, on the north by those of Don Julio Verdugo, on the south by the river of the pueblo, and on the west by the Sierra, to the extent of unsitio y medio de Ganado mayor (1½ square leagues) as explained by the respective map. With the conditions that they shall pay the tax that may be levied if it should result that the lands belong to the commons of the city of Los Angeles. Let the corresponding title be issued; let it be recorded in the proper book and let this record of proceedings be transmitted to the Exc't the departmental assembly for the approval thereof. The Hon. Manuel Micheltorena, governor, military commandant and inspector to the two Californias, thus ordered, decreed and signed which I attest.

MICHELTORENA.

(See map.)

Land Commission No. 416. Deed of Possession of the Rancho de los Feliz. (Year 1843)

MANUEL MICHELTORENA,

Governor, Military Commandant, and Inspector of the two Californias:

(L. S.) Whereas Dona Maria Ygnacia Verdugo has solicited for her personal benefit and that of her family, the place known by the name of Los Feliz, bounded on the north by lands of Julio Verdugo, on the south by the river of the Pueblo, on the east by the rancho of Citizen Juan Moreno and on the west by the Sierras; the proper proceedings and investigations having previously been had, agreeably to the provisions of the laws and regulations, by virtue of the authority on me conferred, in the name of the Mexican Nation, I have thought proper to grant her the foresaid tract of land declaring it her property by the present letters, subject to the approval of the exc't departmental board and under the following conditions:

First. She may inclose it without detriment to the crossways, roads, and servitudes. She will enjoy it freely and exclusively putting it to the use and cultivation that may suit her best, but within one year she will build a house and it shall be inhabited.

Second. She will subject herself to the payment of the tax that may be levied if it should result that the foresaid tract of land belongs to the commons of the city of Los Angeles when the city limits shall be measured.

Third. She will request the proper magistrate to give her the juridicial possession in virtue of this title, whereby the boundaries shall be marked out, at the limits whereof she shall set, besides the landmarks some fruit or forest trees of some utility.

Fourth. The land whereof donation is made is of the extent of un sitio y medio de ganada mayor (one and one-half square leagues) as explained by the respective map. The magistrate who may give the possession will cause it to be measured agreeably to the ordinance, the sobrante (surplus) which may result in favor of the nation, remaining for convenient purposes.

Fifth. If she contravene these conditions she shall forfeit her right to the land and it shall be open to denouncement by another party.

In consequence I order that the present serving as her title, be recorded in the corresponding book and delivered to the interested party for her security and further purposes. Given in the city of Los Angeles on the 22d March, 1843.

MANUEL MICHELTORENA.
FRANCISCO ARCE,
Secretary ad interim.

This grant is recorded in the secretary's office in my charge in the proper book, leaf one. ARCE.

In the city of Los Angeles, department of the Californias, on the 29th day of March, 1843, in consequence of the verbal petition of Dona Maria Ygnacia Verdugo de Feliz, jointly with her son Jose Antonio Feliz, that possession be given them of the place named Nuestra Senora del Refugio de los Feliz granted by the superior departmental government, and that the measurement thereof be made, I shall proceed with my assistant witnesses to give the possession in

accordance with the title or grant issued to them by the Government on the 22d March of the present year, I Manuel Dominguez, first justice of the peace and judge of the first instance, thus decreed, ordered and signed with my assistant witnesses, done on this common paper in default of that of any seal. (Manuel Dominguez. Assistant, Ygnacio Coronel. Assistant, Basilio Valdez.)

Immediately afterward, I, the said justice, notified the adjoining land owners informing them of the object with which I preceeded to the place of Los Feliz; that I was going to remeasure and give possession thereof to Senora Dona Maria Ygnacio Verdugo. Among the adjoining landowners, Don Juan Moreno said that although he claimed a portion and that was as a loan it made no difference to him, and there being no obstacle I said I was to proceed with the act of possession, which I record herein and certify and sign with my assistants in accordance with law. (Manuel Dominguez. Assistant, Ygnacio Coronel. Assistant, Basilio Valdez.)

On the same day being in the house of the rancho, I appointed two rope carriers, to wit, Ysidro Alvarado and Bernardino Lugo, who not knowing how to write did not affix their signatures and having informed them of their appointment they accepted, promising to faithfully and lawfully do their duty, whereupon they made the customary oath, which I certify and sign with my assistant witnesses according to law. (Manuel Dominguez. Assistant, Ygnacio Coronel. Assistant, Basilio Valdez.)

On the same day month and year being at the place of Los Feliz, with the object of making the remeasurement and give the corresponding possession to Dona Ygnacia Verdugo of the said Los Feliz with the prerequisities of law, and there being before me the assistant witnesses and the rope carriers, I caused a cord to be measured of 50 varas long which was examined and tested by me, and having attached to each end a wooden stake with the previous observation and calculation by my order the cord was drawn from the bank of the river north and there were measured and counted 3,150 varas which terminated at the Arastradero (Hauling Road), thence drawing the cord east there was measured and counted 6,200 varas which terminated at a grove of prickley pears which was marked out as a boundary. Thence the cord was drawn south and there was measured and counted 5,000 varas which terminated at the lime kiln which is found at this place. The cord was drawn west and there was measured and counted 7,100 varas which terminated at the point of commencement, which measurements were made to the satisfaction of the claimant, and she was directed to set up her land marks at the corresponding corners which I certify and sign with the assistants according to law. (Manuel Dominguez. Assistant, Ygnacio Coronel. Assistant, Bastilio Valdez.)

Let certified copy of these proceedings be given to the interested party for her security. Thus I decreed, ordered and signed with the assistants according to law. (Manuel Domingues. Assistant, Ygnacio Coronel. Assistant, Basilio Valdez.)

On this day the certified copy was given.

The present agrees with the original to which I make reference and is found in the Book of Public Instruments for this year from which it was copied faithfully having been corrected and compared and contained in these five leaves of common paper in default of seal paper. I attest. (Manuel Doninguez. Assistant, Yg'o Coronel. Assistant, Jose Antonio Guerrero.)

(Indorsed:) 416-14. No. 416. Maria Ygnacia Verdugo. De los Feliz Doc. H. H. No. 1. Annexed to the deposition of Abel Stearns taken before Com'r Hiland Hall. Filed in office Nov. 6, 1852. Geo. Fisher, Sec'y. Rec'd in Book of Rec'd of Evid., Vol. IX, pages 597 to 599.

Transcript of proceedings in Case No. 416. Los Feliz Rancho. Maria Ygnacia Verdugo *v.* The United States, defendant. No. 416

Office of the board of commissioners to ascertain and settle the private land claims in the State of California.

Be it remembered that on this 26th day of October, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid in the United States of America, the following proceedings were had, to wit:

The petition of Maria Ygnacia Verdugo for the place named "Los Feliz" was presented and ordered filed and to be docketed with No. 416 and is as follows, to wit: (Vide p. 3 of the Transcript) upon which petition the following subsequent proceedings were had in their chonological order, to wit:

SAN FRANCISCO, *October 6, 1852.*

In this case the deposition of Abel Stearns, a witness in behalf of the claimant taken before Commissioner H. Hall, with document marked "H. H. No. 1" annexed thereto, was filed, and is in the words and figures as follows, to wit: (Vide p. 4 of this Transcript.)

SAN FRANCISCO, *October 31, 1853.*

This case was submitted in San Francisco, Feburary 28, 1854.

In the same case Commissioner Thompson Campbell delivered the option of the board, confirming the claim. (Vide p. 15 of the Transcript.)

SAN FRANCISCO, August 15, 1854.

In this case on motion of the United States law agent, the following order was made, to wit (vide p. 17 of this Transcript):

To the honorable the United States Commissioners for ascertaining and settling private land claims in California:

Maria Ygnacio Berdugo, a resident of Los Angeles County, State of California, represents: That she is the owner in fee of the rancho called Los Feliz, granted to her by Manuel Micheltorena, while Governor of California, having sufficient powers in the premises by grant dated March 22, 1843. Judicial possession by the proper municipal authorities was given her under the said grant, 20th day of March, A. D. 1843. Your petitioner has fulfilled all the conditions of said grant. The tract thus ceded is bounded north by the rancho of Julio Verdugo, on the south by the river of the Pueblo of Los Angeles, on the east by the rancho of Juan Moreno, and on the west by the mountains, and is more particularly described in said act of judicial possession. It contains one and one half leagues of grazing land more or less according to the diagram which accompanies the espediente of said grant and lies in the county aforesaid. There is no interfering claims, it has not been surveyed by the United States surveyor for California.

Your petitioner relies on the following documentary evidence filed herewith:

First. Copy or original grant marked "A."

Second. Copy of act of judicial possession marked "B." These papers are accompanied by a translation of the grant marked 1. She will rely upon such other parol evidence as may be necessary and she prays that your superior wisdom and sense of justice may confirm her in the property and possession of said rancho.

SCOTT & GRANGER,
Attorneys for petitioner.

October 26, 1852.
Filed in office October 26, 1852.

GEO. FISHER, *Secretary.*

LOS ANGELES, November 6, 1852.

On this day, before Commissioner Hiland Hall, came Abel Stearns, a witness on behalf of the claimant Maria Ygnacia Berdugo, petition No. 416, and was duly sworn, his evidence being given in English.

The United States law agent was present.

In answer to inquiries by counsel for the claimant, the witness testified as follows: My name is Abel Stearns; my age is 54 years, and I reside in the city of Los Angeles. I have resided in California over 23 years. I am acquainted with the writing and signature of Manuel Micheltoreno, Francisco Arce, Manuel Dominguez, Ignacio Coronel, and Jose Vincente Guerrero.

A paper is now shown me purporting to be a grent to Maria Ignacio Berdugo of a tract of land called Feliz, dated March 22, 1843, to which is attached a testimonial of judicial possession, dated in March, 1843.

The signature of the said several persons appearing on said paper I believe to be genuine. Said Dominguez was Alcalde at the date of said possession and authorized to give it. Said paper is hereto annexed and marked "H. H. No. 1."

The land described in the foregoing grant has been in the possession of the claimant ever since the grant. It was occupied by her deceased husband for many years before the grant; he lived on the land with his family and died there about the year 1841 or 1842, and it was afterwards granted to his widow, who continues to occupy it to the present time. The occupation of the land has been by living on it, cultivation, and keeping of stock.

ABEL STEARNS.

Sworn and subscribed to before me.

HILAND HALL, *Commander.*

Filed in office November 6th, 1852.

GEO. FISHER, *Secretary.*

[Translation of grant "1"]

MANUEL MICHELTORENA,

Governor, Commandant General, and Inspector of the Californias:

(Seal.) Whereas Dona Maria Ygnacia Berdugo has asked for her personal benefit and that of her family for the place known by the name of Los Feliz bounded on the north by Don Julio Verdugo, on the south by the river of the Pueblo, east by the rancho of the Citizen Juan Moreno, and on the west by the mountains; the proceedings and requisite investigations having previously been gone through with as is directed by the laws and regulations. Exercising the authority in me vested I have in the name of the Mexican Nation concluded to grant the land aforesaid, declaring it to be her property by the present letters, subject to the approbation of the most excellent departmental assembly and under the following conditions:

First, she may inclose it without prejudice to the crossroads and easements; she may farm it exclusively, devoting it to the use or cultivation that may most suit her, and within one year she shall build a house and it shall be inhabited.

Second. She shall be subject to pay the ground rent or assessment imposed, if it should result that the aforesaid land belongs to the borders of the city of Los Angeles, when the measurements of its lands are verified.

Third. She shall request the proper judge to give her Judicial possession by virtue of this despatch, whereby the boundaries shall be defined, within the limits of which she shall place in addition to the landmarks some fruit or forest trees of some utility.

Fourth. The land of which grant is made is of one league and a half of grazing land as explained by the diagram which accompanies the respective expediente.

The judge who shall give possession shall have it measured in conformity with the ordinance, leaving the overplus that results to the Nation for convenient purposes.

Fifth. If she shall violate these conditions she shall lose her right to the land and it shall be denounced by another.

Wherefore I order that the present serving her for title, account thereof be taken in the corresponding book and it be delivered to the party interested for her security and further purposes.

Given in the city of Los Angeles, March 22, 1843.

MAN'L MICHELTORENA.

FRANCISCO ARCE, *Sec. ad. int.*

Account of this grant remains taken in the secretary's office under my charge in the respective book at page 1st.

ARCE.

Filed in office, October 26, 1852.

GEORGE FISHER, *Secretary.*

[Translation of act of judicial possession]

EXHIBIT B

On the same day, month, and year being at the place called Los Feliz for the purpose of effecting the measurement and act of possession for Dona Ignacia Verdugo of the said place of Feliz all the requisites of law having been attended to and causing the assistant witnesses and cord bearers to be present, I caused a cord to be measured of 50 varas, which was examined and recognized by me and having tied to its extremities two wooden handles and after due observa-

tion and calculation, by my order the end was stretched from the border of the river point (direction) north and 3,150 varas were measured and reckoned, from this place point (direction) east the cord was stretched and 6,200 varas were measured and reckoned, which ended at a "Nopolero" (prickly pear tree) and it was marked as a boundary, from this place and taking a southern direction the cord was stretched and 5,000 varas were measured and reckoned, which ended at a "Calera" (Kiln) which is at this place. The cord was stretched in direction west and there were measured and reckoned 7,100 varas which ended at the place of beginning.

A true and correct translation which I attest.

GEO. FISHER, *Secretary.*

Filed in office October 31, 1853.

GEO. FISHER, *Secretary.*

Maria Ignacia Verdugo *v.* The United States. Los Feliz. 1½ square league. Opinion

The petitioner in this case bases her claim on a grant issued to her by Governor Micheltorena on the 22d of March, 1843, which grant is proved to be genuine. She further shows that judicial possession of this tract of land described in said grant was duly given to her on the 29th day of March, A. D. 1843.

There is no proof that any approval was ever made by the departmental assembly and no espediente has been filed.

The third condition of the grant refers to a map for a description of the land granted; no such map has been produced, it is doubtless to be found in the espediente and should have been filed.

In many cases the party endangers his case by neglecting to file a traced copy of the espediente which generally contains a map and is of essential aid in ascertaining the boundaries of the land claimed.

Wherever there is as espediente to be found, a copy of it should be filed as it gives a more satisfactory history of all the proceedings in the case than can be derived from any other source.

The proof in this case shows a substantial compliance and ample performance of the material conditions of the grant, and the record of judicial measurement sufficiently describes the tract granted, so that its location may be ascertained. A decree of confirmation will therefore be entered.

Filed in office February 28, 1854.

GEO. FISHER, *Secretary.*

Maria Ygnacia Verdugo *v.* The United States. Decree

In this case on hearing the proofs and allegations it is adjudged by the commission that the claim of the said petitioner is valid and it is therefore decreed that the same be confirmed. The lands of which confirmation are hereby made are known by the name of Los Felis and are bounded and described as follows, to-wit: Commencing at a point on the river and running north 3,150 varas, thence running east 6,200 varas to a "Nopalera" (cactus) which is marked as a boundary, thence running south 5,000 varas to a (calera) lime kiln which is on the place, thence west 7,100 varas to the place of beginning.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office February 28, 1854.

GEORGE FISHER, *Secretary.*

And it appearing to the satisfaction of this board that the land herein adjudicated is situated in the southern district of California, it is hereby ordered that two transcripts of the proceedings and of the decision in this case and of the papers and evidence upon which the same are grounded be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States District Court for the Southern District of California, and the other be transmitted to the Attorney General of the United States.

I, George Fisher, secretary of the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify that the foregoing 16 pages, numbered 1 to —, both inclusive, contain a true and correct and full transcript of the record of proceedings and of the decision of the said board, and of the documentary evidence and of the testimony of the witnesses upon which the same is founded on file in this office in case No. 416 on the docket of said board, wherein Maria Ygnacia Verdugo is the claimant against the United States for the place known by the name of "Los Feliz."

In testimony whereof I hereunto set my hand and affix my private seal (not having a seal of office) at San Francisco, Calif., this 13th day of October, A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

[SEAL.] GEO. FISHER, *Secretary.*

February 27, 1855. Notice of appeal from United States Attorney General filed. November 8, 1855. Petition for review filed by United States District Attorney. February 9, 1857. Decree filed as follows:

This case coming on to be heard on appeal from the final decision of the Board of United States Land Commissioners to ascertain and settle the private land claims in the State of California under an act of Congress approved March 3d, 1851, upon the transcript of the proceedings and evidence had and taken before the said board and upon additional evidence taken in this Court, and it appearing that the said transcript and a notice of the intention of the appellants to prosecute the said appeal have been duly filed with the clerk of this court, and counsel for the respective parties having been heard. It is ordered, adjudged, and decreed by the court that the decision of the said commissioners be, and the same are hereby affirmed, and that the title of the said Maria Ygnacia Berdugo to the lands claimed by her in this case be decreed to be good and valid.

The lands of which confirmation is hereby made are situated in the county of Los Angeles and are known by the name of Los Feliz, being the same lands granted to the said Maria Ygnacia Berdugo by Manuel Micheltorena, Governor of California, on the 22d day of March, A. D. 1843, and are bounded and described as follows: On the north by the lands of Julio Verdugo, on the south by the River of the pueblo (city) of Los Angeles, on the east by the rancho of Citizen Juan Moreno, and on the west by the mountain. Reference for a more particular description of the said lands being had to the said grant and the record of juridical possession on file in this case. The same being confirmed to the extent of 1½ leagues and no more.

ISAAC S. K. OGIER,
United States Judge for the Southern District of California.

UNITED STATES SURVEYOR GENERAL'S OFFICE,
San Francisco, Calif., September 17, 1858.

SIR: Whereas in the claim of Maria Ygnacia Berdugo to a tract of land hereinafter described the United States District Court for the Southern District of California has affirmed the decision of the Board of Land Commissioners, and notice having been given by the Attorney General of the United States that no appeal will be further prosecuted therein, I have thought proper to appoint you my deputy in this special case for the execution of the final survey thereof.

The United States district court aforesaid has confirmed said claim to the following effect: "It is ordered, adjudged, and decreed by the court that the decision of the said commissioners be, and the same is hereby, affirmed, and that the title of the said appellee, Maria Ygnacia Berdugo, to the lands claimed by her in this case be decreed to be good and valid. The lands of which confirmation is hereby made are situated in the county of Los Angeles and are known by the name of "Los Feliz," being the same lands granted to the said Maria Ygnacia Berdugo by Manuel Micheltorena, Governor of California, on the 22d day of March, 1843, and are bounded and described as follows:

On the north by the lands of Julio Berdugo, on the south by the River of the pueblo (city) of Los Angeles, on the east by the rancho of Juan Moreno, on the west by the mountains, reference for a more particular description of said lands being had to said grant and the record of juridical possession on file

in this case, the same being confirmed to the extent of 1½ square leagues and no more.

You will locate said tract of land in accordance with the decree of the said United States district court.

Herewith I furnish you with a copy of the map above referred to.

For a more particular description of the manner you are to proceed in the execution of the work I refer you to the general instructions to deputy surveyors.

You are strictly prohibited from receiving from any party other than the United States compensation for running the exterior lines of this tract, and no survey will be approved should such payment have been made to a deputy surveyor.

Respectfully,

J. W. MANDEVILLE,
United States Surveyor General.
HENRY HANCOCK, Esq.,
Deputy Surveyor.

Final survey of a tract of land called Los Feliz, situate in the county of Los Angeles and finally confirmed to Maria Ignacia Berdugo, executed by Henry Hancock, deputy surveyor, in pursuance of instructions issued by James W. Mandeville, United States Surveyor General for the State of California, bearing date of September 1, 1858.

Commencing at a point in the center of the Los Angeles River on a line with the southern boundary of a tract called Canada de Los Nogales, formerly constituting a part of the Berdugo rancho, and 6 chains west of the post previously established at the center point on the north boundary of the lands finally confirmed and finally surveyed to the corporate authorities of the city of Los Angeles, which post is taken as a witness corner to station 1 of this rancho.

Thence variation 13° 30′ E.: N. 47½° W. 3.11 chains; N. 11¼° W. 13 chains; N. 16° W. 5 chains; N. 35¾° W. 10 chains; N. 1° W. 15 chains; N. 11¼° W. 9.50 chains; N. 28° W. 9 chains; N. 68¼° W. 7.50 chains; N. 58° W. 4 chains; N. 65° W. 15.50 chains, to station 10, from which a willow tree 18 inches in diameter bears S. 48° (43°) E., 19.26 links distant; S. 78¼° W. 8 chains; N. 20° W. 4.50 chains; S. 88¼° W. 6.50 chains; N. 78½° W. 12.50 chains; N. 66° W. 10 chains; N. 81° W. 5 chains; N. 53° W. 5 chains; N. 12¼° W. 6.50 chains; N. 39¾° W. 6.50 chains; N. 82½° W. 9 chains; S. 33¾° W. 3.50 chains to Station No. 21, a point opposite to which the irrigation ditch is taken out on the right bank of the river; S 80° W. 8 chains; N. 71½° W. 6.50 chains; N. 39° W. 4 chains; N. 6¾° E. 7.50 chains to station 25, from which the house of the ranch bears N. 88° W. about 15 chains; N. 5¾° E. 11 chains; N. 8½° W. 5 chains; N. 16¾° E. 4.50 chains; N. 49½° W. 14 chains; N. 10° W. 6.50 chains; N. 43° E. 6.50 chains; N. 45¾° W. 4 chains; N. 59¾° W. 11.50 chains; N. 12° W. 5 chains; N. 30½° W. 9 chains; N. 60° W. 5 chains; N. 13° E. 10.50 chains; N. 79¼° W. 5.50 chains; N. 29° W. 15 chains; N. 49° W. 5 chains; N. 21° W. 4 chains; N. 5¾° E. 5.50 chains; N. 42¾° E. 6 chains; N. 14° W. 10.50 chains; N. 30¼° E. 7.50 chains; N. 43½° E. 5 chains; N. 32¾° W. 4.50 chains; N. 52¾° W. 10 chains; N. 35¾° W. 9 chains; N. 61° W. 4.50 chains; N. 28° W. 7 chains; N. 16½° W. 5 chains; north 10.50 chains; N. 40° E. 7 chains; S. 87° E. 3.50 chains; N. 16½° E. 4.50 chains; N. 40° W. 6.50 chains; N. 74½° W. 2 chains; N. 17¼° W. 10 chains, intersect southern boundary of sec. 19, T. 1 S., of the base line of R. 13 W., San Bernardino meridian, 21.95 chains east of the quarter corner and set post at point of intersection; 14 chains; N. 31½° E. 7 chains; N. 19¼° W. 10 chains; N. 55° W. 7 chains; N. 28° E. 4 chains; N. 31¼° W. 8 chains; N. 1° E. 7 chains; N. 51° W. 8 chains; N. 27° W. 6 chains; N. 69½° W. 5 chains; S. 25½° W. 4.50 chains; N. 88° W. 3 chains; S. 15° W. 6.50 chains; S. 62° W. 6 chains; S. 58¼° W. 2.50 chains; N. 20° W. 3 chains; S. 74½° W. 17 chains; N. 67½° W. 3 chains to station No. 76, from which a large whitish rock on the north face of the Cahuenga Mountains bears S. 5½° W., distant some 6 chains; N. 26° W. 5 chains; west 8 chains; S. 51° W. 9.50 chains; S. 72° W. 7 chains; N. 47° W. 5 chains; S. 75½° W. 10 chains; N. 44° W. 5.50 chains; N. 87° W. 4 chains; S. 48¾° W. 12.50 chains; S. 82° W. 13.50 chains to station No. 86 and set a witness post for true northwest corner of this rancho on the right bank of the River Los Angeles 50 links N. 82° W. from the true corner, from which a lime kiln on the north base of the mountain on the south bears N. 82° W., distant 4 chains; S. 3½° W. 3 chains base of mountains; 190.33

chains to the calculated position of a point in the San Bernardino base line; west 8.52 chains to the calculated position of corners 1, 2, 35, 36, Tps. 1 N. and S., R. 14 W., of the San Bernardino meridian, which corner has never been established on account its falling in that portion of the Cahuenga Mountains which is too rough to admit of measurement; south 160 chains to station 89, pot in mound corner to sects. 11, 12, 13, and 14, T. 1 S., R. 14 W.; east 80 chains to corner to secs. 12, 13, 7 and 8 on the east boundary of T. 1 S., R. 14 W., of the San Bernardino meridian; 114 chains to station 90 and set a post and charred stake on mound on the west boundary of the previously surveyed lands of the city of Los Angeles; north 23.50 chains to station 91 and to a post and mound previously established for the northwest corner of the lands belonging to the city of Los Angeles at 2 chains north of road course west; thence on north boundary of lands of the city of Los Angeles; east 26.68 chains, cross stream of water 10 links wide course southwest; 124 chains, enter valley; 147 chains, leave valley and enter hills; 172 chains to top of bluff, course southwest; 193 chains across irrigating ditch 10 links wide; course southwest; 204.68 chains to place of beginning.

GENERAL DESCRIPTION

The land on the river for the first 4 miles from station 1, averaging about one-half mile wide, is of a second-rate, sandy soil, but for the facility with which it may be irrigated is valuable for the cultivation of grain or the vine, besides which about three-fourths of a league on the south of the grant and south of the Cahuenga Mountains consists of rolling hills well adapted to grazing. The remainder is mountainous and valueless.

REMARKS

This tract is bounded on the north and east by the lands of Julio Verdugo and for nearly a mile on the north nearest the southeast corner the tract called Canada de los Nogales.

The lands of Julio Verdugo are called San Rafael, and once embraced the tracts now called Canada de los Nogales, on the south by the lands of the Pueblo of Los Angeles and on the west by the Cahuenga Mountains.

The citizen Juan Moreno is occupying lands (under a grant from the Ayuntamiento of the pueblo, I am informed) the most of which being nearly 40 chains on the river falls inside of this survey, its shape would be an equilateral triangle of public land between this grant and the previously surveyed city lands, and I have therefore, in order to avoid inconveniencing the public domain included it within the limits of the present survey and thrown off the excess of the original occupancy under the provisional bounds of the Los Felis on the west and north.

Then follows the certificate of the assistants, who were as follows:

Ebenezer Hadley, compassman; John Warren, chainman; Benjamin Virgin, chainman; Romulo Pico, axman; Roman Mendibel, flagman.

Also affidavit of Henry Hancock, deputy surveyor, that he faithfully executed the final survey of the Rancho Los Felis and that the foregoing are the true and original field notes of such survey.

Verified December 8, 1860, before James Rice, notary public. [Seal.]

NOTE.—The venue of this affidavit is, "State of California, county of Los Angeles," and notary signs as a notary of said Los Angeles County. But his seal shows that he was a San Francisco notary. (Roco.)

Field notes of the final survey of the Rancho Los Feliz. Situated in the county of Los Angeles, State of California; confirmed to Maria Ignacio Berdugo. Executed by George Hansen, United States deputy surveyor in pursuance of instructions issued by L. Upson, United States surveyor general for California of date April 14, 1866.

Manuel Dominguez, in the capacity of judge de paz-judge de la first instance, gave on the 29th of March, 1843, juridical possession of this rancho to Dona Maria Ignacio Berdugo.

Antonio F. Coronel and Manuel Coronel declare, that they were both present, when the same juridical possession was given.

On my request the aforesaid three persons go with me to the Rancho Los Feliz and show the landmarks and points described in the document of juridical possession, namely;

The point of beginning at the bank of the River Los Angeles (punto norte) marked in the accompanying map as station 1, where is set a green willow post 8 inches in diameter marked L. F. 1 at the waters edge; the Rastradero (punto oriento) marked by a mound of rocks. A sycamore in a cactus field called Napolaro (punto sur); also an oak tree near the limekiln (punto pomiento.)

Antonio F. Coronel and Manuel Coronel in pointing out the objects declare them to be the identical landmarks of the juridical possession of the rancho.

Manuel Dominguez says that he can not recollect the particular points and landmarks, but that he knows well that the Rancho Los Feliz of which he gave juridical possession is situated on the south side of the River Los Angeles where the Felis people always had their houses and improvements. I proceed to ascertain the position of said landmarks, commencing to measure at the aforesaid sycamore at the Napolaro which is 170 chains west and 14.46 chains south of corner to sections 1–6–12 and 7 of T. 1 S., R. 13 and 14 W. of San Bernardino Initial. Var. 14° 45′ E. S. 54E. 254.80 chains to a white sandstone 18 by 36 inches 3 feet above ground on a hill 150 feet high. Manuel and Antonio declare, that in giving the juridical possession they came to this place believing it to be in the right line from the Rastradero to the Nopalaro and set a stone as land mark.

Thence run N. 66½° E. 121.18 chains to the stone mound at the Rastradero,

S	54°	E. 254,80;		140.77	206,14
N	½°	E. 121,18;	48		110.91
				100,97	317,05

From the foregoing latitude and departure I calculated the course from the Nopalaro to the Rastradero as follows:

317, 06 100, 97 R tgs X

Log Tgs X–Lg 100. 97—2. 004193

lg 317, 05—2. 501127

9. 503066

X– 17° 39′

Cos; 100.97–R–Sin X

Log. Cos—lg 100.97—2, 004193

—lg Sin X—9. 481731

2, 522464

Cos 333.01 chains.

Therefore the line from the Nopolara to the Rastradero is S. 72° 21′ E. 333.01 chains.

From the Rastradero I run N 31¾° E. 4 chains to the willow post, station 1 at the right bank of the River Los Angeles, the general course of the River is here S 62½° E. and its width 8 chains. From station 1 I run N 31½° E. 4 chains to the center of the river and thence I meander the mid channel of the same N. 65¼° W. 45 chains to station 3, thence N. 65½° W. 35 chains to station 4, thence N. 46° W. 55 chains to station 5, thence N. 16¼° W. 16,36 chains to station 6 on the base line 20.50 chains east of a mound in corner of sections 31–32–6 and 5 in Tp. 1 N. and 1 S. R. 13 W. of the San Bernardino initials.

Thence N. 13° E. 18 chains to station 7, thence N. 24½° W. 23 chains to station 8, thence N. 46° W. 10 chains to station 9, thence N. 21° W. 5 chains to station 10, thence N. 16½° E. 20 chains to station 11, thence N. 12° W. 11 chains to station 12, thence N. 51½° W. 22 chains to station 13, thence N. 6° W. 95 chains to station 14, thence N. 40° W. 9 chains to station 15, thence N. 77° W. 10 chains to station 16, thence S. 75° W. 25 chains to station 17, thence West 16 chains to station 18, thence N. 48° W. 25 chains to station 19, thence N. 88° W. 9 chains to station 20, thence S. 42° W. 33 chains to station 21, an oak tree on a steep bluff on the south side of the River Los Angeles. The river here makes a short turn so that the general course is N. 27° W. thence leaving the same and running along the steep bluff N. 85¼° W. 16.39 chains to a dry oak tree 2 feet in diameter, station 22 which was pointed out as above mentioned to be the landmark near the limekiln and which is 47.94 chains south and 17.70 chains east of corner to sections 14 and 13 and 23 and 24 in Tp. 1 N. R. W. of San Bernardino initials.

From the oak tree the western boundary runs straight to the Sycamore tree at the Nopalaro over rough, rugged hills, covered with dense chapparel which I find impossible to measure with a satisfactory degree of accuracy I therefore

calculate the said line in the following manner: According to the annexed tabling of the lines of the Nopalaro is 286.27 chains south and 108.27 chains west of the oak tree, station 22.

(Here follows tabling.)

Therefore the line from the oak tree, station 22, to the sycamore at the Nopalaro is S. 20° 42′ W. 306.24 chains.

	Acres
There is included within the above lines an area of	8,337.4853
The quantity confirmed is	6,658.0240
Therefore to be cut off	1,679.4613

A part of the above quantity of land is included in the limits of the Los Angeles pueblo lands. In the plat furnished from your office of the said pueblo lands its south boundary is 79 chains south of the township line between townships 1 and 2 south.

The exterior of said pueblo lands from south to north is 2 leagues or 421.36 chains. Therefore the northern boundary will be 22.36 chains north of the section line between sections 7 and 18 in township 1 S. R. 13 W. Therefore the quantity lying south of the northern city boundary and its prolongation is 627.48 acres.

Extending the line of the northern boundary of the city to the section line 1 mile west of the range line between ranges 13 and 14 and running thence north along said section line to where it intersects the line running from the oak tree near the limekiln to the sycamore at the Nopalaro, a triangle at the western end of the rancho, containing 1,206.58 acres is cut off and a triangle in section 12, township 1 S. R. 14 W. containing 33.13 acres is added, being a quantity of 6,537.57 acres in the rancho to which 121 acres must be added to complete the quantity of 1 and 1 leagues of land.

By the additional quantity I include the east half of the NE. ¼ of section 11 and the SE. ¼ of the SE. ¼ of section 2. Tp. 1 S. R. 14 W. In order to establish the western and southern boundaries of the rancho I run from the oak tree at station 22 in the direction of the sycamore or the Nopalero *S 20, 15′ W. 51.14* chains, intersect section line *15.87* chains south of corner to sections 23, 24, 25, and 36 of Tp. 1 N. R. 14 W. and set post for station 23.

Thence along said section line south *203.88* chains to a point 20 chains north of corner to sections 1, 2, 11, 12 of Tp. 1 S. R. 14 W. set post L. F. 24.

Thence west 20 chains, set post marked "L. F. 25"; thence south 60 chains set a post L. F. 26; thence east 20 chains, set a post in mound at ¼ section corner between sections 11 and 12 in Tp. 1 S. R. 14 W. station 27.

Thence along section line south 17.64 chains to the prolonged line of the north boundary of the pueblo lands of the city of Los Angeles to a point marked "L. F. 26."

Thence east 262.26 chains, intersect line from the Rastradero to station 1 in the bed of the river, set post marked "station 29."

Thence along the said line N. 31¼° E. 67.05 chains to the place of beginning at station 1.

PATENT

The United States of America to Maria Ygnacia Berdugo, dated April 18, 1871. Liber 1 of patents, page 161.

The United States of America:

To all whom these presents shall come, greeting.

Whereas it appears from a duly authenticated transcript filed in the General Land Office that, pursuant to the provisions of the act of Congress approved the 3d day of March, 1851, entitled "An act to ascertain and settle the private land claims in the State of California, Maria Ygnacia Berdugo, as claimant, filed her petition on the 26th day of October, 1852, with the commission to ascertain and settle private land claims in the State of California, sitting as a board in the city of Los Angeles, in which petition she claimed the confirmation of her title to a tract of land known by the name of Los Feliz, situated in the county of Los Angeles and State aforesaid, said claim being founded on a Mexican grant to the petitioner made on the 22d day of March, 1843, by Manuel Micheltorena, then governor of both Californias.

And whereas the board of land commissioners aforesaid, on the 25th day of February, 1854, rendered a decree of confirmation in favor of the claimant, which decree or decision having been taken by appeal to the district court at its December term, 1855, in the cause entitled "Maria Ygnacia Berdugo, appellee, ads. the United States, appellants. No. 133, Los Felis."

Ordered, adjudged, and decreed that the decision of the said commissioners be, and the same is hereby, affirmed, and that the title of the said appellee, Maria Ygnacia Berdugo, to the lands claimed by her in this case be decreed good and valid.

The lands of which confirmation is hereby made are situated in the county of Los Angeles and are known by the name of Los Felis, being the same lands granted to the said Maria Ygnacia Berdugo by Manuel Micheltorena, governor of California on the 22d day of March, A. D. 1843, and are bounded and described as follows:

On the north by the lands of Julio Berdugo, on the south by the river of the pueblo (city) of Los Angeles, on the east by the rancho of the citizen Juan Moreno and on the west by the mountains, reference for a more particular description of the said lands being had to the said grant and the record of juridical possession on file in this case, the same being confirmed to the extent of 1½ leagues and no more. And the Attorney General of the United States having given notice that appeal would not be prosecuted to the Supreme Court of the United States the aforesaid district at its December term, 1857, ordered that said appeal be and the same is hereby dismissed and that the appellee have leave to proceed under the decree heretofore made in her favor as under a final decree, whereby the proceedings of court upon title became final.

And whereas under the thirteenth section of said act of 3d March, 1851, and the supplemental legislation and in accordance with the proceedings had pursuant to said act and the supplemental legislation there has been deposited in the General Land Office a return with plat of survey of the said claim confirmed as aforesaid, authenticated by the signature of the United States surveyor general of the State of California whereby it appears that said claim has been designated as lot No. 38 in township 1 north of range 13 west, lot No. 38 in township 1 south of range 13 west, and lot No. 37 in township 1 south of range 14 west of the San Bernardino meridian, containing 6,647.46 acres, situated in the State of California, the plat in the aforesaid return of survey being the words and figures as follows, to wit:

(Here follows map.)

Now know ye that the United States of America, in consideration of and pursuant to the provision of the act of Congress aforesaid on March 3, 1951, and the legislation supplemental thereto, have given and granted and by these presents do give and grant unto said Maria Ygnacia Berdugo and to her heirs the tract of land embraced and described in the foregoing survey, but with the stipulation that in virtue of the fifteenth section of the said act the confirmation of the said claim and the patent shall not affect the interests of third persons.

To have and to hold the said tract of land and the appurtenances unto the said Maria Ygnacia Berdugo and to her heirs and assigns forever with the stipulation aforesaid.

In testimony whereof I, Ulysses S. Grant, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, this 18th day of April in the year of our Lord 1871 and of the independence of the United States the ninety-fifth.

By the President:

U. S. GRANT,

[GENERAL LAND OFFICE SEAL.] By J. PARISH,
Secretary.

I. N. Granger, recorder of the General Land Office. Records volume 7, pages 414 to 417, inclusive.

A true, full, and correct copy of the original recorded at the request of John G. Downey, September 22, A. D. 1871, at 1.30 p. m. Thomas D. Mott Co., Recorder, by J. W. Gillette, deputy.

NOTE.—Maria Ygnacio Verdugo de Feliz died October 4, 1861.

Mr. GROVE. I have a lot of this stuff down in my room. I have taken it apart. I am making an abstract and I will have to index the whole State of California, all of the ranchos. The first part is the Hoffman Index.

TESTIMONY OF WILLIAM F. ROSSON, ASSOCIATED WITH C. C. GROVE, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. State your full name.

Mr. ROSSON. William F. Rosson.

The CHAIRMAN. What is your connection with this case?

Mr. ROSSON. Nothing at all.

The CHAIRMAN. You are a friend of Mr. Grove?

Mr. ROSSON. Yes, sir.

The CHAIRMAN. And you have assisted him?

Mr. ROSSON. I have assisted him in getting some of these papers together.

The CHAIRMAN. Are you an applicant for a homestead entry?

Mr. ROSSON. No.

The CHAIRMAN. Now, if you will describe what this paper is that you are presenting.

Mr. ROSSON. This is a table of land claims presented to the commission pursuant to the provisions of act of Congress of March 3, 1851. The first part is the commission and the second part the district courts for the northern district and the southern district. It is just a list of the different Mexican grants.

The CHAIRMAN. Do you think this would be valuable to us for any purpose, Mr. Grove?

Mr. GROVE. It is a typewritten list published by the Government.

The CHAIRMAN. It is printed then and is a Government document at this time?

Mr. GROVE. It is a Government document, known as the Hoffman Index. The other part of it is 813 claims filed and showing what was done to them in the district courts and in the land commission.

The CHAIRMAN. That is all available for the record, is it not?

Mr. GROVE. It is all available in the Hoffman Index, except in the back of it are a lot of Mexican laws and then there is a letter from Attorney General Black and the Skenk report. I do not know whether you have ever heard of that or not. Skenk was sent out here by the commissioner.

The CHAIRMAN. Is it Skenk, S-k-e-n-k, or Skunk, S-k-u-n-k? It appears here as Skunk, S-k-u-n-k.

Mr. GROVE. I think I have a copy over at the office. I haven't been there for a year, and it may be I have it at the room.

The CHAIRMAN. We will not take your file, inasmuch as the main portion of it is in the records at Washington.

Mr. GROVE. It is all published by the Government and part of it we got from the Congressional Record.

The CHAIRMAN. Do you want us to keep this?

Mr. GROVE. No; because I am making an index of the whole State of California, and I will need that.

The CHAIRMAN. It is available to us if we want it in Washington?

Mr. GROVE. All you need is the reference authorities.

The CHAIRMAN. Through your description already made a part of the record, so we will know what is called for——

Mr. GROVE. But I haven't given you all——

Mr. LAWLER. This may serve to clarify matters a little. What he refers to is a volume called Hoffman Reports, Decisions by Judge Hoffman, the appendix to which contains a list of Mexican grants, applications to which were confirmed——

Mr. GROVE. It doesn't do that at all——

Mr. LAWLER. Then I am mistaken. I understood it did. This yellow document that you have produced, Mr. Grove, with Mr. Montgomery's name attached, that was at the beginning of the controversy over the San Fernando grants, when these homestead applications were finally crystalized in the case of Thompson *v.* Los Angeles Farming & Milling Co.?

Mr. GROVE. This is a list that you want to examine very carefully. You have my affidavit there. But how they could get 36 grants surveyed from September 1, 1858 to January 1, 1859, how they got 36 ranches surveyed by Henry Hancock with the same crew, those ranches containing 836 miles and 14 chains and 89 links, I can not see.

The CHAIRMAN. In how much time was that?

Mr. GROVE. From the 1st of September, 1858, when he got the instructions, to the 1st of January, 1859.

The CHAIRMAN. Four months.

Mr. GROVE. Yes. You see the list there taken from the record. The records are all there, but they have scattered and it takes somebody who has gone through them to know where to look for them. The special attorney for the Government, sent out here and paid by the Government, was Hackman, and he was instructed to defend the Government interests, and his attorney was Sloan of San Francisco, and he was hauled over the coals by the Supreme Court for practicing on both sides, against the Government and for the Government. You will see that in there.

The CHAIRMAN. All right, thank you very much.

Mr. GROVE. I would have to go over that affidavit to see what it is.

Mr. WHEELER. In order that the record may be clear, I have an exhibit, a brief which was introduced.

The CHAIRMAN. That was marked "Exhibit C."

Mr. WHEELER. I have also a deposition and a letter which was introduced as Exhibit G.

Mr. MUSICK. At the proper time I would like the privilege of asking Mr. Wheeler a few more questions, Mr. Chairman.

The CHAIRMAN. Very Well. Miss Frasier, who was on the stand yesterday, has called my attention to the fact that there was some statement she desired to clarify. She is unable to be here this morning but I understood she has asked some one to speak for her. Is that correct?

Miss GREER. Yes, Mr. Chairman.

FURTHER STATEMENT OF MISS GRACE A. GREER, LOS ANGELES, CALIF., ON BEHALF OF MISS WELMA S. FRASIER

The CHAIRMAN. Now, Miss Greer, will you, as briefly as you can, detail what Miss Frasier had in mind last evening.

Miss GREER. Mr. Chairman, she wished me to state that she was called, without knowing that she was going to be called and not knowing what they wished her to testify to. She was in bed with a sick headache and came here and was rather confused in relation to the statement that she had made about this check, this money. Judge McLendon had told us that if we received our checks for the filing fee from the Land Office we were to return them to the Land Office at once, without cashing them of course; that these moneys returned to the Land Office would go into a special fund in Washington and in order to get that money back into the Treasury there would have to be a special act; that is could not be put back into the Treasury simply by being sent back, but there would have to be a special act in Washington and that is what she was confused about in what she had said. Would it be possible for me to speak on two or three matters?

The CHAIRMAN. In what connection?

Miss GREER. Well there are two or three things I would like to say in reference to Judge McLendon. He is not here to defend himself. His honor has been attacked here and he has been under indictment and I feel very badly over it. He has had no one to speak for him and there are several things I would like to say, because I had many interviews with Judge McLendon and he produced documents and things to show me what he had claimed in relation to certain things.

The CHAIRMAN. How long would you be in doing that?

Miss GREER. I would just like to make reference to several things.

The CHAIRMAN. Could you do it in a matter of ten minutes?

Miss GREER. I think so, easily.

The CHAIRMAN. Very well.

Miss GREER. Judge McLendon told me he had been employed by the United States Government on special cases in a secret capacity, and had also been employed by the Government of England in the same way on special occassions.

The CHAIRMAN. What has that to do with this matter?

Miss GREER. I wanted to clarify the matter in regard to what has been said against Judge McLendon. There has been so much said.

The CHAIRMAN. But there hasn't been any reference to, or any denial of the fact that he may at some time have been in the employ of the British Government.

Miss GREER. I know. I just want to show the type of man Judge McLendon was and what he knew in relation to certain matters.

The CHAIRMAN. What you are saying, for the purpose of the record, is what Judge McLendon told you that he had done in other days?

Mr. GREER. Yes.

The CHAIRMAN. Very well.

Miss GREER. In relation to Mexico, he was in the employ of the Mexican Government at the time our Government went into the

World War, in a secret capacity. He resigned his position there and offered his services to our Government while in Mexico. He got considerable information and he brought home documents and letters and photographs and so on which he showed me in reference to these things. One photograph was of himself in Mexico City with two high officials of the Mexican Government. He told me about interviews with President Harding in relation to this land up there, in Washington, and that President Harding had promised to come to Los Angeles and go into this land affair and straighten it out, if Judge McLendon would promise him not to make it a public exposure, and until Judge McLendon's death he would not give out information he had because he had promised President Harding; that President Harding was on his way here to settle this land matter at the time of his death.

Then there is a matter that I wish to speak about in relation to these filing fees. There were two people who put up filing fees with the Government in the same amount; a man by the name of G. G. Garrett and a man by the name of Paul Fog. Mr. Garrett requested me to go to the land office with him because he wanted to make out an additional filing. He had discovered that apparently some adjoining land had been relinquished and he wished to make an additional filing. He was told in the land office that he could not make an additional filing, that the matter was closed, that he was not a filer on the land and that his check had been sent to him. He said he had never received the check and he knew nothing about it. So, in order to clarify matters I asked the clerk if they did not have a record of what had been done with the money that had been returned to the land office, people sending their checks back, their filing fees, and he said oh, yes, that they had a financial record and I asked him if he would investigate and see what had become of Mr. Garrett's money. He came back and said it had gone to Washington and was in a special fund. Mr. Garrett still insisted that he wished to make the additional filing and wanted to make the additional filing and they refused to handle it. In order to make the additional filing he refiled in the same location and in an additional location and paid a second fee.

Paul Fog's record in the serial number book shows that the matter of his filing had been closed and that he had no standing in the land office. His money was returned to him and there was no note made of the fact that he had sent it back, which he had. So I went with him to the land office and corrected that and he had to make an additional filing on the same land and pay an additional fee of $16, making $32 in the matter of his filing.

I think that is all that is necessary for me to speak about.

The CHAIRMAN. Now, we will hear the gentleman who stood up yesterday, Mr. McDaniel.

TESTIMONY OF WILLIAM F. McDANIEL, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. State your full name.

Mr. McDANIEL. William F. McDaniel.

The CHAIRMAN. And your occupation?

Mr. McDANIEL. I have none at present.

The CHAIRMAN. Are you one of the applicants for homestead?
Mr. MCDANIEL. No.
The CHAIRMAN. Have you had any connection at all in endeavoring to make an entry or secure a homestead?
Mr. MCDANIEL. No, sir.
The CHAIRMAN. Then how did you obtain your knowledge of the availability of maps in Mr. Wheeler's office?
Mr. MCDANIEL. I went to Mr. Wheeler's office one day and listened to his spiel. Later I met two persons who had been to his office before. I asked them how did they know where the land was which they intended to locate on and they said they were shown a map. I asked them to let me look at the map and they said they didn't have the map, that Mr. Wheeler took it away from them and I asked them why he took it away from them and this person I was talking to said that they wouldn't pay him fifty cents, that he asked fifty cents for the map and they wouldn't pay him and he pulled the map back out of their hands. Mr. Wheeler said he only had one such case of offering a map for sale, and I think that was with a gentleman. This party to which I am referring is a lady.
Senator DALE. Do you live here?
Mr. MCDANIEL. Yes; I live in Los Angeles.
Senator DALE. Are you an ex-service man?
Mr. MCDANIEL. Yes; disabled.
Senator DALE. That is the reason you are not employed at the present time?
Mr. MCDANIEL. Yes. I am undergoing treatment and have been since the war.
The CHAIRMAN. Were you told by anyone to go to Mr. Wheeler's office?
Mr. MCDANIEL. No. I heard several people speaking of land available there but they said the only way you could get it was through his office. I doubted that a little bit. If it was public land I thought I could get it through the land office or file through the land office without getting any assistance, and I wanted to investigate it for my own personal benefit.
Senator BRATTON. What is your name?
Mr. MCDANIEL. William F. McDaniel.
Senator BRATTON. And you say you are an ex-service man?
Mr. MCDANIEL. Yes.
Senator BRATTON. Has your attention been called to the fact that, under the law, veterans of the World War have preference right to file upon land within 90 days after it is open to entry?
Mr. MCDANIEL. I know that. I did not believe that this land had ever been opened to entry, and it was my belief, from searching the records and being familiar with the land in detail that there had to be an established line showing the official sections and quarter sections in the locality.
Senator BRATTON. Have you and Mr. Wheeler discussed the general subject of the preference right that would be accorded veterans of the World War?
Mr. MCDANIEL. No.
Senator BRATTON. To file upon this land at any time within 90 days after it was opened to entry?

Mr. McDANIEL. There was no preference until it was open and a survey made.

Senator BRATTON. Did you mention that to Mr. Wheeler?

Mr. McDANIEL. No.

Senator BRATTON. You know that is the law of the country?

Mr. McDANIEL. I do.

Senator BRATTON. That it is a Federal statute?

Mr. McDANIEL. Yes.

Senator BRATTON. Which gives ex-service men a preference right to make homestead entry upon land at any time within 90 days after it is thrown open to entry?

Mr. McDANIEL. Yes.

Senator BRATTON. Do you understand now that if this land were to become part of the public domain and open to entry you and other service men would have a preference right to file upon it at any time within 90 days after it was open to entry?

Mr. McDANIEL. That was my idea at the time, that if ordinary men who were not ex-service men, and some of them perhaps not citizens of the United States, could have the jump on ex-service men in filing and on a man who had already invested some money in one of the so-called grants, that it would be very unusual.

Senator BRATTON. That is a Federal statute.

Mr. McDANIEL. Yes; I know it.

Senator BRATTON. That ex-service men do have a prior right.

Mr. McDANIEL. That was my object in investigating.

Senator BRATTON. And that preference right exists for 90 days after the land is first thrown open to entry?

Mr. McDANIEL. I believed that the land was not open.

Senator BRATTON. And that if the land were open to entry you and the other ex-service men would have a preference right?

Mr. McDANIEL. Yes.

Senator BRATTON. During the 90-day period immediately following the opening.

The CHAIRMAN. Any further questions?

Mr. HARTKE. Mr. McDaniel, you stated you had some information in reference to the absence of section lines there. On what do you base that information?

Mr. McDANIEL. Well, I had been interested in the San Fernando Valley.

Mr. HARTKE. To what extent?

Mr. McDANIEL. I have at present, or at least I hope to have, an interest in some land out there through regular channels of recording the grant, as used in the county recorder's office here.

Mr. HARTKE. You acquired that property by grant deed?

Mr. McDANIEL. Interest in a grant deed. My interest is acquired by a grant deed.

Mr. HARTKE. Have you received any information in reference to the validity of your title which caused you to go into this office?

Mr. McDANIEL. No; except rumor.

Mr. HARTKE. Nothing with the exception of rumor?

Mr. McDANIEL. Well, it was talk.

Mr. HARTKE. Did that question arise when you went into Mr. Wheeler's office?

Mr. McDANIEL. Yes.

Mr. HARTKE. What did Mr. Wheeler tell you in reference to the validity of your title?

Mr. MCDANIEL. He told me I didn't have a title at all, but if I had, it had been secured through fraud and had been stolen. He didn't accuse me of fraud in acquiring it but intimated that the title that we had was stolen and that I could be bodily thrown off the land.

Mr. HARTKE. That is land in the San Fernando Valley?

Mr. MCDANIEL. Yes.

Mr. HARTKE. Was anyone else in the office at that time?

Mr. MCDANIEL. About a dozen other people, but I did not know any of them.

Mr. HARTKE. Were they his associates or other people connected with the office?

Mr. MCDANIEL. I imagine they were associates, due to the way they acted. That is, one of them handed me a chair to sit in, and I imagine he was connected with the office. Mr. Wheeler whispered to another one, "Who brought him in here?" or something like that; "Whose prospect is he?" and this other man announced the fact that I was not brought in at all, that I had walked in.

Mr. HARTKE. No one claimed you as their particular prospect?

Mr. MCDANIEL. No.

Mr. HARTKE. Were there maps on the wall?

Mr. MCDANIEL. There was one map, I think, an ordinary map that was for sale or could be bought practically anywhere. It was not an official map, but was used for highways, I think, by the land office. In his discussion he showed me a copy or part of a copy of a policy of title insurance issued by the Guaranty Title Insurance Co., being a sample copy, I imagine, and he pointed out the name at the bottom of that title certificate, the name of W. H. Allen, jr., and he made the statement that this man who signed the certificate was one of the men that was engaged in the fraud and also continued to keep the land from the rightful owners, who were the homesteaders, and I asked him if there was any chance of the people—I think I asked him; in fact, I did ask him whether there was any chance of anyone filing a homestead and putting up a thousand dollars, was there any chance of their not getting it. He said there are no ifs. And I remember I asked him if there were any adverse decisions and he said he didn't know. I asked him had he pointed out all the decisions showing straight down through where this land came straight down with this gap in the title of fraudulent acquiring of the different grants, and he didn't show any Supreme Court decisions nor referred to any, but stated that there had been no adverse decisions.

Mr. HARTKE. Did he show you any maps?

Mr. MCDANIEL. Nothing except a little kind of folding hand map. I couldn't identify it because I was sitting maybe 10 feet away from him.

Mr. HARTKE. Did you examine the map on the wall?

Mr. MCDANIEL. I looked at it, yes.

Mr. HARTKE. Do you remember whether it had the section lines on it or not?

Mr. MCDANIEL. No; I do not think it did.

Mr. HARTKE. Was anything said about the amount of fees to be paid if you made application?

Mr. McDANIEL. There was to be a thousand dollars paid.

Mr. HARTKE. And who told you that?

Mr. McDANIEL. It was in the discussion. It was not asked directly.

Senator DALE. Mr. McDaniel, did you have any talk with Mr. Wheeler about your prior rights as an ex-service man?

Mr. McDANIEL. I didn't tell him I was an ex-service man or anything, but I asked him how the homesteads would be granted and he says, "First come first served" or words to that effect, that anyone filing would be given preference.

Senator DALE. Did he know you were an ex-service man?

Mr. McDANIEL. He didn't know me at all.

Senator DALE. That was not brought out in the conversation at all?

Mr. McDANIEL. I wear an ex-service button here. Anyone that is an American will generally recognize the button of an ex-service man. Only honorably discharged men can wear it.

Senator DALE. That is how I happened to recognize it.

Mr. McDANIEL. I was born in this country and claim to be an American and a patriot, too. I have been paying for the last 10 years for my patriotism and am still paying.

The CHAIRMAN. Do you wish to examine the witness, Mr. Wheeler?

Mr. WHEELER. If I may answer that question in this way, I think at a later time this witness will be examined.

The CHAIRMAN. Now is the time to examine this witness.

Mr. JOHNSON. In the inception of this proposition, in 1922, when McLendon took this matter up of filing homesteads——

The CHAIRMAN. Are you going to examine the witness?

Mr. JOHNSON. I wanted to ask a question, based on what I am stating. It was held by him that this land had been subject to homestead entry since the 7th day of July, 1846, and had always been open to homestead entry since that time, and that therefore this act relating to ex-service men did not apply, that they had had their opportunity during all of that time. Was that fact mentioned to you at all?

Mr. McDANIEL. No; except the land was open to homestead to anyone, which I did not believe.

The CHAIRMAN. Is that all, Mr. Wheeler?

Mr. WHEELER. I have no questions to ask him at this time.

The CHAIRMAN. It has been suggested by a member of the committee that it ought to be made clear that if, under the circumstances, as they have transpired here this morning, any continuation of this hearing should be conduced in Washington, and we were asked to subpœna Mr. McDaniel, in view of the circumstances here to-day it would be quite a task for anyone to convince the committee that such a subpœna was deserved at all. I want to say that if this witness has any information that you feel should be brought out at this time, in addition to what he has already said, now is the time to bring it out.

Mr. McDANIEL. The lady who was offered the map for sale, her husband is an ex-service man, and it was partly in her interest, due to the fact that they have worked rather hard and they were going to put a mortgage on their home to put up the thousand dollars, but they have not done so.

Senator BRATTON. What is her name?

Mr. McDANIEL. Mrs. J. G. Martin. She is employed by the Bureau of Power and Light on North Main Street in the city of Los Angeles, in the general offices there.

Senator BRATTON. What is her residence address?

Mr. McDANIEL. 1450 Davis Street. Her husband is a mail carrier. He has been gassed and had to take outside work, that as a mail carrier.

The CHAIRMAN. Were you asked by anyone else to do what you did do?

Mr. McDANIEL. No, sir.

The CHAIRMAN. You were not sent there by the police department of Los Angeles?

Mr. McDANIEL. No, sir.

The CHAIRMAN. Or by the chamber of commerce?

Mr. McDANIEL. No, sir.

The CHAIRMAN. Or by any attorney?

Mr. McDANIEL. No.

The CHAIRMAN. Or anyone other than yourself and this lady for whom you speak?

Mr. McDANIEL. No. I have several thousand dollars invested in a homestead in the San Fernando Valley and I do not care to lose it because I am not able to make any more money.

STATEMENT OF OSCAR LAWLER, ATTORNEY, LOS ANGELES, CALIF., ON BEHALF OF MR. NIETO

The CHAIRMAN. That is all, Mr. McDaniel. Mr. Lawler, did you have a statement to make for Mr. Nieto?

Mr. LAWLER. He asked me last evening to say he is administrator of an estate in which some action was to be taken and he had to return to San Bernardino. He asked me to express to the committee his regrets at not being able to be here. He had in mind some matter which he says is a case reported in 7 California, which would be along about 1855 or 1856, or perhaps a little earlier, some grant that some of his people were concerned with. I told him that I would not have opportunity to investigate the matter or be able to say more than the fact that he regretted not being able to be here.

The CHAIRMAN. Is Mr. Hughes in the room now?

STATEMENT OF GWYNN SMITH, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

Mr. SMITH. Mr. Chairman, I have some additional information that might be valuable in regard to the rights of ex-service men. Since hearing Mr. McDaniel on the stand I would be glad to furnish the committee with that information.

The CHAIRMAN. Well, I think the committee has available all the information it would need in connection with anything of that kind. In fact, that was not a matter with which we are concerned at all. Mr. McDaniel merely went into it to substantiate his interest in this matter.

Mr. SMITH. Very well.

The CHAIRMAN. I do not mean to say that we are not interested in the interests of ex-service men. Is there something in connection with this grant that you would like to refer to?

Mr. SMITH. No; it is merely through the land office, because as shown by the land office there is no vacant public land, and if there was any information coming through the land office that this land was being entered or subject to entry, and if the ex-service men have been deprived, through the land office, if there is any vacant land, of having opportunity to file on it or know where it is, and if the Senate should decide that this was vacant land, I think the fact that there has been no record in the land office showing this is vacant land, should be taken into consideration in any legislation that might be passed on this as to the rights of ex-service men coming in and getting their preferential rights.

The CHAIRMAN. You feel that there ought to be legislation that would make available to ex-service men information as to where vacant lands were located?

Mr. SMITH. Yes, sir; if there has been any, because I inquired at the land office where this land was and whether it was vacant and they say there is no vacant land in the Palos Verdes estates. If there is vacant land there we should have opportunity to come in and get it through the land office and not have to go to some private individual.

The CHAIRMAN. I think as long as the Congress of the United States is constituted as it is at the present time, that if any of these lands are open for homestead entry, now or at any time in the future, that the ex-service men can expect to be more than fairly dealt with in connection with the matter.

Mr. SMITH. That is my only interest in it, of course.

FURTHER TESTIMONY OF H. N. WHEELER, LOS ANGELES, CALIF.

The CHAIRMAN. Mr. Wheeler, we were discussing yesterday whether or not you or your associates had instituted any action in an endeavor to get this question before the courts, and I think you answered that no such effort had been made?

Mr. WHEELER. If I answered that way it was a misunderstanding on my part of your question.

The CHAIRMAN. Has such an effort been made?

Mr. WHEELER. There had been various things of that kind done. I think Mr. Westervelt can give you the best outline of that.

The CHAIRMAN. Does Mr. Westervelt wish to do that?

Mr. WESTERVELT. The actions to which I think Mr. Wheeler has reference do not have that legal effect and would not have, and I do not think they would be of interest to the committee. They are not actions establishing any right. They were actions brought by persons who had been disturbed by the rumors or reports which they had that the land which they had purchased under contract of sales had been homesteaded upon. The issues there involved are simply ones between private parties and I do not think the committee would be very much interested in them.

The CHAIRMAN. I think not. Now, Mr. Wheeler, since you have a very manifest interest in this question, what do you feel the committee can do, beyond what has been done, to ascertain the facts in connection with the resolution under which we are operating?

Mr. WHEELER. If I may answer that by referring to resolution 291, I would suggest this one thing. At the opening of this hearing I informed the committee that, not being an attorney and not being conversant with the criminal side of this case, if any, I declined to present that side of the case. Upon the insistance of the committee, I presented what little I knew of it, leaving the balance for Mr. Summers.

Senator DALE. May I interrupt, Mr. Wheeler?

Mr. WHEELER. Certainly.

Senator DALE. References are repeatedly made to the criminal side of this investigation. What do you mean by that, Mr. Wheeler?

Mr. WHEELER. I mean by that as to the question of title; that the present title, as we understand it, is in the hands of the Government as trustee for the people, and that was the thing we tried to bring out——

Senator DALE. But what is the criminal side of this investigation?

Mr. WHEELER. I believe that our record here will show that our contentions in that respect are absolutely valid and right.

Senator DALE. What is your contention or your contentions?

Mr. WHEELER. That the land is public domain.

The CHAIRMAN. What has that to do with the criminal phase of it?

Mr. WHEELER. May I finish answering the Senator's question?

The CHAIRMAN. Certainly.

Mr. WHEELER. That the land has never been anything else but public domain.

Senator DALE. There is nothing criminal about that, is there?

Mr. WHEELER. I did not say that was the criminal side of it.

Senator DALE. I am asking you what the criminal side of it is.

Mr. WHEELER. That, Senator, I will have to leave for the attorney, Mr. Summers, at his request.

The CHAIRMAN. Now, Mr. Wheeler, you have heard several witnesses called here who were asked to verify and to testify with relation to charges which were filed with the committee in the brief outline submitted by Mr. Summers. It would appear to me that not one of the witnesses who has been stipulated as the one who could give that testimony has come through, as has been promised and as we have been led to believe that they would come through. Do you feel that the committee should seriously consider that perhaps Mr. Summers has something more, meriting greater confidence than we might have placed in these charges which he filed with us last winter?

Mr. WHEELER. I believe that is true, and I believe the committee should confer with Mr. Summers and give him a chance at a hearing, and I believe that if they do so he will establish that fact.

The CHAIRMAN. But do you suppose Mr. Summers could show wherein Mr. Routhe, Mr. Morris, and any of these other witnesses who appeared, that they really did not disclose to the committee this morning all that they knew?

Mr. WHEELER. That is a question that Mr. Summers would have to answer, Senator. I can not.

Senator BRATTON. Let me supplement what you have said, Mr. Chairman. You have in mind the testimony given yesterday by Mr. Harris, do you?

Mr. WHEELER. Yes.

Senator BRATTON. Here is what Mr. Summers stated to the committee in Washington. Mr. Mason, being associated with Mr. Summers, said: "What would be done?" in connection with threats made against Mr. Summers, and Mr. Summers answered:

That I would be put under arrest, imprisoned, framed, and indicted, and, finally, I was notified that I would be taken into a canyon and my tongue cut out and delivered back to my friends as evidence of the manner in which they treated people who interfered with these interests in California.

Senator NYE. Could you name any of those persons besides Mr. Irvine who were in attendance at the time?

Mr. SUMMERS. No. The fact is that the people who were in attendance at that time—that is, when the threats were sent to me—took a very prominent man in Los Angeles who is an engineer, and who is one of the homesteaders, and put him in a car, without any lights and without any license on the car, and they took him out in the nighttime, and sent these messages to me by him and refused to give their names. He is positive that he can identify some two or three of them. This man is responsible and highly respected in Los Angeles. His name is Harris.

Senator NYE. Did you say Harrison?

Mr. SUMMERS. No; Mr. R. L. Harris, I believe.

Senator CAMERON. How long did they keep him out and what did they say and do?

Mr. SUMMERS. They kept him out some two hours, going over in great detail what they were going to do to homesteaders and those parties who represented them, if there was any further attempt made to survey the land.

Mr. MASON. What is Harris's name?

Mr. SUMMERS. I can get that for you. He is one of the homesteaders. R. L. Harris, I think.

Senator ASHURST. You say word was sent to you as to what they would do?

Mr. SUMMERS. Yes, sir.

Senator ASHURST. In what way?

Mr. SUMMERS. Sent word to me by Mr. Harris and others.

Doesn't it occur to you that Mr. Harris's testimony fell remarkably far short of those statements on which the committee acted in coming out here to investigate his matter.

Mr. WHEELER. May I answer it in this way?

Senator BRATTON. I think you can answer that yes or no.

Mr. WHEELER. The direct question?

Senator BRATTON. Yes.

Mr. WHEELER. I do not believe Mr. Harris's testimony substantiated that statement, the testimony that Mr. Harris gave here yesterday.

Senator BRATTON. I want to commend you on the frankness of the answer you have just given.

Mr. WHEELER. I will be very glad to give frank and truthful answers to everything, except in one case where I have refused to give them.

Senator BRATTON. I beg the pardon of the chair for interrupting.

The CHAIRMAN. Not at all, Senator. I am glad you did. Mr. Wheeler, what legislation do you feel this committee should recommend to Congress that would in any way remedy the situation that now exists, or might exist in connection with these land grants? I ask you that in all seriousness. Our admission here is one of making such inquiry to determine if there is need for legislation, and to recommend what that legislation should be.

Mr. WHEELER. Inasmuch as there are several States, including Arizona and New Mexico, that are in this same condition, I would say this, that it is the duty of the committee to go thoroughly into

the question as to whether the Government actually holds title to the land, and if they find that it does carry on such legislation as will take care properly of the claimants, and if it finds that it does not have title to the land, then I would say some kind of legislation, in line with Mr. Smith's suggestion, should be passed to prohibit anybody filing homesteads and carrying cases up of this kind. That would be, I think, the extent of my suggestion, because here are hundreds of people who have gone into the thing convinced that the evidence given them was absolutely correct, and if it is not correct we would all like to know it.

The CHAIRMAN. Mr. Wheeler, you have counseled with applicants, applicants have counseled with you with relation to the status of any application that you make. Have you, in these consultations, called their attention to these Supreme Court decisions which have maintained the title vested in those now holding the title to these grants?

Mr. WHEELER. On the contrary, Senator, I have called direct attention to many Supreme Court decisions which have held rather contrary to that.

The CHAIRMAN. But have you called their attention to those decisions that have held as I have outlined?

Mr. WHEELER. I do not think I have, because I do not believe I know those decisions you have reference to.

The CHAIRMAN. You have heard them referred to during the course of these hearings?

Mr. WHEELER. I have heard various and many decisions referred to, by the district courts, the California courts, and some by the Supreme Court.

The CHAIRMAN. You have not studied them?

Mr. WHEELER. I did not know they existed to the extent that you have inferred—I did not even know they existed.

The CHAIRMAN. You have heard references made to Supreme Court decisions here, have you not?

Mr. WHEELER. I have heard many such references made.

The CHAIRMAN. The citations were made from the records, were they not?

Mr. WHEELER. I believe so.

Senator BRATTON. Just to supplement what the Chair has said, in the letter from Secretary Wilbur, which the Chair has inserted in the record this morning, there were some forty-odd decisions by the Supreme Court of the United States, each of which I think has a direct bearing upon some phase of the question that we are now considering.

Mr. WHEELER. Senator, if I may give a little information given me, I was informed that the Constitution of the United States and the treaties were above even court decisions that might be handed down, and that article 6, clause 2, of the Constitution took care of any possible mistaken decision. And with that in mind——

Senator BRATTON. Mr. Wheeler, you have admitted before that you were not an attorney and were not familiar with that. You stated that frankly to us.

Mr. WHEELER. That is true.

Senator BRATTON. For instance, the other day you stated that one decision to which you referred, was signed by only one member of

the Supreme Court of the United States and that the other eight did not sign it.

Mr. WHEELER. Mr. Grove gave me that information at that moment.

Senator BRATTON. That may leave an entirely erroneous understanding in the minds of listeners. The Supreme Court of the United States always acts in that way unless there is a division among the judges. There are nine judges. One member of the court writes the opinion which reflects the unanimous opinion of the court and he signs it, and unless some member or members of the court dissent from that opinion, that opinion reflects the combined judgment of the nine; so that in the opinion to which you referred, delivered by Mr. Justice McKenna, I believe you stated, instead of reflecting only his views, it reflected the combined and unanimous views of the nine judges of the Supreme Court. I call that to your attention in order that you may not labor under that misapprehension further and that the listeners may not be misguided by it. I am not going to argue the question of treaties and the Constitution, except to say that when the Supreme Court of the United States construes the Constitution and property rights are built up upon those statutes and property is bought and sold, necessarily that is binding upon us, because this is a country of law and order and organized government.

Mr. WHEELER. I hope so, Senator.

Senator BRATTON. When the Supreme Court of the United States construes the Constitution, and citizens buy and sell property and invest large sums of money upon the strength of that interpretation, then the doctrine of repose or stability of titles must apply, and of course it is almost idle to sit here and suggest that the Supreme Court of the United States has been wrong in many, many decisions on that and that the court will be set right.

Mr. WHEELER. The brief, which I think has been marked "Exhibit C," goes into that fully, as you say, Senator; I am not an attorney and do not feel competent to argue the question with a Senator.

Senator BRATTON. I am not arguing with you. I am merely making these observations because I feel that it is probably a little irregular to say that the treaties and the Constitution rise above the decisions of the Supreme Court of the United States. That is true, technically speaking, but when the Supreme Court of the United States construes a treaty or construes the Constitution, that construction is binding upon the rest of us.

Mr. SMITH. Several of the recent rejections by the land commissioner have quoted that decision in 180 United States, Thompson against the Los Angeles Farming & Milling Co., and that was sent to every one of those people who have filed on the San Fernando Valley. So they must be familiar with it.

Mr. WHEELER. The record shows the rejections.

The CHAIRMAN. I want to ask the clerk if we have available additional copies of the maps which were offered in evidence this morning together with a copy of the letter submitted to the committee by the Secretary of the Interior.

The CLERK (INGHAM G. MACK). We have two copies of each.

The CHAIRMAN. Then I shall ask the clerk to let Mr. Wheeler have, for use in his office, a set of those maps and a copy of that letter.

Mr. WHEELER. Thank you.

The CHAIRMAN. There is one other gentleman who wanted to be heard, Mr. Miller.

STATEMENT OF D. J. MILLER

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your name.

Mr. MILLER. D. J. Miller. Mr. Chairman, this is not in the way of testimony. It is more in the way of a statement. I think this whole matter could be cleared up very easily, and to the satisfaction of everybody concerned, if they would do just one thing, and that is, produce here the authority that Pio Pico had to sell or give away or grant lands of the public domain of Mexico or the United States. If he had that authority then we will file relinquishments on every acre that has been homesteaded. If he did not have that authority then any document that he signed is void and without force and effect, according to our opinion, and I wanted to submit an offer to file a relinquishment on every homestead that has been filed.

Senator BRATTON. We are impressed with the seriousness of your view and contention, but I wonder if you have given thought to this feature of the matter: That that was the very subject matter with which the board of land commissioners were charged to deal, the act of Congress created that board for the purpose of determining whether the governor acted within his authority in making these several grants; if so, to confirm them and thereby give stability and dependability to the title. Congress vested that power in the board. Now, the board did act, and the board found the very thing you have suggested, that the grant was made in each case with authority, and consequently the survey was made and patent issued. Perhaps there may have been some discrepancy between the amount of land in the grant and in the patent, but following the confirmation, survey was made and patent was issued. All of the proceedings have been approved by the courts. Now, can you suggest any way this committee can go behind that, and take away from property owners vast sums of property that have been built up on the strength of the action taken by an agency of the Government, or two agencies, to wit, the board of land commissioners and the courts?

Mr. MILLER. I would like to ask a question in connection with that.

Senator BRATTON. I have asked you if you can suggest anything that can be done, or any way that that can be done.

Mr. MILLER. Yes; I think so.

Senator BRATTON. How?

Mr. MILLER. That is, to arrive at the facts and find the truth, whether this commission found a law authorizing Pico to deliver these titles. If Pico was authorized to do that then these titles are valid.

Senator BRATTON. Of course they did that when they confirmed it.

Mr. MILLER. But where is the authority? What record of that authority have we?

Senator BRATTON. It is the confirmation made by the board.

Mr. MILLER. But I understand Mexico says he had no authority.

Senator DALE. I suppose Mr. Miller means that we ought to review the testimony on which they came to their conclusion.

Mr. MILLER. Absolutely.

Senator DALE. And a hundred years from now somebody else by the name of Miller or Jones or Brown may ask another Senate committee to come out here and review what we have done; and then in another hundred years still a third committee would be asked to do the same thing and there would be no end to the controversy and absolutely no repose or stability of title.

Mr. MILLER. That is true.

Senator DALE. Then, no man would spend a nickle on property.

Mr. MILLER. That is true.

Senator DALE. In view of your seriousness, and I think you are perfectly serious——

Mr. MILLER. Absolutely.

Senator DALE. What do you think should become of this property or these property owners who have acquired it under a chain of title emanating from the Government of the United States 50 or 60 years ago?

Mr. MILLER. I do not think that the title emanated from the Government of the United States.

Senator DALE. You do not attach any importance to the patent from the Government?

Mr. MILLER. I think the patent was a patent by fraud.

Senator DALE. Now, will you prove that?

Mr. MILLER. I think that is proven by the records in this case.

Senator DALE. You think it has been proven here?

Mr. MILLER. In the evidence that has been submitted; yes.

Senator DALE. Since we have been sitting here in Los Angeles, you mean?

Mr. MILLER. I do.

Senator DALE. You think we would be justified in finding that the confirmatory proceedings were fraudulent?

Mr. MILLER. I do.

Senator DALE. What do you base that on, and what do you think that proof consists of?

Mr. MILLER. I do not think the committee ever made an investigation to discover whether Pico was vested with authority to dispose of public domain of Mexico.

Senator DALE. Now, on what do you base that? You say you do not think they did that sixty-odd years ago? On what do you base that?

Mr. MILLER. On the ground that, if they had made that investigation, they would have discovered the fact that he was not empowered to do that.

Senator DALE. Why do you think that he was not empowered to do it?

Mr. MILLER. Because the Government of Mexico says he was not, and the law of Mexico says he was not.

Senator DALE. When did the Government say that?

Mr. MILLER. The laws of Mexico say that he was not empowered with the authority.

Senator DALE. What laws?

Mr. MILLER. The laws of Mexico.

Senator DALE. What law are you referring to?

Mr. MILLER. They are cited in this evidence.

Senator DALE. You mean the certificate that was obtained in 1924?

Mr. MILLER. This certificate that the Government of Mexico never made this grant, and the law as cited in some of these documents presented here, to the effect that Pico was vested with no authority to issue grants.

Senator DALE. That is what I want to call to your attention, the expression that the law is cited in documents so and so——

Mr. MILLER. But I don't know the documents.

Mr. WHEELER. You mean the certificate.

Senator DALE. That is in 1924. Had it ever occurred to you that that certificate is just as apt to be in error or fraudulent as the original grant?

Mr. WHEELER. I would suggest that the committee as a body secure from the Government of Mexico duplicate of this certificate, or that the committee go to Mexico City and ascertain the facts, and when they do so it will clear up this whole situation.

Senator DALE. What disposition do you think should be made of these people who have invested millions upon millions of dollars in this property?

Mr. MILLER. I would say, first, the people who have made millions and millions of dollars out of the sale, make them refund the money to the people from whom they got that money. In other words, the guilty people should be made to straighten it out, and I think the innocent people should be protected under the laws as they exist to-day; the land laws and others. That is my impression of it.

Senator DALE. We have been trying for several days to ascertain who the guilty people were, and we came here acting on the belief that evidence would be marshalled and presented to us.

Mr. MILLER. A great deal of it is, and there are a few more grants that you haven't even called for, and if you would question some of the people that we had on the stand in relation to their title and their filings. I can not do that.

Senator DALE. What grants are you referring to now?

Mr. MILLER. The Boca de Santa Monica and Malibu haven't been gone into at all.

Senator DALE. There is a point right there, Mr. Chairman, that I think ought not to be left open.

The CHAIRMAN. You have more documentary evidence that you want to offer?

Mr. MILLER. There will be more witnesses and more documentary evidence in relation to the Malibu grant and the so-called Boca de Santa Monica grant, and I believe in relation to the Palos Verdes.

The CHAIRMAN. And your witnesses in connection with those grants will testify to what?

Mr. MILLER. If they are properly questioned as to their actual titles it will show that they have had no title according to the records. I think the records will, perhaps, show that right here.

The CHAIRMAN. Then it resolves itself to the same thing in the end that we have contended for?

Mr. MILLER. I think so, that is why I said earlier in this record that I think the record shows all that in there.

Senator DALE. There is one little point for the record that I want to have made clear. Mr. Wheeler takes the position that he has been unable to get evidence and to get witnesses here. Now, Mr. Wheeler has had all the rights of counsel who have appeared for anyone and yet he puts the responsibility of his inability to get certain evidence from witnesses onto the committee.

Mr. WHEELER. But if I may say, Senator, I am not the investigating body. I am merely trying to help the homesteaders in presenting what I know of their case.

Senator DALE. Yes; but do you think the committee has been remiss in that they have not drawn out testimony from the witnesses?

Mr. WHEELER. No; I do not mean it that way. What I mean, Senator, is that I believe the committee and the chairman realize that the record that is in right now will show the facts necessary to settle this question, and I believe they will.

The CHAIRMAN. Yes; I will agree with you. I think there is in the record at this time all the facts that are necessary to settle this question in so far as this committee is concerned.

Mr. WHEELER. That is what I think.

The CHAIRMAN. This committee came here anticipating and expecting that there was going to be laid before it evidence and testimony, including record evidence, that would convince the committee that the grossest kind of fraud was being perpetrated out here in keeping homesteaders from exercising their rights; it was going to be disclosed that agents of the Federal Government and agents of investment corporations were all threatening all sorts of dire things for those who persisted in exercising their rights as American citizens upon the public domain. And, quite to the contrary, we have had laid before us no such evidence.

I want to say at this point that when this matter came before the committee, a matter of a year or two years ago, and was presented by Judge Summers, I felt, as did all other members of the committee, that here was a very serious problem. I believe now that it is a question and a very serious one, a problem that ought to be straightened out so quickly as the Congress of the United States could do it, if it could do anything in that direction at all. I had the greatest confidence in Judge Summers. That confidence, while not completely destroyed, has been very materially shaken, I must say, by the failure of the witnesses, as recited by Judge Summers, who would testify to this thing and who would testify to that thing, who, when they have been called to the stand and heard in this hearing, have substantiated nothing, absolutely nothing that was charged before the committee there in Washington.

Now, then, I say that my confidence has been shaken. It has not been shaken to that degree that I feel that Judge Summers ought to be foreclosed against any opportunity to present his case before the committee. It is exceedingly unfortunate that he could not be here for this hearing, and I want him to have that chance, but I do not want him to take a matter of months or a matter of years to avail himself of that opportunity. There is a limited time in which this committee is authorized by the Congress, by the Senate, to study the matter and to make its report, and we want to make

that report as quickly as we can, after giving every reasonable opportunity to Judge Summers, or to anyone else, to lay before this committee anything more than already has been laid before the committee as the result of the hearing here and of the hearing held in Washington.

Now, then, I hope there is going to be no misunderstanding regarding the purpose of this committee. We have come here with the sincere and serious intention of ferreting out the facts, yet it has not been our purpose and it is not our duty to go out here as police officers and endeavor to show where there has been fraud or where there has been any measure of scandal involved at all, and particularly does that cease to be our duty when we were assured that this was all ready to be laid before us, and none of it has been laid before us.

Mr. WHEELER. It is fair to Mr. Summers that he should have that opportunity.

The CHAIRMAN. Certainly.

Mr. WHEELER. Then he should have opportunity to do that thing.

The CHAIRMAN. And let it be understood that he is going to have that opportunity.

Mr. WHEELER. That is all I ask.

The CHAIRMAN. Unless there seems to be unnecessary delay in further presentation of the case to the committee. Now, we are going to adjourn in a few moments until to-morrow, and if there is anyone here who feels that they have any information that the committee should properly have before it before it passes judgment upon this matter, they will be heard. You had not finished your statement, Mr. Miller?

Mr. MILLER. I would like to suggest that Mr. Lawler or some of the other counsel here be afforded opportunity to present the valid authority that Pico had to dispose of these lands.

Mr. HARTKE. Let me answer that in one word, Mr. Chairman, without going into any details. We have all the respect in the world for the decisions of the Supreme Court and for the decisions of courts below that. They have decided this matter many times, once and for all, and we think there is nothing further that we can say in the matter.

Mr. LAWLER. Perhaps it might satisfy the gentlemen to quote the language of Justice Fields, which is exactly in line with what Senator Bratton has called attention to in the first case, that is, the authority of Pio Pico to do these things, which goes back to the grant and after the confirmation and many years following that confirmation:

2. The invalidity of grants issued by the Mexican Governor of California, after the 13th of May, 1846, is asserted upon the declaration of Mexico, through her commissioner, who negotiated the treaty of Guadalupe Hidalgo, that no such grants were issued subsequent to that date. It is true that such declaration was made and embodied in the project of the treaty originally submitted to our Government. But as the clause containing it was stricken out by the Senate, it can not be affirmed that the treaty was assented to by the United States on the faith of the declaration. Even if the case were different, and the treaty had been concluded in reliance upon the truth of the declaration, that fact could not affect the rights of parties, who, subsequent to the 13th of May, 1846, obtained grants from the governors of California, whilst their authority and jurisdiction in the country continued. The rights, asserted by the inhabitants of the Territory to their property, depend upon the con-

cessions made by the officers of the former government having at the time the requisite authority to alienate the public domain, and not upon any subsequent declaration of Mexican commissioners on the subject.

The authority and jurisdiction of Mexican officials are regarded as terminating on the 7th of July, 1846; on that day the forces of the United States took possession of Monterey, an important town in California, and within a few weeks afterwards occupied the principal portions of the country, and the military occupation continued until the treaty of peace.

The political department of the Government, at least, appears to have designated that day as the period when the conquest of California was completed, and the Mexican officials were displaced; and in this respect the judiciary follows the action of the political department. (U. S. v. Yorba (1864), 68 U. S. 412, 17 L. Ed. 635, 636, 637.)

I might say, for the benefit of Mr. Miller, that in that particular case the authority of Pio Pico to make the grant of the rancho Lomas de Santiago was directly assailed and that was the answer that Judge Fields made to the complaint.

Senator BRATTON. You said a while ago that there were two grants that had not been investigated. I understood yesterday, when I was asking for your record proof, that you said that you had no more record proof.

Mr. MILLER. I had reference to the San Fernando case. I understood we were taking them up one at a time.

Senator BRATTON. Do you now have any record proof as to the other grants?

Mr. MILLER. The attorney in charge of the Boca de Santa Monica case, and who knows the details of that case—I think he may be here, or else he is in court—is Mr. Fred T. Mansur.

Senator BRATTON. Has he record evidence?

Mr. MILLER. What do you mean by that?

Senator BRATTON. Copies from the records, record evidence; deeds, emoluments of title?

Mr. MILLER. I can not answer for him.

Senator BRATTON. Well, do you have any record evidence regarding any grant that you desire to offer?

Mr. MILLER. Indeed, I think, Senator, that there is in the record right now the letter of August 18, 1824, from Mexico, in relation to all the grants, and the United States Supreme Court decision, with all due respect to Mr. Lawler, that I believe will settle the case.

Senator BRATTON. That was our understanding on yesterday, but I understood you to say a moment ago that there were two grants——

Mr. MILLER. That are not in.

Senator BRATTON. That we did not investigate at all.

Mr. MILLER. That is right, but when you do investigate them, or the hearing ever comes up, the evidence there will settle them.

Senator BRATTON. This evidence that is all in——

Mr. MILLER. Personally, I am agreeable right this minute to saying that I was through.

Senator BRATTON. We want to be certain of it now, because we do not want you to say hereafter that you had evidence that was not received by the committee.

Mr. MILLER. I think I will say right now—I will say also that there is sufficient in there to prove the case, and as you said yesterday we do not need to clutter up the record.

The CHAIRMAN. Is there anyone in the chamber who has record evidence that they would like to offer for this hearing? Is there anyone in the room who wishes to be heard further in connection with this matter?

Mr. MITCHELL. I asked the committee if they wanted a photostatic copy of the entire record in respect to the Malibu ranch.

Mr. WHEELER. Pardon me, I asked Mr. Favorite if the record that he would produce would cover the entire proceedings before the Board of Land Commissioners and the district court, and he said they would.

The CHAIRMAN. Yes; he said they would.

Mr. MITCHELL. Then it is not necessary for me to furnish that.

The CHAIRMAN. No; thank you.

Mr. WALTON. Mr. Chairman, I was called on yesterday and was supposed to have been here at 3 o'clock.

The CHAIRMAN. Was he one of your witnesses, Mr. Wheeler?

Mr. WHEELER. Mr. Wilhelm made a statement that Mr. Walton had told him that he had paid me $500 in retainer fee and I just wanted to refute that testimony. Mr. Walton can testify that he did not.

The CHAIRMAN. Then if he did that Mr. Wilhelm would want to cross-examine Mr. Walton.

Mr. WILHELM. No, Mr. Chairman. It makes no difference. If there was a mistake made as to the fees paid I am willing to correct it.

Mr. MILLS. Mr. Chairman, I want to say this. I hate to be classed in the category of persons who are part of an association that have filed homesteads, but I have filed a homestead on the Palos Verdes, and my reason for filing a homestead was that I read carefully the act that took place at the inception of the receipt of this land by the United States from Mexico, and the limited way in which any act should be recognized, and based upon the fact that this grant was filed at a time subsequent to that date in the treaty, I felt I had a right to file and did file.

At that time I felt just as some of the gentlemen who have spoken here have said, that if there was a violation of the treaty agreement by Congress or anybody else, of the treaty that was entered into by the United States with another nation, that it could only be corrected by a getting together of those two nations to correct it. Also, the Congress itself or the law of the country can not correct a title that in its inception was void. That was the basis upon which I have filed and I filed in perfectly good faith. In answer to Senator Bratton's statement in that regard, I think that the Senator asked what was to happen to the other people. It has been my experience all through my life, and for a good many years, that if by any error I had received a title that was defective, that at the time that title was found to be defective, that I thereby became the loser through that title and had redress through the people that have insured the title, if I had had it insured. I have had one or two such experiences. There is another thing I want to say. I do not have anything to say that is a reflection upon anyone, but I notice that the ex-service man said that he was an American citizen, and since he has mentioned the fact, while I am not an ex-service man, I have two sons who were, and I want to say that I am an American citizen and

always have been an American citizen and proud of that fact; but nevertheless I feel positive that there should be an investigation as to whether we did legally receive the Palos Verde grant and several of these other grants.

Mr. HARRIS. I would just like to make a suggestion——

The CHAIRMAN. Would you like to submit a brief to the committee?

Mr. HARRIS. What I want to get at is this, that one of the filers on a homestead has suggested what he thinks the committee should do to satisfy them.

The CHAIRMAN. That will be very interesting.

Mr. HARRIS. We will, first, have to consider the Mexican land laws as a whole, under which the grants were made; next, the rights of Pio Pico, the governor, in making the grants on his own resources and on his own responsibility.

The CHAIRMAN. I think the Supreme Court decision, which has been read here this morning, passed upon the right of Pico.

Mr. HARRIS. And then, also consider whether or not the commission not only acted within the powers that they were given, but whether there was fraud practiced there and they did not do their duty as representatives of the Government. Whether or not they were subject to undue influence in making the decisions they did make, and then determine the question with regard to the title and trust companies, whether they thoroughly investigated titles or whether they simply bluffed the public because the public can not go behind them.

The CHAIRMAN. All of those points will have the most serious consideration of the committee before we submit any report upon the question at all.

Miss CALDWELL. Mr. Chairman, I understand my name appears in the record in connection with Mr. Summers.

The CHAIRMAN. It does.

Miss CALDWELL. And in connection with the investigation which took place.

The CHAIRMAN. It does.

Miss CALDWELL. I also understand that my name was called here on a previous occasion when I was not in the room.

The CHAIRMAN. It was.

Miss CALDWELL. I will be available when called to render any assistance that I can.

The CHAIRMAN. Will you be available to-morrow morning?

Miss CALDWELL. Yes.

The CHAIRMAN. Then the committee will recess at this time until 9.30 tomorrow morning, when we will hear Miss Caldwell. With respect to the depositions that we were planning to take to-morrow morning, instead of taking them in the form of depositions we will ask the witnesses to be here at that time.

Mr. WICKHAM. Mr. Chairman, I would like to ask for a subpœna duces tecum or a certified copy of the plat of the Lomas de Santiago that I gave as Assistant Land Commissioner, when I was serving as Assistant Land Commisisoner in 1922.

The CHAIRMAN. I did not quite catch your statement, Mr. Wickham.

Mr. WICKHAM. I would like a subpœna duces tecum for the production of a certified copy of the map issued by the Assistant Commissioner of the General Land Office on the Lomas de Santiago in 1922, alleged to have been given to Mr. McLendon, and of which you have a photostatic copy in your office.

Mr. WHEELER. Is not that in the record?

Mr. WICKHAM. I am talking about the one with the certificate of the General Land Office on it.

Mr. WHEELER. Would you know the map if you saw it?

Mr. WICKHAM. I would if it has my signature on it.

Mr. WHEELER. I will be glad to furnish any map dealing with the Lomas de Santiago and let Mr. Wickham pick out what he thinks is the map from anything we have.

Mr. WICKHAM. I think Mr. Johnson could probably assist you in identifying the map.

Mr. WHEELER. I would be very glad to have him do so.

The CHAIRMAN. Gentlemen, we will recess at this time until 9.30 o'clock to-morrow morning.

(Whereupon, at 12.30 o'clock p. m. the subcommittee recessed until Saturday, April 6, 1929, at 9.30 o'clock a. m.)

MEXICAN LAND GRANTS IN CALIFORNIA

SATURDAY, APRIL 6, 1929

UNITED STATES SENATE,
SUBCOMMITTEE OF COMMITTEE ON
PUBLIC LANDS AND SURVEYS,
Los Angeles, Calif.

The subcommittee met, pursuant to the recess, at 9.30 o'clock a. m., in department 5, Superior Court, county of Los Angeles, Los Angeles, Calif., Senator Gerald P. Nye presiding.

Present: Senators Nye (chairman), Dale, and Bratton.

Present also: The various representatives of the parties appearing before the committee.

The CHAIRMAN. The committee will be in order and we will hear Miss Gertrude M. Caldwell.

TESTIMONY OF MISS GERTRUDE M. CALDWELL, ATTORNEY, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. What is your full name?

Miss CALDWELL. Gertrude M. Caldwell.

The CHAIRMAN. And occupation?

Miss CALDWELL. I am an attorney at law and have been practicing here in California for the last 12 years.

The CHAIRMAN. You are conversant with the matter under inquiry by this committee?

Miss CALDWELL. Yes; I am.

The CHAIRMAN. And you have had knowledge of the effort that has been made to have some of these grants designated as subject to homestead entry?

Miss CALDWELL. I am. I am one of the persons who filed an application for homestead entry upon that portion of the land in the Rancho Lomas de Santiago, which is included in the maps of the General Land Office here in Los Angeles, as a part of the Rancho Lomas de Santiago, which I have every reason to believe was improperly included within that grant.

The CHAIRMAN. You made application for homestead entry when?

Miss CALDWELL. In October, if I remember correctly, of 1922.

The CHAIRMAN. How was your attention first called to the probable availability of this land for homestead entry?

Miss CALDWELL. Some time in June or July of 1922.

The CHAIRMAN. And who called it to your attention?

Miss CALDWELL. Dr. W. R. Price, who was a client and business associate of mine of a number of years standing. He came to my office one day, and while he was in my office he asked me if I had used my homestead right and I told him I had not. He said, "What would you think if you knew it was possible to file a homestead upon good agricultural land that was within 60 miles of Los Angeles," and I said I thought that would be a very wonderful opportunity, that I had heard rumors that such a thing existed but I had at that time no positive information as to what the status was, and he said, "I will take you to the person who will tell you about it." He said, "I want you, as an attorney, to inquire very thoroughly into this matter so that you can advise me and know yourself just what the legal condition is."

Very shortly after that he took me into the office and introduced me to Ben McLendon, and upon that occasion I had a conference lasting some hour and a half or two hours, and upon that occasion Mr. McLendon went very thoroughly into the situation, and from his own statements and from the questions which I had from time to time asked him—and I think I can briefly outline the statements he made, which were the basis of my afterwards filing a claim. He called my attention first to certain matters of international law and asked me if I was familiar with them. I told him only in a general way. He stated that he had years of experience as an international lawyer and that he was acquainted with those matters. He first called my attention to the fact that all of this land here in California had been derived from another sovereign, the Republic of Mexico, by cession under the treaty of Guadalupe Hidalgo. He called my attention to certain provisions in that treaty whereby private holdings were to be protected, and also to the fact that all of the public domain of the Republic of Mexico became the public domain of the United States once the treaty became effective. He also called my attention——

Senator DALE. Pardon me just a moment. I am interested in that. Just what did he mean by the private holdings that were to be protected? What impression did you get from that?

Miss CALDWELL. Why, just what he said, that any land which was legally held by an individual, as distinguished from land which was public domain or held by the sovereign power. That is what I understood it to mean and that is what it did mean.

Senator DALE. You mean originally held by an individual?

Miss CALDWELL. Well, originally; I guess all title is supposed to be derived from sovereign power.

Senator DALE. Yes; but I mean the title that was held by an individual, from whom?

Miss CALDWELL. Well, in those circumstances, as I understood it, and as I understand it, there are certain lands, title to which was derived by grant from the King of Spain when that territory now known as the Republic of Mexico was a province or under the jurisdiction of Spain, and the sovereign power had a right to grant to individuals tracts of land and they became their private holdings; and then when that same territory came under the jurisdiction of the Republic of Mexico, they in turn protected those private persons who had acquired their title from the King of Spain; then when

the United States took over that same section we were bound by the same promises to maintain and protect the legal holdings of private individuals.

Senator DALE. I think I get your opinion of it now.

Miss CALDWELL. He also stated as a matter of international law, that it had been interpreted by those familiar with those matters, that no fraudulent or unlaw confirmation of title by any sovereign would be or could be or should be protected by the sovereign power that took it over; that it was only these legal holdings that they were obliged to protect. Then he further called my attention to the fact that there were many grants of land in large amounts to various individuals that had occurred during the very short interval while the conflict was going on between the Republic of Mexico and the United States during the time in 1846, particularly at the time when Pio Pico was acting as governor as this portion of the State, that there was at that time some conflict as to just which of these grants were proper and which were not, and that in order for the United States and its officials to know just what was correct and what was not that Congress had enacted the act which provided for the land commission or committee to come out here and pass upon the facts that were presented by the claimants to establish their rights to the various Mexican grants made at that time. He stated to me that as a matter of the Constitution and of international law that this land commission was limited in its authority, that it had no judicial power other than was expressly set out in the act which empowered it, and that the instrument of confirmation, denominative patents, which were afterwards issued, were not, as a matter of fact, patents in the way in which the term is usually used—that is, whereby the Government parts with its title to the public domain and passes it under our land laws to the individual, but that in those instances these documents of confirmation or evidences of confirmation could only confirm or prove or designate for our records just those legal titles which the other power had properly granted.

Senator BRATTON. May I interrupt to ask whether or not those were all statements made to you or whether they are matters of your own knowledge?

Miss CALDWELL. Since having this conversation and others with Judge McLendon, I myself went into the matter and have looked up as much of the law of the decisions as I have been able to find out, and I in every case have discovered that the higher courts have maintained the same view——

Senator BRATTON. I am afraid I did not make myself clear. I wanted to ask you if you are relating what Mr. McLendon told you?

Miss CALDWELL. Yes.

Senator BRATTON. You are now relating his statements to the committee?

Miss CALDWELL. Yes.

Senator BRATTON. As evidence in this case?

Miss CALDWELL. Yes.

Senator BRATTON. And you are an attorney?

Miss CALDWELL. I am an attorney.

Senator BRATTON. That is all.

Miss CALDWELL. I will further say that afterwards I verified some of the statements.

Senator DALE. I have been assuming all along that you were giving your opinion as a lawyer.

Miss CALDWELL. Well, it is my opinion as a lawyer, and my opinion was started to be formed by the conversations had with Judge McLendon, because at that time I had given no special attention to matters of law involved, and he had covered the ground so thoroughly, then I read and searched and found from my own direct knowledge as a lawyer, the facts, and I am now stating my conviction as an attorney.

Senator DALE. And you agree with him?

Miss CALDWELL. I do.

Senator BRATTON. Pardon this preliminary question, but I was not present when you first took the witness stand. Will you please state your name.

Miss CALDWELL. Gertrude M. Caldwell.

Senator BRATTON. And you are a practicing attorney?

Miss CALDWELL. I have been practicing in Los Angeles for the last 12 years and I have lived here for over 30 years.

Senator BRATTON. Do I understand you to say you believe there is a distinction between a patent issued following confirmation of a grant from one issued by the Government upon an ordinary homestead?

Miss CALDWELL. I do; for this reason: That a patent issued upon an ordinary homestead or a patent issued upon a desert-land entry or any of the various form of entry, where a citizen otherwise qualified obtains title to land which has heretofore been public domain through title vested in the sovereign's power, that that is a grant of vested title, a grant or patent in which the title passes from the sovereign power to the individual, the individual having complied with certain requirements of the law. In the other instance, it was simply a document or an evidence of title that had passed by a former sovereign power, from the King of Spain of the Spanish sovereign, or the sovereign of the Republic of Mexico, to this citizen, and that we, in taking over this ceded portion of the country under the obligations of our treaty, were bound only to preserve and to recognize that which was legally acquired under the former sovereign.

Senator BRATTON. Your views are interesting. When the Government created the Board of Land Commissioners under an act of Congress, and delegated to that tribunal the power to determine whether these lands had been granted by the Government of Mexico, and that tribunal did decide the matter, and persons that bought and sold property running into millions of dollars on the strength of that title, do you think the Government could, with good faith, repudiate the action of its agency taken approximately 80 years ago, and divest, or undertake to divest, these citizens of property running into millions of dollars?

Miss CALDWELL. Yes, sir.

Senator BRATTON. You do?

Miss CALDWELL. And no. When I say yes, I would like to add this: The thing that we, I believe, are now called upon to do is to completely and entirely so correct the chain of title that the present holder, whoever he may be, and his heirs forever will know that he is safe.

Senator BRATTON. How would you do that? That is what I am interested in. The Government undertook to do that about 80 years ago through this agency, and obviously they thought that very thing was done. Now, suppose Congress should made a determination now and upon that determination millions of dollars are invested in property and in 70 or 80 years from now somebody else would say that they disputed the adjudication made in 1929, they do not think it was right, and they want the thing again reviewed and wipe out the titles bought and sold upon the strength of the adjudication made in 1929. Now, suppose you had invested a quarter of a million dollars upon the strength of the determination that we make now and some one undertook to wipe out your title. How would you feel about that?

Miss CALDWELL. Just one moment. There are several questions there, Senator.

Senator BRATTON. Let me [illegible] this: Suppose you had invested a quarter of a [illegible] strength of the decision that we reach [illegible] years and then some one should [illegible] out your [illegible] the theory that we made a mistake [illegible] years before that. How would you feel about the matter, then?

Miss CALDWELL. That is how I would feel, if I were in the same state of mind at any stage of the game—if the adjudication or the act of any group of men, acting as officers under given circumstances, did not comply with the well-established rules of law and evidence and equity, then I would feel that no lapse of time could make right a thing that was wrong in its inception, and I would feel that if I had been dependent upon something that was wrong in its inception that it would be one of the bitterest things I would have to bear.

Senator BRATTON. Would you feel—

Miss CALDWELL. [illegible]

Senator BRATTON. Let me interrupt you, please. Would you feel that it would be fair for the Government to undertake to repudiate the action and determination of its agency upon which you, as a citizen, had invested a quarter of a million dollars, and take it away from you and let somebody else have it for a filing fee?

Miss CALDWELL. If the agency had been wrong then the thing was wrong.

Senator BRATTON. Let me ask you this. You are an experienced lawyer, and what are you going to do with repose of title? Where will there be a finality to this thing, if every dissatisfied person wants it reviewed from time to time?

Miss CALDWELL. It is just in order to avoid that very thing that I believe that at this particular time, through various things that have happened since this group of homesteaders, of whom I am one, have made these applications, to have that matter properly adjudicated, because it certainly can not be held that a patent could be issued by the United States and to confirm a grant of 4 square leagues and have it embody over 29,000 acres, that, to my mind, would indicate that we were permitting one of the most vital parts of our American institution to be vitiated. My interest is solely and only in the question connected with the Lomas de Santiago ranch and the excess which is incorporated in the patent which was issued several years after the grant was made.

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Senator BRATTON. With that view in mind, Miss Caldwell, what efficacy, if any at all, do you give to the determination of the board of land commissioners and the confirmation of that by the Federal court, the survey, and the patent by Congress? Would you wipe all that out with the brush of a pen?

Miss CALDWELL. But at the same time we would regard the reason for doing it, which was that these servants of ours, which our officials at Washington sent away out here to the coast to do a certain duty for them, and they failed in that duty, and I think the records as I have been able to read them and the records of which I understand the originals are in the various departments, some of them covering private correspondence between other officials who were present on the ground at the time—to me it shows that there was fraud and unfairness being perpetrated by the group of people who were entrusted to do that thing by the authorities in Washington, that therefore it was founded in fraud, in making statements of things to be true that there were not true and all of the elements that go to make fraud and misrepresentation—and I think it can be and should be nullified and that now the thing should be done which ought to have been done then.

Senator BRATTON. Before we come to that, let us take up the word "fraud," a word that has been used frequently here.

Miss CALDWELL. Yes.

Senator BRATTON. It has passed back and forth in the discussions, and I would like to know just what is meant and just what you mean by the word "fraud." The use of the word "fraud" by a lawyer in the present of claimants——

Miss CALDWELL. Carries its meaning.

Senator BRATTON. Yes; carries its meaning. It is well understood what fraud means, but to pass the word "fraud" back and forth, and to crowd the issues with that naked expression without anything to support it——

Miss CALDWELL. Would not be fair.

Senator BRATTON. It would not be fair, and the committee is of the opinion, I think, that the word "fraud" has not been sustained by the evidence submitted to it up to this time.

Miss CALDWELL. You mean fraud in connection with the inception of the grant?

Senator BRATTON. Oh, yes. You understand that if there is anything wrong with this title it is at the source of title.

Miss CALDWELL. Yes, sir.

Senator BRATTON. The sovereign from which it emanated.

Miss CALDWELL. Yes.

Senator BRATTON. Intermediate transfers and conveyances from private citizens to private citizens thereafter have nothing to do with the issue? We are agreed about that, are we?

Miss CALDWELL. Quite right.

Senator BRATTON. So that if there is any fraud it inheres in the inception of the title at its source, its origin. Now, tell us what fact or facts you have in mind when you say that those titles were fraudulently acquired, if you please.

Miss CALDWELL. I can state the things which came under my observation and which made me reach that conclusion.

Senator BRATTON. If you please.

Miss CALDWELL. There were certain—I don't know but what they might perhaps be in evidence, as I have not been here during the hearing, but I know that Judge McLendon had available and showed to me at various times, up to the time of his death, the documentary proof or evidence of the fact that at the time of the hearing by the commission on these various matters, that the specific evidence which should have been adduced, in order to enable them to make a proper finding, was not available and was not adduced.

Senator BRATTON. Now, what evidence was that?

Miss CALDWELL. If I may be permitted to refer to copies of compilations of some of the correspondence, copies purporting to be certified or authentic copies of the documents which are in the archives of the Government, some in the Interior Department and some in the land office and some in the surveyor general's office, because I remember specifically having him show to me certified copies of certain maps which should be in our local land office and which are not there, but which Judge McLendon stated that he had found reposing, if I mistake not, in the office of the surveyor general, I think it was, in San Francisco.

The CHAIRMAN. Mr. Wheeler, on yesterday such maps were offered in evidence and you were asked to produce what, if any, other maps had been used as a basis for your contention. Have you more maps with you this morning?

Mr. WHEELER. We have one map which can be sworn to which shows the sections and quarter sections certified by a number of officials. I had that here yesterday, but I didn't know that was what was wanted.

Mr. SMITH. May I look at that map, Mr. Chairman?

The CHAIRMAN. Certainly, Mr. Smith.

Mr. SMITH (after examining map). I would like to make this statement: An analysis of the official copies of the outlines of the adjacent rancho to the Lomas de Santiago show different boundary lines than the present maps on file in Orange County and here in the land office, which shows the adjacency of these different ranchos one to another. In other words, the boundaries coincide, and when the old boundaries are taken it shows that interstitial space.

The CHAIRMAN. I suppose your experience in connection with Spanish grants has convinced you that frequently those boundary lines overlap and frequently they fail to connect up, leaving an interstitial space, and that the situation here is not uncommon in connection with the Spanish grants, and to my mind it does not indicate fraud. Does it to yours?

Miss CALDWELL. That would be one of the reasons they believed it necessary and did appoint this commission to so locate the boundaries in the inception of these various grants, so as to make them definite, and as Judge McLendon told me, and as I understand, the Mexican claimant had to produce his map showing the boundaries by natural marks and meander lines and so on. Of course their maps, as I have seen them, were rather crude affairs, but in all instances they were susceptible of being laid out on the ground.

Senator BRATTON. That is true. The claimant under the grant was required to bring forward his proof.

Miss CALDWELL. Yes.

Senator BRATTON. And submit it to the board of land commissioners. The board of land commissioners was vested with jurisdiction and authority to determine whether he had met the requirements of the law, and the board of land commissioners did act in each case and did find that the holder of the title had met the requirements of the law and consequently an order in his favor, confirming his title, was entered and the consequent steps necessary to perfect title were taken. Now what efficacy do you give to all that?

Miss CALDWELL. Well, if I am right in the history, that is, from persons who were present at the time, some of them connected with the very acts themselves and some of them onlookers, I think that they did not at all times decide that the claimant had met the requirements.

Senator BRATTON. That is the first time that suggestion has been made to us so far. All we have had is the record of the action taken, and no bystanders, no one who was present or had personal knowledge, has assumed to inform the committee.

Miss CALDWELL. Inasmuch as I have not in my possession, where I can immediately refresh my memory, these copies of the correspondence of those things which gave me an insight as to what actually occurred at the time, may I ask if Mr. Wheeler has among the papers there any copies of the correspondence had between those in military authority, if I mistake not, and the Washington officials?

Mr. WHEELER. I have introduced that in Document 17, which is an exhibit in the record here, and which contains a great deal of that. I have not given everything that was in there, because it was too large to print and Senator Bratton suggested that we should not clutter up the record, but I think there is enough in there to show that when they go through the record.

Miss CALDWELL. I know that in addition to what was put into that document—I don't know just what you refer to when you say Document 17.

The CHAIRMAN. Just a moment, please, Miss Caldwell. Now you may proceed.

Miss CALDWELL. May I at this time proceed just a little briefly in answering what I think is the gist of the questions that have been asked me, and that is as to the proper solution, the proper act?

The CHAIRMAN. Tell us what you think should be done, Miss Caldwell.

Miss CALDWELL. I am convinced that it is possible for such action to be taken that will settle and forever set at rest the question of titles in this whole part of the country, and in so doing it will not harm or in any way disturb the present actual individual occupants of the land.

Senator BRATTON. And tell us how that should be done, if you please.

Miss CALDWELL. Now, that is a tremendous question. It is one of the most important questions that has confronted this Nation. I realize that, and I would not undertake to answer that offhand here; I could not; I would not undertake to give details, but I know that it can be done; I know out of the wisdom of the men who are concerned with it, the fairness that has been shown by your committee, that if you want to take the task of correcting the mistakes that have been made, if we call them mistakes, in the acquiring of title, why, it can

be done, I am sure, without injury to anyone and without creating any public disturbance.

The CHAIRMAN. But how could Congress, or any other authority in any way alter the present status and disturb the present occupants of the land, and still leave the lands open for homestead entry? Perhaps I do not make myself clear on that. You say that this thing can be straightened out so that people now owning title to the land will not be disturbed. If that can be done, what opportunity is there for homesteaders to go onto that land?

Miss CALDWELL. Well, now, may I say this: That I think we are looking from different viewpoints. I, of course, am directly interested in the situation down in Orange County. Now, that is one thing. Now, the situation that has developed in the months since our homesteads were filed, or undertaken to be filed in Orange County, or with regard to some of the other ranchos, particularly, we will say, of San Fernando, where there are so many citizens who are living upon small lots—now, I do not think it will be necessary at all to dispossess them, but I do believe that they are entitled to have their title to their respective lots, if you please, so protected that never hereafter will there be any flaw in that title.

Senator DALE. Let me ask you this question; please: Do you not think these conclusions to which you have referred could be reached by the committee from the record evidence wholly, without any testimony whatever?

Miss CALDWELL. You mean conclusions with regard to the original validity of the grant?

Senator DALE. You stated, as I understood you, that the committee could come to the conclusions that would set this whole matter right.

Miss CALDWELL. Yes.

Senator DALE. Could they come to those conclusions from the records that are available to the committee independently of any oral testimony?

Miss CALDWELL. So far as I am acquainted with the record that is now before you, I would say that you are justified in coming to the conclusion concerning the actual status of the title to these various grants. Now, after that conclusion has been reached then comes the problem of the action to be taken, and that is another story.

Senator DALE. What I am getting at is this: What materiality has all this oral testimony?

Miss CALDWELL. Do you mean mine?

Senator DALE. No; I do not mean yours particularly, because I think yours is enlightening; but what purpose is there in seeking oral testimony?

Miss CALDWELL. Well, in answering that I would have to know a little more positively what the scope of your investigation at this time would be, or is. I was only in the room a short time.

Senator DALE. I mean as applied to the finding of the title, just to that alone; why couldn't that be found just as well in Washington as it could be out here?

Miss CALDWELL. Well, I do not know whether you in Washington are placed in a position to secure some of the necessary evidence that you would have to have in passing upon the claims of title under a grant. I do not know whether the claimants to these grants have

yet presented to your body the grants themselves, or what purport to be copies of the grants themselves, which would, of course, fix and determine the character of the grants themselves. Now, if all that were before you, together with the compilation of other matters that I know are before you, then I think you can do it.

Senator DALE. That is all in the record.

Miss CALDWELL. What, the grants?

Senator DALE. All those that you have referred to. All those documents are in the record.

Miss CALDWELL. I said I did not know whether they were or not; those that have been incorporated, copies of which have been incorporated in briefs, statements prepared by the attorney representing the homesteaders, all those are before you?

Senator DALE. Let me put it this way: The documents that are not of record would not be of any consequence, would they?

Miss CALDWELL. Well, I think you would have to have of record before you some evidence of the actual existence of the grant itself if you were called upon at this time or anyone was called upon to pass upon the validity, identity, and so on.

Senator BRATTON. I understood you to say a while ago that some action should be taken that would forever set at rest the titles of persons that are occupying and have improved tracts of land within these several grants and to stop agitation about these titles. Did I understand you correctly?

Miss CALDWELL. Almost correctly.

Senator BRATTON. Well, if that were done, it would result in excluding these tracts from homestead entry, would it not?

Miss CALDWELL. Not necessarily.

Senator BRATTON. How could the present holder have title to it, fixed title, free from disturbance and agitation and still a homestead entryman come in and occupy the land?

Miss CALDWELL. It occurs to me that the only way in which this thing called "title" can originate or vest or pass from one to another is in accordance with laws which we have placed ourselves under as citizens.

Senator BRATTON. The method of procedure I had in mind. Now, let us take the occupant of a 10-acre tract in one of these grants, the tract highly improved and used for residential purposes as well as farming, fruit growing, and so on; the land has been bought and sold for years now, and what action do you think the committee should take as to that tract of land?

Miss CALDWELL. There requires data to be secured, there requires discrimination to be made between the different classes of present holders, there requires to be taken into consideration the actual moneys paid out by the present owners.

Senator BRATTON. Let me state a hypothetical case in this wise: Let us assume that there is a tract of land consisting of 50 acres in the Rancho Lomas de Santiago grant, a patent under that grant having issued by the Government; that being the source of title, and it having passed from grantor to grantee for 60 or 70 years, during which time it has been progressively improved and brought into a state of cultivation; and let us say that it is now worth a quarter of a million dollars, that the present owner has purchased and invested his money on the strength of that title; we will say that the purchase

was made in 1926. Now, what should the committee do with that tract of land?

Miss CALDWELL. Inasmuch as the very premise which you made is the very premise at issue; in other words, if he had a title derived from a patent——

Senator BRATTON. I say, to which patent has issued.

Miss CALDWELL. Yes; from which this chain of title is derived?

Senator BRATTON. Yes.

Miss CALDWELL. Well, if that patent, according to law, were void as being against law, then no passage of time, nor any intervening innocent parties, whether there be three or four, nor any loss of money or anything else could ever make that title valid, according to my idea.

Senator BRATTON. The question I asked you is what should the committee do with that sort of situation? Should we recognize the title or dispute it and undertake to dispossess the owner?

Miss CALDWELL. The title should be disputed. The title should be corrected. There must be some method of correcting it, because there was never anything wrong that could not be corrected.

Senator BRATTON. And let me add to my question this: In the meantime application for homesteading land has been filed, and the issue stands between the record owner, with a quarter of a million dollar investment, on the one side, and the application of the homesteader on the other. Now, what should the committee do as between the two parties to the contest?

Miss CALDWELL. It then becomes a matter of adjustment.

Senator BRATTON. Well, you have given long study to it and are a lawyer. How would you adjust it? That is what I want to know. You say an adjustment should be made and the whole thing corrected and set at rest. Those terms are quite generic terms, but how would you adjust it? Tell us, if you were confronted with that situation, just as is the committee, tell us how you would adjust it.

Miss CALDWELL. With my present knowledge right now I could not tell you exactly how.

Senator BRATTON. Then tell us as nearly as you can.

Miss CALDWELL. When I said a while ago that I had been giving the matter study, I did not mean in trying to interpose my thoughts or ideas in formulating a method or means of doing it. I did not for a moment think that my meager part in it would at all reach that point.

Senator BRATTON. Let me ask you this question, please.

Miss CALDWELL. I would like to give that some consideration, and I would like to have the privilege of presenting in writing, very briefly, any thoughts or ideas or conclusions that may come to me based upon the consideration that I have given to the problem itself and to the question that confronts this splendid community here in the way of unrest and all that that I know exists.

Senator DALE. You have stated, in answer to Senator Bratton's questions—by the way, I am afraid you have the impression that he is trying to perplex you in some way. He isn't doing that.

Miss CALDWELL. No; I know that.

Senator DALE. He is just trying to get some light.

Miss CALDWELL. Yes.

Senator DALE. You stated in answer to his question that you thought the committee should review and correct these titles. Now, what is bothering me is just this: Assuming that the committee should review and correct these titles, is there any information that the committee could obtain with which to do that other than what it would get from the record? Wouldn't they be bound by what they would find of record in the matter in doing that?

Miss CALDWELL. I am firmly convinced that the records, as they exist and as they are before you, will show that the Mexican grants, upon which were predicated the patents, were void.

Senator DALE. You think the records themselves will show that?

Miss CALDWELL. The records themselves, and what have been placed before you, I believe, would show that.

Senator DALE. We would have to go by those records, would we not? We could not go by anything else but the records.

Miss CALDWELL. No, those records and laws are the principles on which we all operate.

Senator DALE. I agree with you, that it would include the treaty and laws——

Miss CALDWELL. And the interpretations that have been given by the courts.

Senator DALE. Yes. I think you have made it clear to me now. Thank you.

Senator BRATTON. Directing your attention to another phase of the situation, we were told at Washington that, just prior to the return of the indictment against William R. Price, Ben McLendon, Gertrude M. Caldwell, Venon Clark, and Clinton Johnson, that the applicants went to the United States attorney, who was then Mr. Burke, and asked the privilege of going before the grand jury and submitting the information that they had received from the Land Department in Washington, and telling the grand jury that the land for which they had applied for homestead was land designated by the Land Department as public land and open to homestead; that they were denied a hearing, with a statement on the part of the United States attorney that what was wanted was an indictment and not a hearing. Now, what can you tell us about such a statement being made by Mr. Burke?

Miss CALDWELL. I can tell you the facts that occurred and I will try to make it brief. A number of the people who homestead at the same time I did were fellow members of a certain organization. I knew them well, I was in constant communication with them and some of them were personal friends of mine. On one occasion a lady came to me, Mrs. Shedill, with a postal card, which I have since learned is the ordinary form of subpoena to those who are called by the district attorney's office to appear before the grand jury in their preliminary investigations. This notice was directed to her husband. She told me he was out of the city and could not be present at that time. She asked me, as a kindness and as an attorney, to go to the office and secure a continuance for him.

With the postal card in my hand I went to the office of the district attorney and asked for Mr. Burke. The attendant told me he was busy, and was going before the grand jury in just a few minutes and would I kindly wait. I went into an anteroom and found there three or four other homesteaders who had like communications. I

waited for a little while. Mr. Burke did not come in. I again showed the card and a young lady said, "Oh, that is what the matter is." Then she took me into another room and that is where, for the first time, I met Mr. Wilhelm. I showed him the card and told him that Mr. Shedill could not attend and I wanted to see about getting a continuance. He was very kind. He asked me to be seated and began talking about the situation and told me that I should never have taken up this homestead, that the people who were doing it knew that they had no right and no opportunity to succeed and so on. Without going into the details here of the conversation which took place for about 10 or 15 minutes, he addressed me as Mrs. Shedill which led me to realize that he thought that he was talking with the party to whom the card was addressed instead of to me. I told him then who I was.

Then, if I remember correctly, he went in and brought Mr. Burke in and told him what I had come for, which was to get a continuance for the appearance of Mr. Shedill, and Mr. Burke granted the privilege. I think I asked him if the grand jury was hearing matters connected with this locating, and if they were I myself would be glad to talk to him. His reply was—I do not remember his exact words, it has been so long ago—but he simply turned it off with, "Well, I am too busy now; I have to go right in; we will see about it. Mr. Wilhelm will take care of you," or something to that effect. Then I had a further talk with Mr. Wilhelm for another half hour, and I asked him why he hadn't called upon me and why he hadn't given me some of this information, as he had been calling on these other persons, and he said, "Well, we knew you were an attorney and we thought you would take your privilege as an attorney and refuse to give any information." I replied to him that it was not in my capacity as an attorney that I was appearing, but as a citizen who in good faith had made application for homestead entry, and that before doing so I had made investigation, and I've been thoroughly convinced to my own mind that I was doing right and proper; that I would like to present my views either to him or to the grand jury, and his reply was to the effect that they knew that there were some things that happened that ought not to have happened, but the people who were connected with it knew better than what they were doing and they were trying to impose upon the homesteaders.

Senator BRATTON. Did Mr. Burke say that to you—that what they wanted was an indictment and not a hearing?

Miss CALDWELL. Not in those words; no. I have stated the only conversation that occurred between Mr. Burke and myself at that time. But I would like further to add, in order to place the matter in the proper light before this committee: This occurred and my report of it was made to Mr. McLendon, and that was before the indictment had been returned and before Mr. Summers had been engaged in the matter. His information undoubtedly came through a third party, or he may possibly have accredited the direct statement to Mr. Burke's remarks, which were a part of the conversation in Burke's office, but I think that conversation with Mr. Burke, which I have just related—I did say to him and to Mr. Wilhelm that I wanted to go before the grand jury. The next morning I went up and took a seat immediately before the door of the entrance to the grand-jury room. Mr. Wilhelm and Mr. Burke both passed before

me and spoke to me. They were going back and forth the whole morning, and I was there for the purpose of being called to make a statement if they wished to hear it. I was not called, and shortly after that the information which had been made against McLendon and Price was dismissed and the five of us were arrested under a Federal indictment. I think that covers the matter.

The CHAIRMAN. Thank you very much. Are there any further questions?

Mr. HARTKE. Are you associated with Mr. Summers in this work?

Miss CALDWELL. How do you mean, as an attorney?

Mr. HARTKE. Yes.

Miss CALDWELL. Why, no.

Mr. HARTKE. Or in any way?

Miss CALDWELL. Mr. Summers was my attorney.

Mr. HARTKE. That is, in the beginning, you mean?

Miss CALDWELL. I mean after this indictment, after the five of us were indicted by the Federal grand jury.

Mr. HARTKE. I am not referring to that.

Miss CALDWELL. Mr. Summers became my attorney upon that occasion, and that is the association which existed and has existed between us.

Mr. HARTKE. You represent certain homesteaders now as attorney?

Miss CALDWELL. No.

Mr. HARTKE. You have advised them in reference to their rights and their feelings in this matter?

Miss CALDWELL. No; no further than this, that any homesteader or anyone else who has at any time asked me for my opinion, I have been glad to give it.

Mr. HARTKE. Did you advise any of these homesteaders in reference to the law and their rights in the matter?

Miss CALDWELL. No.

Mr. HARTKE. At any time?

Miss CALDWELL. I advised, or rather, I reported to, and talked frequently with Doctor Price because he was the only one who ever asked me to look into the matter on his behalf.

Mr. HARTKE. I am referring to homesteaders now.

Miss CALDWELL. No.

Mr. HARTKE. Are there any of them in court now that you have advised in the matter?

Miss CALDWELL. I do not think there are.

Mr. HARTKE. So far as you know you have not advised any of the present homesteaders?

Miss CALDWELL. That is what I would say, but that doesn't mean that many of them have not heard me express my opinion.

Mr. HARTKE. Where have you expressed your opinion to them; in your office?

Miss CALDWELL. No; I could not say in my office. But perhaps so and perhaps not. Many places where the matter has ever been discussed.

Mr. HARTKE. Where were the matters discussed, at a meeting some place?

Miss CALDWELL. They have been; yes.

Mr. HARTKE. Where were those meetings held?

Miss CALDWELL. Well, let me see. There were meetings of the homesteaders.

Mr. HARTKE. When was the last one of those meetings held, if you know?

Miss CALDWELL. Oh, years ago. I haven't attended the meetings of homesteaders for three or four years, I guess, and I do not know that there has been any.

Mr. HARTKE. Did you ever see the map that Mr. Johnson referred to yesterday with the section lines in ink across it?

Miss CALDWELL. I saw a copy that was purported to be an authentic, certified copy of the map which showed the section lines in that questionable 29,000-acre operation with the Lomas de Santiago Ranch.

Mr. HARTKE. Were those section lines drawn in, or had they been printed in; do you know?

Miss CALDWELL. Well, the maps that I have reference to were, of course, original.

Mr. HARTKE. Were they drawn in or printed in, if you know?

Miss CALDWELL. The copy of the map I saw did not have anything that had been placed upon it.

Senator BRATTON. Was it certified to by some one on behalf of the United States Government, or was it a State and county map?

Miss CALDWELL. Well, as I remember it, it bore several certifications of various officers. I think it emanated from the surveyor general's office. If I mistake not, it was certified as being an authentic map, certified by one or two different officials in Washington.

Mr. LAWLER. Miss Caldwell, the society you refer to, was that a psychological institution?

Miss CALDWELL. What?

Mr. LAWLER. An institution of applied psychology; is that the society you refer to?

Miss CALDWELL. I will give you the correct name of the organization, inasmuch as I incorporated it in 1921.

Mr. LAWLER. All right; what was it?

Miss CALDWELL. The Society of the New School of Applied Christian Psychology.

Mr. MITCHELL. While Miss Caldwell is on the stand there is one matter that has not been placed of record. There are some certificates here from the Government of Mexico which have been explained as certificates to the effect that there were no such grants or records down there. I would like to have the record show for what reason it is supposed that there are any such records there or for saying that the grants have not been made by the Governor of California. May be Miss Caldwell can inform us about that.

Miss CALDWELL. I believe I can answer that. Under the Mexican law as it then existed, which is referred to as the "law of 1828," any grant of agricultural land could not be made by the local governor without the consent of the Federal authorities in Mexico. Inasmuch as certain grants were holding themselves out to be valid grants, or were within the 10-mile limit of the ocean, which was prohibited under law, in order for them to establish their validity they would have to show the record in Mexico, and the certification by the present Mexican officials that no such recordation exists would be one element that would be lacking in order to maintain the claim that any of these grants which came under that qualification were valid. That is the reason that these were procured.

Mr. MITCHELL. What laws do you refer to? Will you state the specific statutes of Mexico that substantiate your statement that it is necessary to have these grants proved in Spain or in Mexico?

Miss CALDWELL. The particular Mexican law, published by the Republic of Mexico, that is referred to in regard to the requirements of any grant of land, is referred to in the law of 1828. I believe that reference is made to that in the documents which you have, and quotation from the law is made; but I have read it many times, and it specifically states that the governor is without power to make any grant of agricultural land to any one individual comprising more than a certain amount, 4 square leagues of agricultural land and a certain amount of other described land, and also that no grants can be made of any land within 10 miles of the ocean or of the international boundary.

Mr. MITCHELL. Have you ever seen the statute which requires these grants to be recorded in Mexico. Have you ever seen such a statute yourself?

Miss CALDWELL. No; but I have seen what purports to be a copy of the Mexican law.

Mr. MITCHELL. The grants actually had their inception in California under the Spanish or Mexican Government?

Miss CALDWELL. Not the Spanish. The Spanish authority was many years before that.

Mr. MITCHELL. But when the grants were made by the Spanish Government, they were made here by the Spanish Government and had their inception here on petition to that Government, did they not?

Miss CALDWELL. Well, the requirements of grants by the Crown of Spain, as I understand it, were quite different from these requirements.

Mr. MITCHELL. I understand that, but that is not what I asked you.

Miss CALDWELL. As I understand it, there are very few limitations to the sovereign power of Spain to issue grants, either in size, character, or anything else. I do not believe that the question relating to any Spanish grants has ever come before me. Therefore I made no inquiry as to what, if any, limitations were on the sovereignty of Spain. I have only inquired into the Mexican grants.

Mr. MUSICK. Mr. Chairman, I would like to bring out the volume of filings that are being made and show the magnitude of this movement. I asked Mr. Smith if he would have prepared in his office a list of homestead filings which have been filed since the 1st of January of this year. He has done so and it is here now. It shows a total of 54 filings that have been made this year. It shows that the last one was on April 3, two on April 1, and as many as five on March 21. I believe it will be important to have Mr. Smith identify this and have it go into the evidence.

The CHAIRMAN. Will you please do so, Mr. Smith?

Mr. SMITH. I had this prepared this morning by one of the boys in the office, and it is a correct copy of every serial register on file in the United States land office in the Federal building here.

The CHAIRMAN. The list will be received as Exhibit AL, and inserted in the record at this point.

(The list referred to is as follows:)

EXHIBIT AL

List of homestead filings on lands within patented Mexican and Spanish grants

Year 1929	Serial No.	Name and address
Jan. 2	046584	Josephine Cutler Whiting, 622 I. W. Hellman Building, Los Angeles, Calif.
Do	046585	William S. Robinson, 614 North Mentor Avenue, Pasadena.
Do	046589	Carl R. Questad, 8413 Cypress Street, Southgate, Calif.
Do	046590	Leone L. Sprague, 129 North Sichel Street, Los Angeles.
Jan. 3	046598	Sidney T. Rogers, 1200 North Ogden Drive, Los Angeles.
Jan. 4	046607	Harry Davis Van Brunt, 622 I. W. Hellman Building, Los Angeles, Calif.
Jan. 7	046621	Orlo Grant Lowman, 3637 South Grant Avenue, Los Angeles, Calif.
Do	046623	William Thomas Walton, 808 East Fourth Street, Long Beach, Calif.
Jan. 8	046640	John Frederick Dietrich, 100 North Coronado Street, Los Angeles, Calif.
Jan. 14	046665	James Henry Steele, Baldwin Park, Calif.
Jan. 15	046680	Mary Charity Miller, 4919 Ocean Front, Venice, Calif.
Jan. 16	046682	Frank James Widomen, 2349 London Street, Los Angeles.
Do	046683	Helene Richards, Point Loma, Calif.
Do	046685	George Edward Benz, 2029 West Forty-first Street, Los Angeles.
Jan. 17	046695	James Westervelt, 981 Second Street, Santa Monica, Calif.
Jan. 18	046699	Grace Bainter Burgess, 1439½ Crescent Heights Boulevard, Los Angeles, Calif.
Jan. 21	046708	Edward I. Smith, 301 North Bushnell Avenue, Alhambra, Calif.
Do	046709	Lyle C. Smith, 301 North Bushnell Avenue, Alhambra, Calif.
Jan. 22	046724	William M. Ryals, 260 South Normandie Avenue, Los Angeles, Calif.
Do	046725	Ally Emerson Sherid, 112 West Glen Oaks Boulevard, Glendale, Calif.
Jan. 23	046733	George W. Buchen, 106 East Lexington Road, Glendale, Calif.
Jan. 30	046771	Edward E. Rathbun, 1018 Fair Oaks Avenue, South Pasadena, Calif.
Do	046772	Eldred Noar Lovelace, 752 Herkimer Street, Pasadena, Calif.
Do	046774	Paul Chamberlain, 2544½ East Fifty-fifth Street, Los Angeles, Calif.
Feb. 3	046792	Vergil A. Sperline, 3140 West Florence Avenue, Los Angeles, Calif.
Do	046795	Leon F. Maciejewski, 1906 North St. Andrews Place, Los Angeles, Calif.
Feb. 4	046812	William H. Russell, 1805 North Kingsley Drive, Los Angeles, Calif.
Do	046813	James H. Bing, Willowbrook, Calif.
Feb. 11	046848	Caroline E. Pierson, 844 Eighteenth Street, Santa Monica, Calif.
Feb. 14	046870	William H. Test, 2319½ West Twenty-fifth Street, Los Angeles.
Do	046872	Roland F. Crump, 1173 Queen Ann Place, Los Angeles.
Feb. 23	046921	Carl H. Davis, 536 South Hope Street, Los Angeles.
Do	046922	Lewis A. Jones, 113 North Fir Street, Inglewood, Calif.
Do	046923	George B. McCabe, 1931 West Sixty-fifth Street, Los Angeles.
Do	046924	Adolph Stehula, 6349 Drexel Street, Los Angeles.
Do	046925	Frank J. Hellmann, 312 South Doheny Drive, Beverly Hills, Calif.
Mar. 12	047003	William Charles John Quast, 906 West Fortieth Place, Los Angeles, Calif.
Mar. 15	047031	Edwin S. W. Fisher, 610 East Seventh Street, Long Beach, Calif.
Do	047032	Arthur Read Hewitt, Room 507, 424 South Broadway, Los Angeles, Calif.
Mar. 20	047057	Joseph Miller, 1725 Wilcox Avenue, Los Angeles, Calif.
Do	047058	Louis Schwederson, 5800 Carlton Way, Los Angeles, Calif.
Mar. 21	047061	Joseph Rosenthal, 1132 3/4 Kingsley Drive, Los Angeles, Calif.
Do	047062	Irving Mitchell, 1152 North Gordon Street, Los Angeles, Calif.
Do	047065	Robert John Harwood, 1918 Dracena Drive, Los Angeles, Calif.
Do	047067	Donald Monroe Hummel, 2615 Locksley Place, Los Angeles, Calif.
Do	047068	Harold Flanders Coupland, 1075 North Catalina Street, Pasadena, Calif.
Mar. 25	047078	James Augustus Northrop, 923 West Fiftieth Street, Los Angeles, Calif.
Mar. 26	047090	William Frederick Brass, 2515 West View Street, Los Angeles, Calif.
Mar. 28	047101	Milbert Dennis Cutler, 1029 Westmount Drive, Alhambra, Calif.
Do	047102	Stephen Oscar Coutler, 1029 Westmount Drive, Alhambra, Calif.
Mar. 30	047114	James T. Coates, 2848 East Fourth Street, Los Angeles, Calif.
Apr. 1	047115	Charles Lawrence Lindy, 1600 East Seventh Street, Long Beach, Calif.
Do	047120	Vilas Blair Redmond, 4030½ West Twenty-first Street, Los Angeles, Calif.

SUPPLEMENTAL

Apr. 3	047125	Edward William Feltham, 254 St. Joseph Avenue, Long Beach, Calif.

Mr. MUSICK. As a part of the same general matter, I believe it would be well to have Mr. Smith identify the official form of rejection on appeal from the General Land Office, which carries the paragraph citing the United States Supreme Court case of Thompson *v.* Los Angeles Farming & Milling Co. as authority for the rejection. I believe he is in a position to testify that that was carried on all forms of rejections, thereby giving notice to the homesteadeers of the Supreme Court decision.

Mr. WHEELER. The rejection is in the record now.
Mr. SMITH. That has never been introduced.
The CHAIRMAN. That has not been offered for the record.
Mr. WHEELER. Isn't there a rejection in the record?
Mr. SMITH. This is dated January 26, 1929, signed by E. C. Finney as Assistant Secretary. It is the regular formal affirmation of my rejection by the commissioner.
Mr. LAWLER. The same form has been used in each one of these cases, as I understand it?
Mr. SMITH. This form has not been used all the way through, but is in all of the last rejections.
Mr. MUSICK. The important bearing of this particular document is that it seems to us to be conclusive evidence of the fact that the Supreme Court decision upholding the validity of the San Fernando grant had been explicitly called to the attention, by this formal notice of rejection, of the respective homesteaders who have received it.
The CHAIRMAN. These have been mailed in the ordinary course of business to each applicant?
Mr. SMITH. They have.
Mr. MUSICK. And it goes to the question of Mr. Wheeler's good faith in making the statement that he knew nothing of the United States Supreme Court decision cited here by Mr. Lawler.
Mr. SMITH. Also in the final rejection the check is mailed for their filing fees or soon afterwards.
Miss CALDWELL. My attention is called to the fact that I inadvertently stated that the Mexican law referred to 10 miles from the ocean or the international boundary line. I should have said 10 leagues.
The CHAIRMAN. Very well.
Miss CALDWELL. It was an inadvertence.
The CHAIRMAN. We will now hear Mr. Burke.

TESTIMONY OF JOSEPH C. BURKE, FORMER UNITED STATES DISTRICT ATTORNEY

(The witness was duly sworn by the chairman.)
The CHAIRMAN. State your full name, please.
Mr. BURKE. Joseph C. Burke.
The CHAIRMAN. You were formerly district attorney for this district?
Mr. BURKE. Yes, sir. I was United States attorney for this district from December, 1921, to February, 1925.
Senator BRATTON. Mr. Burke, do you recall preparing an indictment against William R. Price and others charging a violation of the statute in regard to the use of the United States mails in connection with homestead filings?
Mr. BURKE. Only in a casual way. I remember this indictment was returned some time in 1923. It was only one of the matters which was before the office. The matter was not called to my attention. I knew nothing about this until last Friday, when this report was read to me, or parts of it. I have not had an opportunity dur-

ing the past week to familiarize myself with the old transactions. I remember this case being in the office, coming in from the Land Department, and I remember the indictment particularly involved Price and McLendon.

Senator BRATTON. We were told in Washington that, just prior to the return of that indictment, some of the parties indicted, or those representing them, had an interview with you in which they expressed a desire to present the matter to the grand jury and that they were denied a hearing with a statement on your part that what was wanted was an indictment and not a hearing.

Mr. BURKE. I never made such a statement as that to anybody. The grand jury is not an investigating body in the first place and neither was the department of the United States attorney.

Senator BRATTON. We were also told, in substance, that after the indictments were returned Mr. Summers, acting for some, if not all of the defendants, discussed the matter with you, and that in the course of that discussion you stated that some of the parties knew too damn much and that they were to be put in jail or in the penitentiary to that effect. What can you tell the committee about such a conversation?

Mr. BURKE. Mr. Summers came into my office one time. I think I discussed with him the idea of the dismissal of this indictment. His reference, however, to the statement that he said I made, that some of these people knew too damn much and they were going to be sent off to a Federal prison and let them die there, that is the statement that I never made.

Senator [illegible]. On page 9 of the hearing before the committee Senate Resolution 333, Mr. Summers made this statement to the committee in Washington:

> The parties indicted [illegible] over it with them in detail, and stated that having been United States attorney in another jurisdiction and while I had [illegible] that I could see where any crime had been committed that could see no excuse for any crime, and that no one could [illegible] for doing the [illegible] department advised were right and had [illegible] done [illegible] go on the following day to the United States [illegible] have these cases dismissed; that I did so, [illegible] having been received with scant courtesy, that some of [illegible] too damn much, and they were going to send them to a Federal prison and let them die there.

Mr. Mason, being an attorney associated with Judge Summers, propounded this question to Judge Summers:

> Mr. MASON. Who told you that?
> Mr. SUMMERS. The United States attorney.
> Mr. MASON. Mr. Burke?
> Mr. SUMMERS. Yes; Mr. Burke.
> Senator NYE. Was anyone present with you at that time?
> Mr. SUMMERS. I think not, not at that particular time.

Now, did any such conversation, either literally or in substance, occur between you and Judge Summers?

Mr. BURKE. No, sir.

Senator BRATTON. Did you ever assume that attitude in connection with the case?

Mr. BURKE. I did not. This was only one of many cases that had been presented to our office by the land department. Each depart-

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ment would make investigations of its own particular cases and would submit us a report and everything in the line of witnesses, and we would prepare their cases for the grand jury.

Senator BRATTON. If it is not incompatible with public interest, tell the committee whether the Commissioner of the General Land Office, the Secretary of the Interior, or the Attorney General, or anyone else, acting on behalf of the Government at Washington, had anything to do with the returning of these indictments?

Mr. BURKE. No, sir. They came by way of report to my office through Mr. Wilhelm.

Senator BRATTON. Here, locally?

Mr. BURKE. Here, locally.

Senator BRATTON. Do you recall that you ever received a communication from the Commissioner of the General Land Office or the Secretary of the Interior or the Attorney General regarding the matter prior to the time the indictment was returned?

Mr. BURKE. No, sir; I can not recall any such communication.

Senator BRATTON. Did Mr. Smith, as the representative of the land office, have anything to do with the returning of the indictments?

Mr. BURKE. No, he did not, other than this: Before the return of this indictment, Mr. Smith or Mr. Valentine, one or the other, in the land department, one being the registrar and the other the receiver, called on me and said there was a man up there by the name of McLendon, they called me on the phone and said there was a man up there by the name of McLendon in the office who wanted to talk in reference to the Mexican land situation, and Mr. Smith or Mr. Valentine made an arrangement with this man, McLendon, to meet me in my office the same afternoon and go over the situation. McLendon came in with Mr. Smith and Mr. Valentine, and I think one of my assistants was with him, Mr. Fortune, I think——

Mr. WILHELM. Mr. Favorite?

Mr. BURKE. Mr. Favorite and Mr. Wilhelm, and Mr. McLendon came in and went over this Spanish and Mexican land situation, perhaps for a couple or three hours. We had a reporter there taking down his statements. At the conclusion, or during the course of his story, I asked him if the United States Land Department had not settled these titles at one time, and he said that he had not come into my office to be insulted and therefore the conference would be considered at an end, which it was. Now, that was the only conference that I remember that Mr. Smith had anything to do with, or Mr. Valentine.

Senator BRATTON. Mr. McLendon was present throughout that conference?

Mr. BURKE. Yes. I never had that transcribed and I do not remember the reporter now, but he was one of the court reporters at that time, and I think his name was Scott.

Senator BRATTON. There is one other question. On page 8 of the same hearing Senator Cameron asked Mr. Summers: "Mr. Summers, who was the United States attorney at that time?" And he answered: "Mr. Joseph Burke. He formerly had represented Mr. Irvine in a good many things, and, as Irvine stated, he had secured his appointment."

Mr. BURKE. I wish to state that I never worked for Irvine or the Irvine company as attorney or in any capacity during my life, and I deny literally that statement.

Senator BRATTON. You never had any previous employment with the Irvine interests in any way?

Mr. BURKE. No in any way.

Senator BRATTON. What do you say of the statement, for whatever it may be worth, that Mr. Irvine brought about your appointment?

Mr. BURKE. That is the first intimation I have had of that fact. Mr. Irvine lives in San Francisco most of the time, while his ranch is located in Santa Ana. I live in Santa Ana. I was really much surprised when I found that Mr. Irvine had aided me in the appointment, and I do not think Mr. Irvine made the statement accredited to him here.

The CHAIRMAN. That is all, Mr. Burke.

Mr. BURKE. I wish to thank the committee for their consideration.

The CHAIRMAN. Now, on yesterday an ex-service man, Mr. McDaniel, testified and, Mr. McDaniel, do I understand that you have with you this morning, or that there is present, the lady to whom you made reference on yesterday?

Mr. MCDANIEL. One of the ladies who was present at the time a map was offered for sale. One of them is here, sir.

The CHAIRMAN. What is her name, please?

Mr. MCDANIEL. Mrs. Pelletier.

The CHAIRMAN. Would she like to take the stand?

Mr. MCDANIEL. I do not think she would object.

The CHAIRMAN. Very well, Mrs. Pelletier.

TESTIMONY OF MRS. MARGARET PELLETIER, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Please state your full name.

The WITNESS. Mrs. Margaret Pelletier.

The CHAIRMAN. And your residence, please.

Mrs. PELLETIER. No. 1507 Davis Street.

Senator BRATTON. What is your husband's name, please?

Mrs. PELLETIER. Joseph Pelletier.

Senator BRATTON. And what is his business?

Mrs. PELLETIER. He is a barber.

Senator BRATTON. Is he an ex-service man?

Mrs. PELLETIER. No; not exactly.

Senator BRATTON. Did he serve during the World War?

Mrs. PELLETIER. No.

Senator BRATTON. Have you made application to file homestead entry upon any land situated in California?

Mrs. PELLETIER. On March 26 we interviewed Mr. Wheeler in his office.

Senator BRATTON. That is, March 26 last?

Mrs. PELLETIER. Yes; 1929.

Senator BRATTON. You say "we." Whom do you include in that?

Mrs. PELLETIER. A friend of mine, Mrs. Martin; she had the appointment.

Senator BRATTON. You and Mrs. Martin went together to Mr. Wheeler's office?

Mrs. PELLETIER. Yes.

Senator DALE. Mrs. Martin is the wife of an ex-service man?

Mr. PELLETIER. Yes.

Senator BRATTON. She is the wife of an ex-service man?

Mrs. PELLETIER. Yes.

Senator BRATTON. What is the business of her husband?

Mrs. PELLETIER. He is a letter carrier.

Senator BRATTON. How long did you and Mrs. Martin remain in Mr. Wheeler's office?

Mrs. PELLETIER. Oh, our interview was very brief. She worked for the Power & Light Co. and she was on her noon hour.

Senator BRATTON. Will you state briefly and concisely the substance of what was stated and what was said and done on that occasion?

Mrs. PELLETIER. Why, we entered the outer office, I suppose you would call it; we were received by a young lady, and she asked us to wait a minute. Mr. Wheeler came into the office. It seems Mrs. Martin had an appointment made prior over the phone, so she told this young lady in the office that she was Mrs. Martin who had phoned in earlier in the day. We waited a little while and Mr. Wheeler came out from an inner office, and she introduced Mrs. Martin and Mrs. Martin in turn introduced me. He asked us to wait, that he was busy at the time. We waited probably 15 minutes. He was having a conversation with somebody in his office. Then the phone rang. He came out and talked over the phone, and his conversation over the phone made me suspicious. I said to Mrs. Martin, "His conversation is too guarded. I don't like to do business with people like that." In a little while we went into the inside office. We had a slip of paper which we had taken from the table. He asked us what we wanted, I guess—I don't just remember how the conversation started—but we told him in regard to the San Fernando Valley property, and he told us this: He said that he had a map and if we would take the map that our husbands could look at the property and then we would come back to him if our husbands were satisfied. He said there were 160 acres in each claim and we would give him a thousand dollars and then file on the property.

Senator BRATTON. You mean a thousand dollars fee for filing; that is, for each one?

Mrs. PELLETIER. Each of them, each of us give him a thousand dollars. He gave Mrs. Martin a map and told her it was 50 cents for the map. I do not know that she understood him distinctly when he said that. She took the map, and then he told us; he said, "If you wish to get the map I will have to collect 50 cents. The bank doesn't furnish us maps any more." And I said, "How come?" And he said, "The bank is mad with us." So then we started to look into the situation a little more carefully. I thought it was strange that a business man should ask 50 cents for a map. This map, when we looked at it, was marked with red, certain sections, and he said we should look at three or four different ones; that some of the others might have been filed on. Then Mrs. Martin had to go back to work, and I went over to the Land Office.

Senator BRATTON. What was done as to the payment of 50 cents for the map?

Mrs. PELLETIER. He took the map away. She said she didn't think she would pay 50 cents, that she wanted to see her husband first to see what he thought about the filing.

Senator BRATTON. At any rate, the map was not purchased?

Mrs. PELLETIER. No. She had the map, but when she didn't pay him the 50 cents he took it away again.

Senator BRATTON. What was said, if anything, as to the quantity of land in the San Fernando Valley that was subject to filing?

Mrs. PELLETIER. He told us to look at three or four sections that he had marked on the map, that there was 160 acres in each section.

Senator BRATTON. How were those tracts of land marked on the map?

Mrs. PELLETIER. In red.

Senator BRATTON. Did he state to you that the red marks on the map indicated that the land was subject to filing?

Mrs. PELLETIER. Was open for filing.

Senator BRATTON. How many such marks were there on the map?

Mrs. PELLETIER. I did not count them but there must have been quite a few. I would say probably 10 or more.

Senator BRATTON. Ten tracts of a quarter section each?

Mrs. PELLETIER. Yes.

Senator BRATTON. What was said as to what the $1,000 would cover?

Mrs. PELLETIER. Well, my friend asked him if he would accept the money in installments and he said no, that he couldn't pay the railroad expenses in installments, and then I asked him, I said, "If we put our money in is there any way or any chance of getting anything back if we didn't get the land," and he said there were no ifs to it, that without doubt it was a sure thing that eventually we would get our 160 acres if we intrusted him with our $1,000.

Senator BRATTON. Did he say any more about being unable to pay railroad and traveling expenses in installments, and what did you understand he meant by that expression?

Mrs. PELLETIER. Well, it was on Mrs. Martin's noon hour and we didn't have much time to look into it very clearly, and we never found out.

Senator BRATTON. And you did not file?

Mrs. PELLETIER. No. I went to the land office and she went back to work.

Senator BRATTON. Do you know whether her husband filed since?

Mrs. PELLETIER. No; they have not filed. He also told us in the office that we—he didn't say he—were the ones who exposed the Teapot Dome.

Senator BRATTON. Did he amplify that statement?

Mrs. PELLETIER. We didn't ask him to.

Mr. WHEELER. I would like to ask the witness one question. As a matter of fact, didn't I show you a map that is sold by the Stationers' Corporation, a map of Greater Los Angeles, and tell you that you could get it over at the store but that I had this one here to show to people what it looked like; that it had cost me 50 cents, and

if you wanted it you could take it and pay the 50 cents so that I could get another one?

Mrs. PELLETIER. It wasn't me you gave the map to at all. It was Mrs. Martin.

Mr. WHEELER. Do you remember that statement?

Mrs. PELLETIER. No; I don't remember that statement. I remember you telling her if she would give you 50 cents she could have the map.

Mr. HARTKE. May I ask a few questions with the permission of the committee?

The CHAIRMAN. Certainly.

Mr. HARTKE. Did I understand you to say that Mr. Wheeler said that the bank was no longer furnishing maps to them?

Mrs. PELLETIER. Yes. He said that the bank was mad at him.

Mr. HARTKE. Did he say anything about having used free maps furnished by the bank to locate these homesteaders?

Mrs. PELLETIER. Yes. I don't know just how he said it, but I think he said it was a run-in with the bank, that he had used the bank's maps.

Mr. HARTKE. Had used the bank's maps in connection with the locating of homesteaders?

Mrs. PELLETIER. With the property.

Mr. HARTKE. You mentioned the fact that Mr. Wheeler stated that they had exposed the Teapot Dome investigation?

Mrs. PELLETIER. Yes.

Mr. HARTKE. In what connection did that arise? Did he make any preliminary statement to that?

Mrs. PELLETIER. Why, my friend, I think, said that they must be getting rich if they were getting so much money, and he said, "No, we are working for nothing here."

Mr. HARTKE. I see. Did he say anything about any bribery or crookedness any place—going on any place?

Mrs. PELLETIER. Why, we asked him how the Government allowed such things, and he said, "Bribery, why," he said—I think he used the word "corruption," that the people were supposed to look out for the interests of the Government—I remember him saying that we were the Government and that the others were only the clerks, employees, and that they had fallen down on the job.

Mr. HARTKE. He pointed out 10 different sections to you; that is, 10 different locations available for homestead entry in the San Fernando Valley?

Mrs. PELLETIER. There were 10 different ones at least marked on this map that he was showing Mrs. Martin.

Mr. HARTKE. How were they marked on the map, were they marked in red pencil?

Mrs. PELLETIER. I do not think it was exactly red pencil. It looked more like some kind of a red crayon.

Mr. HARTKE. That is, the whole thing was covered in, and marked over?

Mrs. PELLETIER. Yes.

Mr. HARTKE. Did it look like it had been printed that way or written in by hand?

Mrs. PELLETIER. It was written by hand evidently.

Mr. HARTKE. He assured you there was no question about your getting the land—that there were no "ifs" about it?

Mrs. PELLETIER. He said there were no "ifs" about it, because I asked him particularly.

Mr. HARTKE. And he asked you for a thousand dollars?

Mrs. PELLETIER. Yes; a thousand dollars.

The CHAIRMAN. During the conference you had in that office was anything said to you about the plans of this committee to come out here and investigate these matters?

Mrs. PELLETIER. I said something that I didn't know whether my husband would come, that we had read about it in the paper the night before and had talked it over, and he said that was nothing, that that was an individual fight and didn't affect him any and I asked him if it would be all right to wait until after next week if I filed and he said it would be all filed then and "if you want to file, file right now."

The CHAIRMAN. Now, Mr. Wheeler, you have handed to the committee a letter dated April 5, 1929, written on the stationery of C. S. Cook, M. D., and signed by Mr. Cook, who appears to be Mr. Summers's physician.

FURTHER TESTIMONY OF H. N. WHEELER, LOS ANGELES, CALIF.

Mr. WHEELER. That is true. That was done because there have been so many insinuations and what I would call attempts to attack Mr. Summers and his character and his good intentions in getting this committee out here, because Mr. Summers can not be here at this time to defend himself, nor call his witnesses, nor produce his evidence—and they went so far this morning in the Examiner to intimate very strongly that there was nothing wrong with Mr. Summers, that he was just hiding out—at least, I took it to mean that—and I thought this might be necessary.

The CHAIRMAN. Would you like to have this letter made a part of the record?

Mr. WHEELER. I would like very much to.

The CHAIRMAN. It may be inserted at this point and I think the record ought to include the statement that this committee called upon Mr. Summers on Tuesday afternoon at his home, at his bedside; we took no testimony from him at that time but rather felt that we might return later to his home and take testimony from him there. I think there is no objection to the incorporation of this letter from the doctor into the record and it will be so ordered:

LOS ANGELES, CALIF., *April 5, 1929.*

HON. GERALD P. NYE,
Chairman United States Senate
Subcommittee on Title Investigation.

MY DEAR SENATOR: The following is a report on the physical condition of Mr. W. S. Summers, from March 4, 1929, to date, for your information and all else concerned.

On the morning of March 4, 1929, I was called to the home of Mr. W. S. Summers immediately on his return from Washington, D. C., and found him in the following condition: General appearance, pale and haggard, with every expression of a physical break near at hand. Physical examination: Temperature, 100 F°.; pulse, 90; respiration, 28; very nervous; all reflexes exaggerated; nose and throat highly inflamed; pain over frontal sinus, right, and suffering severe pain over right temporal region; with stethoscope, the chest was found to be full of râles and patient was coughing almost constantly. Heart sounds were more or less muffled by the moist râles and wheezing within the chest; pulse was intermittent and weak.

Abdomen distended and tender over it entirely. Urine contained albumin * * * casts and many pus cells. Patient was put to bed and given a nerve sedative and forced to sleep.

March 5: General condition unchanged except patient showed the effect of rest; would take no food. He was placed upon eliminative treatment for 24 hours and responded very satisfactorily.

March 6: Patient appears somewhat improved; however, his pulmonary and cardic symptoms were quite the same.

Rest and sleep with soft diet was forced, and he appeared to be holding his own until late in the day, and a slight chill was experienced.

March 7: Condition was unchanged throughout the day. Early evening a severe chill and rapid rise of temperature occurred and patient was delirious from March 7 to March 15. Temperature ranging from 104 to 100 F°. Respiration ranging 20 to 36; pulse ranging 80 to 120.

A clinical diagnoses of bronchial, pneumonia, endocarditis, and acute nephritis was made, and patient placed on appropriate treatment. Night and day nurses were called and case continued to follow a classical course of three weeks.

The expectoration was bloody and profuse, on March 10, an acute otitis media developed which complicated the case considerably. The pain was severe and the patient lost his sense of hearing. This lasted several days, and after drainage was well established, considerable relief was had from pain.

Sunday, March 10 at about 8 p. m. Harold Heber Smith, M. D. was called in as consultant. Doctor Smith verified the diagnosis throughout and recommended a continuation of the treatment instituted.

March 10 to March 21: The temperature receded by lysis, and on that date became normal for a few hours. During this period the patient was delirious the greater part of the time, very restless, and at all times in a serious condition.

March 21 to date, the patient has shown a steady but slow recovery, and at this date is in a very satisfactory condition, considering his age and the chronically discharging ear following the acute otitis media. Heart was returned to almost normal condition with blood pressure at a low normal. Urin has cleared up to about a trace of albumin, and the general symptom complex subsided to normalcy, barring accidents.

Mr. Summers will be up in a few weeks, and will be able to resume his duties as attorney in the case you are here interested in.

Respectfully yours,

C. S. Cook, M. D.

Mr. Wheeler. May I say that some of the homesteaders have reported to me that Mrs. Summers has told them that some of the insinuations and things that have been said have upset Mr. Summers very much and in fact has made it so that he can not even see me now.

The Chairman. Have you been in quite close contact with Mr. Summers during the progress of this hearing?

Mr. Wheeler. I have had one conference with him for about 10 minutes. I have called up on the phone four or five times in relation to some point but I have found that Mr. Summers could not get out of bed, could not dig up things for me and I got an answer to very few of my questions. I asked him if I should try to show these things you requested me to and he said I simply could not do it because I did not have the knowledge nor the evidence nor did I know where to get the witnesses to prove the case.

The Chairman. Did he say anything about these references that he had made to us in his appearance before the committee in Washington in which he stated who and what witnesses could give testimony as indicated by himself?

Mr. Wheeler. I think he mentioned the Washington hearing in this way, that it will be necessary to take some witnesses from California to Washington before we got through with this and very

likely the committee will want to hold further hearings in Washington, at which time they could call certain Washington officials, or something to that effect.

The CHAIRMAN. The committee this morning determined this: That while it would not immediately close this matter or close its mind entirely against any new information that might be given the committee in connection with these land grants, it nevertheless felt it a requirement that it limit the time in which evidence could be given before the committee, and our conclusion is this: That we will hold the matter open for a matter of 60 days and will give opportunity, when convenient, to all who want to appear either in Washington or in any manner to submit further evidence in connection with this matter, yet I sincerely hope, and I think I speak for the committee, that we will not need to wait 60 days before we can close up the matter.

In other words, it is our express wish that this be closed as quickly as is possible. I spoke on yesterday, and I think I spoke the mind of the committee, with relation to the matter in which our confidence has been somewhat shaken by the failure of individuals, whom Mr. Summers had named, to come through with that sort of testimony which he told us these witnesses would come through with, yet we are not foreclosing opportunity to Mr. Summers to appear and present whatever further he may have to offer in connection with these matters; however, upon the occasion of his appearance in Washington, when he comes there and appears before the committee, it is going to be necessary for him to do considerably more than merely say that so and so can substantiate this fact or that fact, or this alleged fact or that alleged fact, because of the very apparent situation which has existed up to this time, namely, that the witnesses to whom he has referred, in their appearance before the committee have certainly not demonstrated themselves able to offer that testimony which Mr. Summers told the committee they would offer when they were called.

Mr. MUSICK. I think one of the important elements in this hearing is to bring out as far as possible, publicly, here in Los Angeles, where the people are directly affected, all of the facts. I would request, if it could be done, that prior to any further evidence being given by Mr. Summers as a witness, that some arrangement be made here for the public examination of Mr. Summers, through the taking of his deposition by some officer appointed for that purpose—I think perhaps the district attorney's office would be the proper medium for this committee to use for the purpose of having Mr. Summers's deposition taken, and I believe that it is fully as important for the people to hear that deposition taken as it is to actually have it done.

Senator BRATTON. The committee is not in position to make any announcement on that at this time.

Mr. MUSICK. I realize that.

Mr. WHEELER. I just want to make one statement, Mr. Chairman, and that is we want to thank the committee and the learned counsel here and the public at large for their patience exercised while we have been presenting this case.

The CHAIRMAN. Mr. Wheeler, there is just one question. You have heard offered here in evidence this morning the list of applications made for homestead entry since January 1.

Mr. WHEELER. I wanted to ask about that. A great many of those made since January 1 have never been rejected, and if rejections have come through showing the Supreme Court decision upholding their position, I have never seen those rejections. A good many of our people have never been rejected yet.

Mr. SMITH. Are you referring to those applications since January 1?

The CHAIRMAN. Yes.

Mr. SMITH. There has not been time yet for those rejections.

The CHAIRMAN. Did I undertsand you to say this morning, in the case of rejections which have been made in times past, reference has been made to certain decisions of the Supreme Court?

Mr. SMITH. In every instance; yes.

The CHAIRMAN. Will you deny that that was the case, Mr. Wheeler?

Mr. WHEELER. Just a second and I will show you the rejection. There is one in the record.

Mr. SMITH. Mr. Musick, when he introduced the list this morning, said that these were filings that had been made in the United States Land Office since January 1 of this year, up to date.

Mr. WHEELER. That would cover it, because the others do not. If I may show one of the rejections [exhibiting paper to chairman].

Mr. SMITH. This is a rejection dated October 12, 1928. It gives a list—they took one case and then gave all the serial numbers, names, and local subdivisions; and on the end are the copies—that is, for each name that appears here. Then, on the end of it it says the lands applied for are within the exterior limits of the Mexican grant, and then gives the decisions, referring to the case of the Secretary of Interior's decision in the case of Ben McLendon, and so forth.

Mr. WHEELER. But those are not Supreme Court references.

The CHAIRMAN. But within those decisions are references to the Supreme Court decisions?

Mr. SMITH. That is right.

Mr. LAWLER. If it would not be deemed an impertinence, I have a suggestion to make, which the committee will, of course, discard or regard for what it may be worth. It is perhaps somewhat collateral to the matters directly under consideration, but a great many people have paid large sums of money, and many of them were poor people, in pursuit of an enterprise, the regularity, at least the business basis of which is of quite doubtful substance; and in view of the fact that the matter is under consideraton by the committee, and these gentlemen have been apprised now of the facts and of the doubts, at least, that have been cast upon it, it seems to me only proper that suggestion might be made to them that they refrain from taking money from people henceforth, at least until there has been a little bit more crystallization of the situation.

The CHAIRMAN. The committee has authorized Senator Bratton to make a certain statement for the committee and if, following that, you want to repeat your suggestion or make any further suggestions in line with it, the committee will be very glad to hear it.

Mr. LAWLER. I beg your pardon, Mr. Chairman.

Mr. WHEELER. Before that statement is made may I say that until these questions that have been brought up here are absolutely proven there will be no more homestead filings through our office at 571 I. W. Hellman Building.

Mr. MUSICK. I would like to ask Mr. Wheeler a question. Will that include also the agreement that there will be no more fees accepted by your office in that connection?

Mr. WHEELER. How could we take a fee without a homestead application being made?

Mr. MUSICK. Will you answer the question directly "yes" or "no"?

Mr. WHEELER. I answered your question.

Mr. MUSICK. You refuse to answer it?

The CHAIRMAN. Just a moment. I was interrupted and did not follow that.

Mr. MUSICK. Mr. Wheeler refuses to answer.

Senator BRATTON. Mr. Wheeler made the frank statement that until these questions were settled he did not intend to participate in the filing of additional applications.

Mr. WHEELER. That is right.

Senator BRATTON. In view of the existing situation what course do you have in mind with reference to making additional collections or receiving installment payments from persons whose applications you have filed and concerning which the full sum has not been paid?

Mr. WHEELER. I did not understand the question by Mr. Musick.

Senator BRATTON. I do not know what he had in mind, but that is what the committee has in mind.

Mr. WHEELER. There will be no collections made by me until this thing is straightened out to the satisfaction of Mr. Summers and those who are interested. I would like to have a conference with Mr. Smith, if I may, without any threats of arrest or being thrown out, to see if I could not get some more information that will help us to straighten it out.

Senator BRATTON. It seems to me that that should be done. Gentlemen should be able to sit down at a table and discuss a matter without offending each other even though they entertain contrary views.

Mr. WHEELER. I have never been able to go in there and ask a question or do anything that I am not called a crook, and that always starts a fight with me.

The CHAIRMAN. Do you wisn to be further heard, Mr. Miller?

Mr. MILLER. I have prepared a statement which I would like to present at this time.

The CHAIRMAN. Proceed, Mr. Miller.

FURTHER STATEMENT OF D. J. MILLER

Mr. MILLER. Pursuant to your request for a plan to settle the question before your honorable body at this time, I submit the following:

Let us assume that at some future date we again become involved in warfare with the Government of Mexico. Let us further assume that Mexico forms an alliance with other powerful nations and that we are defeated and forced to ask for terms of peace and submit to terms imposed upon us.

Let us assume then that Mexico demands of us, first, that we comply specifically to the terms of the treaty of Guadalupe Hidalgo, according to the law of nations. Shall we then come to one or more of our Supreme Court decisions, regardless of whether they are in

accord with the treaty, or shall we turn back and read the treaty and comply with it to the letter as it is written?

I can not believe that any power is vested in our courts to nullify the treaty, which we all admit is the supreme law of the land.

Let us assume that our courts never intended to render any decision in violation of the treaty, but that they render decisions in accordance with evidence at hand. If that evidence was false and fabricated and the decision not in accord with the law and the treaty, which is the supreme law of the land, and the Government has been defrauded by such a decision, then is the Government and our citizens forever barred from recovering that which they have been deprived of through such fraud?

God forbid that we shall ever be called upon to submit to the dictates of a foreign power for terms of peace, but shall we refuse to live up to our treaty obligations because we are strong? I would say take the treaty, assemble the facts, discern the law, and then adhere strictly to them.

If Pico had no authority, and he had none, to give title to public domain or mission lands belonging to the Government of Mexico or its citizens neither public domain belonging to the Government of the United States or its citizens, then every attempt of Pico to divest either Mexico or United States public domain was illegal and void in its inception. (See I Black, p. 541; I Wallace, p. 745; Foster *v.* Neilson, 2 Pet. 314; Worcester *v.* Georgia, 6 Pet. 559; Ware *v.* Hylton, 3 Dall. 199; Tucker *v.* Alexandroff, 183 U. S. 424; U. S. *v.* Whiskey, 93 U. S. 196; Talton *v.* Mayes, 163 U. S. 383; Roff *v.* Burney, 168 U. S. 21; Marbury *v.* Madison, 1 Cranch 176; Owings *v.* Norwood, 5 Cranch 348; Satterlee *v.* Matthewson, 2 Pet. 413; Fairfax *v.* Hunter, 7 Cranch 627; U. S. *v.* Rauscher, 119 U. S. 418; Strother *v.* Lucas, 12 Pet. 439; Doe *v.* Braden, 16 How. 657; Fellows *v.* Blacksmith, 19 How. 372; American Ins. Co. *v.* Canter, 1 Pet. 543; Pollard *v.* Kibbe, 14 Pet. 412; Chew-Heong *v.* U. S., 112 U. S. 540; In re Cooper, 143 U. S. 502; U. S. *v.* Ferreira, 13 How. 40; Holden *v.* Joy, 17 Wall. 242; U. S. *v.* New York Indians, 173 U. S. 469; Ware *v.* Hylton, 3 Dall. 236; Hauenstein *v.* Lynham, 100 U. S. 483; Head Money Cases, 112 U. S. 599; The Peggy, I Cranch 103.)

If Pico's alleged grants or deeds, or bills of sale or mortgages or trust deeds were void in their inception, they have ever since remained void and are void forever—not voidable, but void. (See Cumberland Telephone Co. *v.* Evansville, 127 Fed. 187; Toledo Rr. Co. *v.* Continental Trust Co., 95 Fed. 497; Loeser *v.* Savings Deposit Bank, 163 Fed. 212; Russell *v.* First National Bank, 56 S. 868; Words and Phrases, p. 7332; Hopkins *v.* Agricultural College, 221 U. S. 636–644; Claflin *v.* Boorum, 122 N. Y. 385; Allen *v.* Davenport, 132 Fed. 209; Morrill *v.* Lovett, 95 Maine, 165; Land Company *v.* McIntyre, 100 Wis. 245; Hall *v.* Coppell, 7 Wall 542–559; Jacksonville Railway *v.* Hooper, 160 U. S. 514; Pearce *v.* Madison & Indianapolis Rr., 21 How. 441; Pittsburgh, Chicago Ry. *v.* Keokuk & Hamilton Bridge Co., 131 U. S. 371; Central Transportation Co. *v.* Pullman's Palace Car Co., 139 U. S. 24; in re Miller's & Manufacturer's Ins. Co., 106 N. W. 485–493; Freeman Judgments, 4th Ed., sec. 117; Andrus *v.* Blazzard, 54 L. R. A. 354; McDonald *v.* Mabee, 243 U. S. 90; Minn. Thresher Mfg. Co. *v.* L'Heureux, 118 N. W. 565, 566; 1 Black on Judgments, 170; Rice *v.* Allen, 95 N. W.

704; McCarty *v.* Hibling, 144 Pac. 499; Le Marchel *v.* Teegarden, 183 Fed. 826; Peyton *v.* Desmond, 129 Fed. 1; Wright-Blodgett Co. *v.* United States, 236 U. S. 397; Mff *v.* United States, 165 Fed. 274; United States *v.* Winona & St. Ry. Co., 67 Fed. 948; King *v.* McAndrews, 111 Fed. 863.)

This is not in my mind merely a question of whether I may secure a homestead or not, but it is a question of whether my Government will permit a fraud to be perpetrated because of its colossal size and the enormity of it, or if because of the age of it will my Government say that time has transferred a fraud into a virtue, or is my Government unable to rectify a wrong because it was done under a purported legal procedure?

It is not a question of who will benefit or suffer, but what is the law and the facts.

You may assume that I have a selfish motive. Let me say that I have to a certain extent and that I feel justified in same. My grandfather, who was a Civil War veteran and a volunteer, by the way, came to California in the eighties. He drove from Santa Ana through San Fernando Valley beyond the mountains to Antelope Valley to file a homestead. If he had known San Fernando Valley was Government land, he would have filed there and I would have benefited thereby. He was entitled to that privilege if it was and is Government land.

On the other hand, assume that 13,000,000 or 14,000,000 acres belonging to the Government have been held under such fictitious claims all these years. Is not the time here now to reclaim that which belongs to us?

With great confidence in your honorable body and the utmost confidence in the sincerity of our honorable attorney, Williamson S. Summers, and his ability to present the law and the facts to you as soon as his health will permit, and with this in mind I will say that certainly you will agree with me that wrong can not ripen into virtue, and with this in mind pursue the facts and let truth render the verdict.

In further response to your open question as to what to do in the premises, let me suggest as follows:

A duty has been delegated to your honorable committee according to the terms of Senate Resolution No. 291. In many respects that may be an unpeasant duty, but you have accepted that obligation, and I feel certain that you will pursue a direct course to discover the truth.

A doctor does not prescribe a remedy until he has made a diagnosis. A judge does not pronounce sentence until the jury has rendered a verdict. During the course of a trial, a judge often admonishes the jury not to form or express opinions or to even discuss the evidence with each other or anyone else until the evidence is all in. With this in mind I assume that you will proceed with an open mind to examine the evidence already before you and to hereafter follow.

In the hearing held in Los Angeles, Calif., beginning April 2, 1929, and closed April 6, 1929, the main issues seemed sometimes to have been forgotten. Counsel for the present holders and interested parties in holding control of these lands in question, in my opinion, tried to divert the attention of the committee from the point

at issue. To me that is a poor defense of their title. I have no complaint to make against my attorney, Mr. Summers, or Mr. Wheeler; neither have I ever heard of any homesteader complaining about any money he had paid to either of them or Hon. Ben McLendon or anyone else in that connection. I believe it to be my right and privilege to employ an attorney and pay him any amount agreeable to him and me to represent me in any controversy, and I can not see him that becomes a question of interest for my Government or your committee.

Every witness and every officer of the law who testified about the activities of Mr. Summers or Mr. Wheeler admitted that never had he been requested by a homesteader to make such investigation, but by some one else, usually or always some person unknown to him. They also testified that such investigation was for the purpose of bringing a criminal action against the parties under investigation. That in my mind proves the contention of Mr. Summers that he was harassed and threatened.

Not once did any official of the Government, State, county, or city, state on the witness stand that he had ever given any assistance to Mr. Summers in any attempt to ascertain if the Government and the people had been defrauded, as alleged by Mr. Summers. Always the investigation was made for the purpose of finding some way to stop Mr. Summers either by intimidation or proposed prosecution. Is that a defense of their claim to title?

Now, let me suggest that our Government, through your body, give Summers some assistance by appointing an investigator with authority to examine books, papers, documents, and records. The chief searcher of the Title Insurance & Trust Co. was quoted in the papers as having stated to a meeting of realty men in this city that—

> In searching through the musty archives of the Title Insurance & Trust Co., I have discovered that the Crown of Spain often conferred large tracts of land in California to his subjects by verbal grants.

Now, gentlemen, I would like to see the record of a verbal grant, and I think you are entitled to ask for it.

I know you can not remain here indefinitely, but appoint an investigator with authority who can, and I would suggest Mr. Lucien C. Wheeler, who is now chief investigator of the district attorney's office and formerly with the Department of Justice, with, I feel sure, an unimpeachable record, if he can be induced to accept. Tell him to search the records and produce the facts and to cooperate with Mr. Summers to that end.

An accusation against Mr. Summers can never cure titles. An investigation of Mr. Summers is not wanted by the homesteaders and, in my opinion, is in no manner justified. Mr. Summers needs no defense as an attorney, for no person has ever questioned his fidelity to his clients, and his service as a public servant both as a State attorney general and attorney for the United States stand as a shining example of attainment. No man can say that Hon. Williamson S. Summers ever failed to perform his duties as an attorney or a public servant without fear or favor and to the utmost of his ability and God-given conscience.

So much for Hon. Williamson S. Summers, the attorney. Now, for Bill Summers, the man. A most lovable character, well met,

sympathetic always for right as against wrong, always ready to defend the weak against the strong if they are right—but always the first question in mind, what is the truth. Always ready to help, and will and has often given to his last dollar. I want to say to you that Bill Summers is a model to which two of my sons, now in school, point as an example of what they sometime hope to be as a man, as a lawyer, as a benefactor of mankind, and as a loyal American citizen, and to that end they are working.

Perhaps you may say Mr. Summers has a selfish motive. I will admit that by comparison almost 2,000 years ago Christ was crucified. In the trying last days and hours I think He was sustained by the thought that He was performing His duty to His fellow men and to his God, and when the voice came down from the heavens saying, "This is My beloved Son in whom I am well pleased," then it was that He was paid in full for His great sacrifice; and I know that He would not have come down from the cross to exchange places with any person in the world, and His motive was justified and His reward received to the utmost.

Now, I say to you, give Mr. Summers the assistance of his Government, which I assume you are in position to give, and he will justify every confidence that has been placed in him and fulfill every obligation he has assumed.

Mr. Summers has no desire to take the homes from the poor and needy, neither the wealth from the wealthy to which they are are entitled.

He will cooperate with you in a plan to protect the innocent purchasers who have been misled and defrauded, whoever they be and wherever found.

I would suggest that those who have amassed fortunes through fraud, wherever found, be compelled to disgorge. Remember there are, I am told, 13,000,000 or 14,000,000 acres involved in this controversy, only a small portion of which has been settled upon to any extent. Let us solve this question now before it becomes a greater menace than it is to-day.

I am informed that only a few years ago Miller & Lux boasted that they could drive their cattle from Oregon to Mexico and never leave their own lands. I am also informed that they placed a rowboat on a wagon, got in the boat, and drove around thousands upon thousands of acres and then made affidavits that they had ridden around these lands in a boat and secured patents for it under the swamp act. To-day they are selling those lands to home seekers and small investors.

If I went into a post office and stole $10 worth of stamps, I would surely be sent to the Federal prison. What is the answer?

TESTIMONY OF I. W. LAMPMAN, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. State your full name, please.

The WITNESS. I. W. Lampman.

The CHAIRMAN. And your address?

Mr. LAMPMAN. Three thousand two hundred and twenty-six Lincoln Street, Southgate.

The CHAIRMAN. You wish to give certain facts to the committeee in connection with the matter under inquiry?

Mr. LAMPMAN. I just wanted to tell you of my experience at the land office when I filed.

The CHAIRMAN. And you filed when?

Mr. LAMPMAN. Some time around the 1st of June.

The CHAIRMAN. Of last June?

Mr. LAMPMAN. Yes, sir. I filed, and then a few days later I went in with a friend of mine to file. There was a gentleman in there that they were talking to when I went in. He wanted to file and they talked him out of it, and he went out. My friend laid down $10 to file, and they began to tell how he was going to lose his $500 and that Mr. Wheeler and Mr. Summers were crooks, and so forth, and I told him that we didn't come in there for information or advice but come in there to file, and that it was their business to accept it and not to tell people what to do. And they were going to have me arrested.

I would like to say further, in regard to these maps, and so forth, that I have heard talk about this morning, that I have been in the office quite a little—that is, once or twice a week—since I filed, and have taken quite a few friends in there to file, and some of them had money and some did not. Those that did not have the money I put up the money for, and I am not sorry that I did. There have never been any maps offered for sale or sold by that office that I know anything about or ever heard anything about, and Mr. Wheeler never insisted on me, or any of my friends that I took in there, buying maps, but so far as I am concerned and my friends are concerned, we went out and looked at the property.

Mr. ROSSON. I have some things here that Mr. Grove asked me to give to the committee. He was not able to come and offer them himself, so he asked me to give them to you.

The CHAIRMAN. They are two letters addressed to the committee and signed by C. C. Grove. They will be made a part of the record, as follows:

SENATOR BRATTON AND GENTLEMEN OF THE SENATE COMMITTEE ON CALIFORNIA LAND GRANTS:

As per promise to-day to you I herewith hand you the reference that I referred to. I feel that the numerous people that have been before you as homesteaders on so-called Government lands have been considerably imposed upon, with a somewhat valid excuse, which, I believe, you will concur in on obtaining and reading the printed Government documents to which I refer.

On May 15, 1861, James F. Shunk made his report to Attorney General of the United States Edward Bates, first relating his instructions, and then relating what he found to report on. This is quite voluminous and undoubtedly will be found in the Attorney General's office, as well as printed copies in the Congressional Library. I beg that you obtain and peruse the same. And I from the perusal of all documents, both in the Interior Department at that time division D and certified copies in the district court at San Francisco. Another set is with the secretary of state at Sacramento, which I dug up some three years since, certified to by keeper of archives shortly after the first San Francisco fire about 1868. These copies were made in case of another earthquake. There is still another copy with some additional papers in the United States Attorney's office which I have examined, in Washington, D. C., which can be compared and verified.

On April 22, 1858, is dated a copy of a letter, addressed to the Senate Judiciary Committee by J. S. Black, Attorney General, concerning fraudulent Mexican grants and will be found in the same Attorney General's office, and printed by the Government.

This letter also recites the employment of Edward M. Stanton to go to San Francisco and prosecute claims on the part of the United States. His report is also on file in said attorney's office and printed by the Government. I think you will also find in the same office a report from one Col. Della Torre covering the same subject. These two reports alone will shed some illumination on the subject of frauds in land claims in California.

I had other similar reports that I can not put my hand on at present, but an examination of said attorney's office will no doubt reveal others.

The Hoffman and commissioners reports of Sparks, I presume, you have.

Obtaining the reports more than likely has induced Mr. Summers and many "correspondent school layers" to become quite enthusiastic on the subject.

Respectfully,

C. C. GROVE,
Hotel Nudeau, Los Angeles, Calif.

SENATOR BRATTON AND GENTLEMEN OF THE SENATE COMMITTEE ON CALIFORNIA LAND GRANTS:

GENTLEMEN: In the matter of testimony concerning sections in private land-claims patents, it appeared to me that neither you gentlemen nor the attorneys understood the matter;

About 1860 the Legislature of California passed an act directing that no tract of land should be assessed and surveyed in a tract larger than 640 acres; these patent descriptions were all necessarily in there, boundaries by the United States deputies to township and range lines, wherever possible designating the tie point at a certain distance from section, quarter of, or township corner, thus enabling any surveyor to draw section lines due north, south, east, and west, where, by subsequent Government surveys, they should be placed. Some of these lines were subsequently surveyed in accordance to the United States system, and stakes set as if they were duly set by an authorized deputy and marked same to correspond to the number as if the same were put there by a duly authorized deputy. This practice was forbidden by law, but was nevertheless used by many surveyors. These maps were filed by the owners of the land in the recorder's office for assessment purposes, and many remain there yet, and frequently instruments and conveyances refer to them. This is more than likely where they were obtained, as I have noticed that even the county surveyors use them. They are indexed in the recorder's office of this county under the name of unrecorded maps and papers. Some have never been surveyed on the ground; others have.

Respectfully,

C. C. GROVE.

The CHAIRMAN. Is there anything further?

Mr. WESTERVELT. Mr. Chairman, I feel that my apologies are due to the committee for my delay in appearing this morning, which was entirely a matter of inadvertence. I understood when the committee closed that further matters would be taken in the form of depositions at the hotel.

The CHAIRMAN. That is perfectly all right, Mr. Westervelt.

Mr. WESTERVELT. I just wanted to make that statement.

The CHAIRMAN. I think perhaps it would be well to have the record made clear with relation to your connection with the matter. I think the record does not disclose the fact that you have come very recently in contact with any of these questions. Is that right?

Mr. WESTERVELT. That is true, and I have made no study of the matter with the idea of preparing the matter for hearing before your honorable body. I had no idea that I would be called upon to participate in the hearing in any way until a matter of three or four days before the committee arrived in Los Angeles, when the committee of homesteaders suggested to me that I had better take steps to

prepare for it, in view of Judge Summer's illness, and that he was unable to handle it. I think it was Friday of last week I called up and made an appointment with his wife to go out there, and I found him in bed, and he stated he was utterly unable to go over matters with me, and I realized in a few moments that it would be a serious responsibility for me to take to insist upon talking with him at all, so I left. That is the situation, and I am glad to have the record show it.

The CHAIRMAN. Very well, Mr. Westervelt. Some days ago you spoke to me about the privilege of offering a brief.

Mr. WESTERVELT. Of certain of the legal questions involved. I shall of course give Mr. Lawler and the other gentlemen a copy of the brief when it is forwarded to you.

The CHAIRMAN. Mr. Lawler, Mr. Musick, and Mr. Wheeler, we want you to feel at liberty to submit briefs if you desire in connection with this matter, making your briefs include references to those portions of the record as you have offered it here, which will very materially simplify the matter for the committee. Those briefs may be submitted to the reporter at room 914, Law Building, and of course if the reporter shall appeal to you gentlemen for any help in getting the transcript in order, we assume that he will have your cooperation.

Mr. WHEELER. Absolutely.

Mr. MUSICK. Yes, Mr. Chairman.

Mrs. THORSON. Mr. Chairman, I would like to be heard.

The CHAIRMAN. You wish to be heard?

Mrs. THORSON. Yes.

The CHAIRMAN. For what length of time?

Mrs. THORSON. Some little time, possibly.

The CHAIRMAN. In what connection?

Mrs. THORSON. In behalf of myself and several of the so-called homesteaders in an effort to straighten out some little things.

The CHAIRMAN. Would you like to submit a brief to the committee later covering the ground that you would like to cover? Senator Bratton is leaving for home on the 1 o'clock train, and it is quite necessary that the committee adjourn without further delay. The committee would be very glad to receive your suggestions in writing.

Mrs. THORSON. Maybe I can make a brief statement now and then probably file something later.

The CHAIRMAN. Very well.

TESTIMONY OF MRS. GRACE ALICE THORSON, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. State your full name.

Mrs. THORSON. Mrs. Grace Alice Thorson.

The CHAIRMAN. And your residence.

Mrs. THORSON. 429 West Seventy-fourth Street.

The CHAIRMAN. And your occupation?

Mrs. THORSON. Just a housewife.

The CHAIRMAN. What have you to offer?

Mrs. THORSON. Just in an earnest endeavor to straighten up a few things that seem not to have come out clearly regarding the so-called

homesteaders, of which my husband is one, on the Boca de Santa Monica Ranch. I had understood that these so-called criminal charges, complaints against officials, were to be of secondary consideration, and with that understanding we have not put ourselves forward in making these complaints. You remember one day you asked how many homesteaders were here, and there were 35, or thereabouts.

The CHAIRMAN. Yes.

Mrs. THORSON. I have interviewed a number of them and also listened to conversations that most of those people had come here with a desire to put forth their ideas or their complaints, rather, and then the understanding was given us, probably erroneously, that those grievances were small and of secondary consideration to proof of title and other things that you had come here to learn, so we didn't say anything, and we thought probably if there was time you would hear us, and otherwise the hearing might be continued later on or opportunity given us to submit our views and I wondered if we might do that.

The CHAIRMAN. Certainly. That liberty is extended to any homesteader who wishes to make a deposition and who will send it to the reporter or to the committee.

Mrs. THORSON. Then it is my understanding that they may do so?

The CHAIRMAN. Yes; they may do so.

Mrs. THORSON. Now, with regard to the inferences that the homesteaders have been repeatedly solicited by Mr. Wheeler or the agents of Mr. Wheeler and Mr. Summers, I want to say that I know a great many homesteaders and I believe it is a fact that not in any case have we been solicited to file. The solicitation has been on the other side. Information has passed from one to another. I will tell you how I happened to do it. I picked up a little book on the street car which dealt with fraudulent grants in California. It was through that that I was led to investigate it, and a great many of them filed because of the matter that passed just from one person to another, just talking between themselves.

Senator DALE. Do you have any idea who published the book that you picked up on the street car?

Mrs. THORSON. No. I do not remember now. It has been a long time ago since I picked it up and so many things have happened since then.

Senator DALE. There was no name on it?

Mrs. THORSON. There may have been or may not have been. It was not a complete book. There were just some pages, and it looked as though it had been walked on or dropped by somebody and the line across the top of it attracted my attention.

I have talked with a great many of these people. My husband, by the way, is an interpreter and I understand the language myself. I was talking last night with Miss Parett, and they have some very valuable information that this committee should have. But they understood that some one would call on them and let them know when they should come. There are quite a number of these Spanish people who have original documents and information that would be of value to you. They claim some of them have been passed over to a man by the name of Gill, of the Santa Monica Land & Water Co., and it was their agreement or understanding with him, or his repre-

sentatives, that those documents were in some way to be incorporated in this evidence. They also told me that a good deal of the land, or certain portions of it, had been taken over and just held by right of possession, and that those matters had not been straightened out, and that the land supposed to be covered in the grant did not coincide with the actual tract of land and that had caused a great deal of trouble.

The CHAIRMAN. Mrs. Thorson, any other matters that you care to submit will be accepted in the form of a deposition.

Mrs. THORSON. Thank you very much.

Mr. WILHELM. Haven't you solicited other people to go to Mr. Wheeler's office?

Mrs. THORSON. No; I have not solicited anyone. My work is not soliciting.

Mr. WILHELM. Didn't you solicit Mr. John T. Roche?

Mrs. THORSON. No. Since Mr. Wilhelm has said something to me I should like to say something about Mr. Wilhelm.

The CHAIRMAN. No; we can not go on with this. Senator Bratton must leave. He has a statement which the committee has authorized him to make for the committee and I hope you will permit the Senator to proceed at this time with that statement. We will be glad to receive any written communication from you Mrs. Thorson.

Mrs. THORSON. Yes; thank you.

STATEMENT ON BEHALF OF THE SUBCOMMITTEE BY HON. SAM G. BRATTON, SENATOR FROM NEW MEXICO

Senator BRATTON. At the outset, gentlemen, I wish to express the appreciation of the committee for the cooperation and assistance given by all parties in the committee's deliberations covering the various matters presented. We have spent five days inquiring into the situation and, while investigation has gone beyond the scope of the resolution and has involved matters that perhaps were not technically covered by the resolution, it may be that some good and some clarification will come from that course of procedure. At least the committee felt that way about and indulged a wide departure at times from the scope of the inquiry, and indeed at times the matter has assumed a condition of more or less personal antagonism between the parties connected with the matter, and that perhaps will help to clarify the situation to some extent as to the title to these lands.

The committee gave some consideration to that question before it reached Los Angeles. The committee has given much consideration to it since, and it is the view of the committee, and I think this committee will make such a report to the Senate of the United States, that this land is not subject to homestead entry and that the applications filed upon it were properly and correctly rejected by the land department for two reasons: In the first place, being public land, no part of the public domain is subject to homestead entry until surveyed by the Government, or there is a survey recognized which becomes an official map; second, by ordering that the land be thrown open to entry, and until that is done the land is not subject to homestead entry under the terms of an act of Congress. For that reason alone, the Land Department, from Mr. Smith up to the

Secretary, was utterly powerless to do otherwise than reject the homestead applications. To have proceeded otherwise would have been to fly in the face of a statute which governs the department.

It is our view that when these grants were reviewed by the Board of Land Commissioners, acting under an act of Congress authorizing the board to proceed in the premises, and when the board adjudicated the matter it became a finality and that it can not be overturned now.

There must be some finality to a controversy of this kind and the Supreme Court of the United States has held, and all the attorneys at the table will recall the case of Throckmorton, which is the leading case upon the question, that yielding to the theory that there must be a finality to controversy so that a judgment becomes final and property rights may be built up under it with some stability and security, that even though a judgment is obtained through perjured testimony or forged documents, if advantage of the situation is not taken within the time and in the manner prescribed by law, that the judgment becomes a finality and can not be attacked collaterally after that period has expired.

The Supreme Court of the United States has held that, and that has been followed all over the country. There are scores and scores of decisions from practically every State in the Union, and nearly every one of them harks back to the Throckmorton case which, as I now recall it, originated in California and involved a situation quite kindred to the one with which we are now dealing. So that, when a decision and adjudication has been made by a court of competent jurisdiction, or a tribunal with vested jurisdiction and citizens, relying upon the sanctity of that judgment or decree, buy and sell, invest their life's earnings, then in the very nature of things, and according to our concept of things, such a decree should not be attacked collaterally years afterwards and following the investment of large sums of money.

So that we feel—and I speak emphatically my own views—that this land is not subject to homestead entry and never will be; that effort to file upon it is a hopeless venture. And I feel, Mr. Chairman, in view of the public interest here, that I would be remiss in my duty as a member of this committee and as a public official if I failed to express my views for whatever they may be worth.

The CHAIRMAN. The views expressed by the Senator have all been placed in the record and they are now confirmed as the views of the committee. He has spoken well the mind of the committee. I think, although it is a little bit out of turn and perhaps should have been asked earlier this morning, we must not adjourn before the question is asked. Mr. Wheeler, have you any information, or have you been informed in any way, or have you been given to believe in any manner that a program was in view prior to the coming of this committee and during the presence of the committee in this community, a program which was looking to the undue influencing of the committee; more specifically, did you have an understanding that if occasion required it there was money ready to bribe the committee?

Mr. WHEELER. That was my belief, Mr. Chairman.

The CHAIRMAN. You say it was your belief?

Mr. WHEELER. Yes, sir.

The CHAIRMAN. Occasioned by what?

Mr. WHEELER. By newspaper article and the general attitude of a number of people that we come in contact with, and what you might term here on the witness stand as hearsay. I think I am entitled to state my beliefs.

The CHAIRMAN. Well, Mr. Wheeler, perhaps it will be well for you to bear in mind this: That a charge of that sort is one of the most serious consequence, and I shall suggest to you that you be fully prepared to lay before the committee, if you are called to Washington for that purpose, any proof and any reason that have come to you from which to draw the conclusion you have reached that there was anything resembling a program looking to the undue influencing of this committee against doing what in its judgment was the right thing to do.

Mr. WHEELER. May I correct that by saying I would not call it a program. I would say that those statements were attributed to certain people.

The CHAIRMAN. Then arm yourself with proof of those statements so that you can present it.

Mr. WHEELER. I certainly intend to do that, and to see that the committee gets it.

The CHAIRMAN. The committee now stands adjourned to convene upon call of the Chair.

(Whereupon, at 12.30 o'clock p. m., Saturday, April 6, 1929, the committee adjourned to meet subject to the call of the chairman.)

MEXICAN LAND GRANTS IN CALIFORNIA

FRIDAY, DECEMBER 5, 1929

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS,
Washington, D. C.

The subcommittee met, pursuant to call, at 1 o'clock p. m., in the committee room, Capitol, Senator Gerald P. Nye (chairman) presiding.

Present: Senators Nye (chairman), Dale, and Bratton.

Present also: Senator George, of Georgia.

The CHAIRMAN. The subcommittee will come to order.

The Chair has seen fit to ask the committee to convene again with relation to Senate Resolution 329, in connection with which this subcommittee last spring went to Los Angeles and conducted an extensive hearing and investigation. Judge Summers at that time was not able to be present and be heard. He is in Washington at this time, and we have seen fit to give him opportunity to be here this afternoon. Senator George, do you have some wish you wanted to voice at this time?

Senator GEORGE. Mr. Chairman and members of the committee, Judge Summers has apprised me of the fact that on account of personal matters, matters of very grave importance to himself personally, has asked the committee to allow him to submit either a brief or abstract of the substance of the testimony of certain witnesses he would want the committee to examine hereafter, and in his behalf I appear before you to make the request that he be given that opportunity after the holidays, or at some time when he should return here during the session ready to submit it to the committee. Now, of course, I presume the judge would not be able to say when he could return and when he could submit the evidence he would wish the committee first to examine and consider, and if it deemed it pertinent, relavent, and material, then to bring on the witnesses themselves from Los Angeles, and when he is able to return with the evidence in that form, then I ask that Judge Summers be allowed to submit that to the committee.

The CHAIRMAN. Senator George, for your information I should like to suggest that when we closed the hearings in California we rather felt that we had covered the ground sufficiently to warrant a report and yet we did not want to close the doors in the face of those who had not had opportunity to be heard, nor to evidence that might be presented that had not been given to us there, so we afforded at that time an understanding that a matter of 60 days would be allowed in which to present further evidence. Now then, we have just simply

turned our back on that agreement and are opening it up at this date. I expect that the judge here this afternoon will call to our attention such probability and such likelihood of the development of new evidence as would occasion our prolonging the time in which we would hear this case.

Senator GEORGE. Well, I have no doubt the judge would do that. I of course, Mr. Chairman, was aware of the direction given the matter, and I would suggest that I make the request for Judge Summers at this time, and if he desires to be heard this afternoon, as he indicated to the committee, as to the character of the evidence, the substance of the evidence that he wishes to present to the committee, of course he may do so. I regret that I can not remain, on account of the fact that in the consideration of the tariff the particular schedules that are before the Senate at this time are the ones that I sat in on in the hearings.

The CHAIRMAN. Be sure, Senator, that we shall give the judge every consideration.

Senator GEORGE. Now, I think that if the character of the evidence is presented to the committee, and the committee deems the evidence pertinent and material and relevant and of such character as the committee ought to investigate, probably the committee would wish to impose upon Judge Summers the condition that he present in affidavit form or in brief affidavit form, statements of that evidence at some subsequent time at which the committee would agree to hear him. I make the request at the suggestion of Judge Summers because of the fact that there has been communicated to me the very serious and important personal matter which the judge would perhaps not care to discuss before the committee.

The CHAIRMAN. All right. Thank you, Senator.

Now the Chair would not take upon himself the authority of opening up these hearings again without the consent of the subcommittee, and I asked the committee to meet solely for the purpose of hearing Judge Summers to-day to give us some idea or some notion of the occasion for opening the hearing, if there is any at all, and if it please the committee, we will hear from the judge at this point any citations he might have to offer of why we should delay longer in closing this hearing and making our report to the Senate.

STATEMENT OF WILLIAMSON S. SUMMERS, LOS ANGELES, CALIF.

(The witness was duly sworn by the chairman.)

Mr. SUMMERS. Senator George suggested that he thought it would be agreeable to the committee that instead of entering upon a hearing this afternoon I would prepare and transmit, within the very near future, to the chairman of the committee, in affidavit form, what we expect to prove, and giving the names of the witnesses by whom we expect to prove, and that that would be the better procedure, that the members of the Senate being very busy, the members of the committee having a great many duties, it would be better all around to do it that way. If that meets the approval or, in other words, if that is the desire of the committee, it is satisfactory to me.

One thing only is that I would not want the committee to close the hearing under any circumstances until I was permitted to make a statement to the committee, I think clearly showing the committee

the relation that I have to these cases or to this investigation. Now, it is entirely satisfactory to me that I submit that at the same time that I submit the other, if it meets the approval of the committee.

Frankly, I did feel, as Senator George said (he made the suggestion some several days ago to the chairman of the subcommittee) that there were conditions that made it necessary for me to return as soon as possible. Those matters were matters that had to do with the relation that I sustain to a corporation that was asking me to attend a meeting, but the deeply personal matter that I submitted to Senator George has nothing to do with the corporation. It is a matter over and above, and it is one that is so personal it requires my immediate attention, and I was ready and hoped that we could get through yesterday and that I could leave yesterday afternoon, and this because of matters that came up yesterday morning, that I received information of them first, and it was then that I appealed to Senator George.

Now, I want to return, not to my home, but to Seattle. That is the home of my son. It is important that I get there as early as possible.

Senator BRATTON. Judge, in view of that situation, I am quite anxious to understand that if the committee desires to postpone this hearing and it is agreeable to you that this hearing be postponed, you should take the full responsibility for that postponement.

Mr. SUMMERS. I am not asking the committee to assume the responsibility.

Senator BRATTON. If it is the desire of the committee to have this matter postponed, it would be done at your request and with the approval of the committee.

Mr. SUMMERS. You mean as to the time to do this work? Oh, I want that to be understood, that I am asking the committee to do that. What I had reference to was the question of making any statement to that end, if it meets your approval, I would prefer not to take the time of the committee now.

The CHAIRMAN. Judge, how thoroughly do you feel that whatever additional hearings we might countenance could be held or confined to affidavits?

Mr. SUMMERS. I think a great deal. When you say affidavits, do you mean depositions or affidavits?

The CHAIRMAN. Well, either. What I am anxious to know is this: How much room have we got to make for extended hearings, further hearings than we already have held? How many witnesses, in your mind, ought to be heard by this committee before we close the matter?

Mr. SUMMERS. Oh, I would think quite a number of witnesses.

Senator DALE. Where are they located, Judge?

Mr. SUMMERS. Some of them are here in Washington and some of them are in California.

Senator DALE. Would that necessitate the committee making another trip to California?

Mr. SUMMERS. Well, I hope to make that unnecessary, if possible.

Senator DALE. Would it be necessary for the committee to go to California, or, if not, to bring the witnesses on here to Washington?

Mr. SUMMERS. I hope that can be largely avoided, to reduce the number to a very few necessary to be brought here.

Senator DALE. How could we avoid it unless——

The CHAIRMAN (interposing). He feels that some of them, Senator, or some of the information can be supplied by depositions taken there.

Senator DALE. Somebody would have to go there and take them.

The CHAIRMAN. But what invites my interest more than anything else in that connection is the probability that we would be wanting, at your suggestion, to be hearing again witnesses who were already heard. How many of those do you think ought to be heard who appeared before the committee out there?

Mr. SUMMERS. My idea is that that can be very largely eliminated.

If the committee will bear with me for just a moment, I will say that the attorney who represented the great interests out there I do no think has returned from Europe. I undertook to get in touch with him and enter into a stipulation, with the consent of the committee, that a large amount of stuff put in this record could be withdrawn from the record.

Senator BRATTON. Who is he?

Mr. SUMMERS. I think Mr. Mitchell represented the chamber of commerce.

Now, to illustrate, there went into this record a very voluminous document that had to do with a communal grant of pueblo. That communal grant of pueblo extends 4 miles each way from the Hall of Justice in the city of Los Angeles. Now, this pueblo is not involved in this proceeding at all. Why put it in there? Because it might raise questions that have to do with properties that ought not to be discussed, it seems to me, in a matter of this kind, and with the view of eliminating that, I wanted to see Mr. Mitchell and enter into an agreement with him, or a stipulation, that we could bring to the committee and submit for the committee's approval. Now, understand, I do not assume to act for the committee, because the committee is charged with the responsibility of making the investigation, and I want in every way I can to aid the committee, so I would agree with Mr. Mitchell, that, subject to the approval of the committee, those matters could be withdrawn.

Senator BRATTON. Judge, whether they are withdrawn or not, there would be no occasion for affidavits.

Mr. SUMMERS. Not with respect to that.

Senator BRATTON. Now, when you speak of submitting affidavits and the Chair sugested that the proof which you desire to submit to the committee be tendered in affidavit form, I think the Chair has in mind affidavits made by the witnesses themselves setting forth facts within their own personal knowledge.

Mr. SUMMERS. So I assume.

Senator BRATTON. And not an affidavit by some one that he believes the facts to be so-and-so, and that John Smith and Jim Jones and Eliza Brown will testify to that.

Mr. SUMMERS. Yes.

Senator BRATTON. In other words, in that sort of a case we want the affidavit of John Smith, Jim Jones, and Eliza Brown. I wanted to be sure that we understood each other about that.

Mr. SUMMERS. In other words, the affidavit must be made by the person who is expected to testify, and if there is anything addi-

tional that the committee feels it is necessary to know, that they will make that inquiry.

The CHAIRMAN. Now, Judge, how long a time or how long a delay, should the committee decide to accommodate you to that extent, would meet the occasion and enable you to get together that evidence which you think properly belongs before the committee?

Mr. SUMMERS. I would undertake to have it here, all of it here, very early after your holiday recess.

The CHAIRMAN. Well, could you say how soon thereafter, Judge?

Mr. SUMMERS. By the 10th of January.

The CHAIRMAN. What is the reaction of the committee to a further delay until the 10th of January to permit the offering of further evidence upon the question under investigation?

Senator DALE. Well, does that imply that after the 10th of January we are to open up this question?

The CHAIRMAN. I would assume that it would imply only this, that we leave this open to receive this evidence until the 10th of January, then when the evidence is before us it is for the committee to determine whether or not it wants to open the matter and go any further into it.

Senator BRATTON. As I understand the suggestion it is that Judge Summers be allowed until the 10th of January within which to submit in affidavit form such evidence as he desires to introduce, and when that is exhibited that will determine what course we will pursue.

Senator DALE. I think the result is going to be that the people of California will have the impression that this committee is still investigating this thing for another year.

The CHAIRMAN. Well, I think that the record ought to show at this time that there is a complete purpose on the part of the committee to respond to this resolution during this session of the Congress and as early therein as we can possibly do it. I do not like the idea of closing the hearing if there is in anyone's mind a doubt as to whether we have thoroughly covered the ground.

Senator BRATTON. Do I understand that Judge Summers is coming back here?

The CHAIRMAN. Did you plan to come back yourself, Judge?

Mr. SUMMERS. I certainly will be here.

Senator BRATTON. By the 10th?

Mr. SUMMERS. By the 10th.

Senator DALE. Then if the judge is not here by the 10th with these affidavits——

The CHAIRMAN. Then it is up to the committee to assume that it is perfectly proper to go ahead and close and make our report to the Senate.

Senator DALE. That is agreeable to me.

Senator BRATTON. It is agreeable to me.

The CHAIRMAN. Then the Chair will entertain the motion to put this matter over pending the receipt of any further evidence up to and including January 10.

Senator BRATTON. I move, Mr. Chairman, on the suggestion of Judge Summers, that he be given until January 10, 1930, to submit additional evidence in this case and such affidavits as he may obtain with reference to the facts relating to the subject matter of this

inquiry, that then opportunity be given him to appear in person and testify, and that on the 10th of January, upon what has transpired and what may transpire, the committee determine what shall be its further action in the matter.

The CHAIRMAN. You have heard the motion. Those in favor will say "aye."

(Senators Dale and Bratton voted "aye.")

The CHAIRMAN. The motion prevails.

With that understanding, then, the committee will stand adjourned until called by the Chair.

(Whereupon, at 1.30 o'clock p. m., the committee adjourned, subject to the call of the chairman.)

MEXICAN LAND GRANTS IN CALIFORNIA

THURSDAY, FEBRUARY 6, 1930

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS,
Washington, D. C.

The subcommittee met, pursuant to call, at 10 o'clock a. m. in the committee hearing room, Capitol, Senator Gerald P. Nye (chairman) presiding.

Present: Senators Nye (chairman) and Bratton; Senator Dale subsequently appearing, as hereafter noted.

The CHAIRMAN. Let us proceed.

The committee, following the hearings in February of 1927 and April of 1929, which latter hearings were held in Los Angeles, and then again on December 5, 1929, determined to give Mr. Williamson S. Summers, who is here to-day, a chance to be heard in connection with the matter under inquiry, and I wonder if the committee has any suggestions to offer as to how we might proceed in this matter. Mr. Summers has, within the last week, submitted two briefs, which the Chair has had no chance to give any consideration to at all, and I think before they are made a matter for the record it would be well if Mr. Summers would indicate just what their nature is, so that we might determine.

FURTHER STATEMENT OF WILLIAMSON S. SUMMERS, ATTORNEY AT LAW, LOS ANGELES, CALIF.

Mr. SUMMERS. I might state, first, in supplementing what the chairman has said, the hearing in 1927 was under another resolution entirely, that being under Resolution 333, that never was adopted by the Senate, and the committee had no instructions or directions from the Senate. The hearing in Los Angeles, under Resolution 299, was of another session.

The CHAIRMAN. Relating, however, to the same subject matter.

Mr. SUMMERS. Relating, however, to the same subject matter.

The two papers that have been placed in the hands of the chairman of the committee within the last two days I beg to suggest are not briefs. They are in the form of—one is an affidavit and the other is an affidavit. In other words, they are both affidavits. I want it understood it was suggested some time ago that at the time some statements were made by me with respect to this matter I was not under oath. These statements, filed, as I say, in the last two days, are both sworn to, and I haven't the slightest objection to being put under oath now. The briefs—that is, the statements—begin with

my connection with this controversy. I give there the date upon which I met the parties who introduced me to the cases, the circumstances under which I met them, and my connection with them clear down until those cases were dismissed by the Government.

Now, I would like to have both of them made part of the record. As well, I would be glad to answer any questions anyone cares to ask me with reference to them. I put them in that form because of the fact that there seemed to be a great deal said at the hearing at Los Angeles relative to the circumstances under which this question was raised. A statement was put into the record by Mr. George R. Williamson, who was at one time Assistant Commissioner of the General Land Office—a statement was made by Mr. Joseph Burke, who was at one time United States attorney for the southern district of California, and a statement was made by a man by the name of Wilhelm, and I have had the—at least to a certain extent I have covered my relation to these parties.

The CHAIRMAN. Well, Mr. Summers, the question relative to your not having been sworn when you testified before the committee in February, 1927—that is what you refer to?

Mr. SUMMERS. Yes.

The CHAIRMAN. Was the outgrowth, as I recall it, of the claims which were made by yourself at the time of those hearings in which you stated the names of, among others, Gertrude M. Caldwell, R. D. Morris, Clinton Johnson, A. C. Routhe, Charles D. Hammel, George B. Wickham, George Ward, D. B. Smith, Robert A. Armstrong, V. E. Clark, and others as being prepared to bear witness to certain charges which were filed by you with the committee at that time, and when these individuals whom you testified would bear witness to those charges were called before the committee when the committee was at Los Angeles, they failed completely to substantiate them or, in many instances, even to indicate that they had any knowledge of the subject matter covered in the charges that were made, whereupon there was the suggestion offered that this had been given to the committee when you were not under oath. Now, does the committee understand that you would like to repeat these affidavits or these statements made at that time under oath?

Mr. SUMMERS. Let me have that.

The CHAIRMAN. Page 31, that starts.

Mr. SUMMERS. I may state this: I do not want to charge anybody with anything that is not true, nor I don't want to make any statement that is not absolutely true. At the time that I gave the names of these parties I was asked to give a list of the witnesses who would be called under certain phases of the hearing, should it take place; that is, should it be held, and I stated at the time, or, rather, I believe at the time I was asked relative to the applications to homestead that were made by McLendon and others, I stated that McLendon was directed by parties who attended the meeting to go from Los Angeles to Washington and consult with the officials of the land department relative to lands that were the excess included in a survey, but excluded from the grant, and I stated that Gertrude M. Caldwell, R. D. Morris, Clinton Johnson, A. C. Routhe, and others attended this meeting and made the arrangements for McLendon to leave Los Angeles and go to Washington.

Senator BRATTON. Mr. Summers, I think the matter the chairman has in mind is the written brief or memorandum which you filed with the committee stating certain facts and giving the names of the persons who would testify to them. When the committee went to Los Angeles and conducted its hearings there some of the witnesses named in the brief were called, and they failed utterly to substantiate the statements contained in the written memorandum. I think the point the chairman has in mind is whether you desire now under oath to repeat the statements contained in the brief.

Mr. SUMMERS. Where is the brief?

The CHAIRMAN. It is printed in the record, starting at page 31.

Mr. SUMMERS. I have it here.

The CHAIRMAN. The Senator is correct. That is the point I should like to have answered, and if you to-day wish to repeat those charges then the committee, of course, would want to swear you and make that a matter of record.

Might I suggest that while Mr. Summers is acquainting himself with those particular statements and the citations of who could bear witness to them we avail ourselves of this opportunity to go down to the Appropriations Committee, which is holding a very brief hearing this morning.

Mr. SUMMERS. Let me ask you. In other words, you are taking page 31——

The CHAIRMAN. Pages 31, 32, and 33.

Mr. SUMMERS. This is the brief to which you have reference. Or, in other words, this is the memorandum?

The CHAIRMAN. The memorandum which you filed with the committee in 1927 upon which information the committee saw fit to go to California to question witnesses who were named in that brief or memorandum.

Mr. SUMMERS. Well, I am perfectly willing to say now that I gave this memorandum to the chairman—at least a memorandum, and I think this is the one—to the chairman of the committee at that time—former Senator Stanfield, was it not?

The CHAIRMAN. Yes. Just preceding this brief or statement in the record I find this language in parenthesis:

The records heretofore referred to are inserted herein, as follows.

I would suggest to the clerk that during our absence he go back in the hearings and find just what reference was made to this memorandum.

Senator BRATTON. Also, Mr. Summers, let me point out to you this in this memorandum:

A short time thereafter Irvine announced that the hour of danger had passed; that he had secured control of the land department, and that the applications to homestead would be rejected. A short time after Irvine made this statement the applications to homestead were rejected by the local land office, and thereafter the Commissioner of the General Land Office, Spry, was in the city of Los Angeles and conferred with a number of men greatly interested in alleged Mexican grants that are known to have been fabricated after the lands described had become public domain of the United States; and after this conference the commissioner is declared to have stated at the Federal building, that "not a damned homestead application would be allowed," and that he would "See the homesteaders in hell before the United States ever got an acre of that land."

Witnesses to the foregoing: A. C. Routhe, R. D. Morris, D. B. Smith, Robert A. Armstrong.

That statement, constituting a very serious reflection upon an official of the Government, the committee sought diligently to inquire into the truth of the statement. Some of the witnesses were called and the committee was utterly unable to secure a scintilla of evidence to support the charge. Quite naturally the committee did not feel good about it, and a number of the committee, I might say, do not now feel very good about it, and it seems to me that some explanation is due the committee of that sort of a statement.

The CHAIRMAN. Let the committee stand in recess, then to go to the Committee on Appropriations for a short hearing.

(Whereupon, at 10.29 o'clock a. m., a recess was taken until 10.47 o'clock a. m., when the hearing was resumed.)

The CHAIRMAN. The committee will be in order again.

Now, Mr. Summers, with relation to that statement which Senator Bratton read, reciting that "witnesses to the foregoing" would be "A. C. Roughe, R. D. Morris, D. B. Smith, and Robert A. Armstrong," would you be ready to be sworn and to repeat that?

Mr. SUMMERS. I am ready to be sworn and say this. In other words, I would say this whether I was under oath or not, that I was informed and was led to believe that these parties would testify—not Mr. Smith, because Mr. Smith I did not talk with, but these other parties stated to me what the commissioner had said, and they stated to me as a fact. Now, referring to what Senator Bratton said, Senator Bratton was a lawyer before he was a Senator, and this, to me, was a lawsuit. When I was asked what witnesses would support or testify to certain things, I gave the names of the witnesses or of the parties, rather, who had said these things to me as a fact, and had said that they would testify.

Senator BRATTON. Mr. Summers, have you examined the transcript of the hearings conducted in Los Angeles?

Mr. SUMMERS. I have; yes, sir.

Senator BRATTON. Have you read that part of it where these witnesses failed to substantiate the statements contained in the brief?

Mr. SUMMERS. I have; yes, sir.

Senator BRATTON. Have you talked with any of those witnesses about the matter since?

Mr. SUMMERS. Some of them. But Mrs. Caldwell, by the way, is dead. She died a short time after that hearing in Los Angeles.

Senator BRATTON. Who?

Mr. SUMMERS. Gertrude M. Caldwell died a short time after that hearing.

Senator BRATTON. What did those witnesses tell you about their failure to substantiate the statements contained in that memorandum?

Mr. SUMMERS. They said to me that—what are the initials of Smith?

Senator BRATTON. D. B.

Mr. SUMMER. B. D., is it not? They said to me that the Commissioner of the General Land Office while in Los Angeles had been in conference with the receiver, or register, whichever he is, Smith, and that Smith had declared that was what the commissioner said. I asked if the language attributed to him was his language or was the language of Mr. Smith, and to that I was given no answer which

was satisfactory. In other words, it was given to them as the expression of the commissioner.

Senator BRATTON. Mr. Summers, I have not examined the two affidavits which you submitted to the chairman, carefully. My examination has been rather hasty since the committee assembled this morning. As I read them hastily I was impressed with the fact that they set forth somewhat in detail the things which you had outlined to the committee before. Is that correct?

Mr. SUMMERS. You mean in this?

Senator BRATTON. Yes.

Mr. SUMMERS. No; I think not.

Senator BRATTON. Do they set forth the facts?

Mr. SUMMERS. I think they set forth in detail the facts.

Senator BRATTON. Some of the facts seem to have been brought to the attention of the committee before.

Mr. SUMMERS. I did that because of the fact that this is under another resolution, another proceeding.

Senator BRATTON. When the committee last met, in December, and at your request deferred further hearings and granted you until January 10, I think it was——

The CLERK (INGHAM C. MACK). January 10.

Senator BRATTON. January 10. That was done with the understanding that on or before January 10 you would present such further evidence as you care to submit to the committee in affidavit form, the affidavit to be made by the persons having knowledge of the facts to which they testified. Have you secured and are you prepared to submit any other affidavits except your own?

Mr. SUMMERS. I am, yes; but at the same time I will say this. The requirement made or the condition imposed by the committee is, if you will pardon the expression, one that is not fair to the committee nor is it fair to the interests involved, because of the fact that you can not take a man who has been guilty, we will say, of doing things that are in violation of the law, and prevail upon him to submit an affidavit of that fact to this committee.

Senator BRATTON. Your answer is rather far afield from my question. My question was, have you secured any affidavits aside from your own.

Mr. SUMMERS. I have several affidavits, and these affidavits cover the very questions which we are discussing now, and other questions. I think every question in that—or every suggestion in there is covered by an affidavit. A great many of the witnesses have something to say about circumstances under which McLendon and his associates made application to homestead these lands. Now, I have here the affidavit of Mr. Routhe, the affidavit of Mr. Johnson, the affidavit of Mr. Ward—I mean Mr. Morris—the affidavit of Mr. Hammel, the affidavit of Mrs. Ward, and the correspondence between Mr. Ward, her late husband, and McLendon, and Dr. Joseph Ward, Mr. George Ward's brother.

Senator BRATTON. Did you desire to offer those affidavits for the record?

Mr. SUMMERS. I do.

(The affidavits referred to are inserted herein as follows:)

AFFIDAVITS

STATE OF CALIFORNIA,
County of Los Angeles, ss:

A. C. Routhe, being duly sworn, on oath says: That for more than 10 years he was personally and well acquainted with Ben McLendon and frequently conferred with him; that prior to and including the year 1922 he discussed with McLendon the matter of the legality of certain alleged Mexican land grants involving tracts of lands in southern California; that McLendon earnestly contended many of said grants were fatally defective and that others had no foundation whatever in fact; that parts of these lands were part of the public domain and as such were subject to homestead entry; that some time about the month of August, 1922, in a conversation with McLendon and others the question was discussed as to the propriety of filing applications to homestead parts of an alleged grant known as the Lomas de Santiago; that notwithstanding the contention of McLendon that the Lomas de Santiago lands were public lands and open to homestead entry, he would not consent to make an application to homestead any part of the land or to advise anyone else to apply for a homestead on said lands until a conference could be had with the officers in the Land Department in Washington for the purpose of ascertaining whether or not they were advised of the facts and as to whether or not they would favor or oppose applications to homestead if made; that others at the conference with considerable enthusiam opposed the position taken by McLendon and wanted to prepare and file the applications at once; that McLendon refused to assist in any way to apply for said lands or any part of them without the cooperation of the Commissioner of the General Land Office; that thereafter a sum of money was made available to defray the necessary expenses, and McLendon was authorized to go from Los Angeles, Calif., to Washington, D. C., and there confer with the Commissioner of the General Land Office and the assistant commissioner and other officers of the Land Department and ascertain from them what, if any, knowledge they had relative to the lands under consideration being public lands and as such open to homestead entry, and whether or not the applications would be received and the homesteads would be allowed to applicants duly qualified under the law; that McLendon left for Washington and some time thereafter returned to Los Angeles and reported that he had conferred with the Commissioner of the General Land Office, the assistant commissioner and other officers of the Land Department, and had found they were fully aware of the fact that the lands under consideration were public lands and open to homestead entry; that the commissioner and assistant commissioner had informed him if he and his associates would make applications to homestead the lands the applications would probably be rejected in the local land office, and it would then be necessary to appeal to the Commissioner of the General Land Office and that the applications would there be allowed; that thereafter McLendon submitted for inspection, books, certified copies of maps, letters of introduction and a communication over the signature of the assistant commissioner, giving a list and a description of the lands within the alleged Lomas de Santiago grant; that thereafter and with the use of the maps, and with the information contained in the communication from the assistant commissioner, selections were made of parts of the land within the so-called Lomas de Santiago, and applications to homestead said lands were made and filed; that McLendon, after his return from Washington, assured his associates the commissioner and the assistant commissioner were agreeable to having the applications made to homestead the lands, and for this reason he felt fully justified in making an application himself and advising his friends to do likewise; that after the applications to homestead parts of the alleged Lomas de Santiago were made the said McLendon and this affiant were consulted repeatedly relative to applications to homestead certain parts of the alleged grant known as the Palos Verdes; that the said McLendon advised this affiant, and all those who consulted with him relative to the so-called Palos Verdes, that he would not advise nor would he assist anyone attempting to locate on the Palos Verdes until he could make a thorough investigation and until he could become assured that no valid grant had been made; that no filings thereon were made to the knowledge of this affiant until after McLendon had in his possession certificates from the supreme officers of the Government of Mexico specifically stating that no such grant as the Palos Verdes was of record in the archives of Mexico and that under the laws of Mexico no such grant could have been made;

that the certificates referred to are set out by copy in the briefs in support of the appeals prepared and filed by Williamson S. Summers, the attorney for the affiant and other applicants to homestead.

A. C. ROUTHE, *Affiant.*

Subscribed and sworn to before me this 24th day of September, 1929.

[SEAL.] WINIFRED WORTHINGTON, *Notary Public.*

My commission expires August 9, 1933.

STATE OF CALIFORNIA,
County of Los Angeles, ss:

I, Clinton Johnson, being first duly sworn according to law, do say upon oath, that on or about the 1st day of August, 1922, I called at the office of Ben McLendon at Room 307, Western Mutual Life Building, 321 West Third Street, Los Angeles, Calif.; that I there met Ben McLendon and others who were discussing the advisability of making applications to homestead certain lands in Orange County, Calif., lying within the exterior limits of an alleged Mexican grant; that the said McLendon emphatically refused to entertain any proposition to make applications for the lands until it was ascertained whether or not the officers of the land department at Washington will look with favor upon the project; that McLendon said some one should go to Washington and interview the Commissioner of the General Land Office and find out if he regarded the lands under discussion as public domain, and as such, open to homestead entry, and if so, would applications to homestead when filed be allowed; that it was agreed the said McLendon would be a proper party to go to Washington, see and interview the officers of the land department, ask their advice and get their opinion; that arrangements were made and the money to defray the expense was raised for the said McLendon to go to Washington and confer with the officers of the land department, with the distinct understanding that if the Commissioner of the General Land Office did not consider the lands as part of the public domain, and as such open to homestead entry, that his opinion would be respected and would be final as taken and no applications to homestead the lands would be made; that very shortly thereafter the said McLendon left Los Angeles, Calif., for Washington, D. C.; that on or about the 15th day of September, 1922, said McLendon returned from Washington to Los Angeles, and reported to me, and to others, that he had been to Washington and had met William Spry, the Commissioner of the General Land Office, and George R. Wickham, the Assistant Commissioner of the General Land Office, and had discussed with them the status of the lands in Orange County, Calif., within the alleged Lomas de Santiago grant, and the advisability of filing applications to homestead certain parts of them; that the said commissioner and the said assistant commissioner assured him the alleged Lomas de Santiago grant was public domain, and as such was open to homestead, and that if he and others he represented were to make applications to homestead the lands they would no doubt be rejected in the local land office at Los Angeles, and it would then be necessary to appeal to the General Land Office in Washington, and when the applications reached Washington on appeal they would be sent to the desk of the assistant commissioner, Wickham, and by him the applications would be recognized and the homesteads would be allowed; that shortly thereafter the said McLendon submitted to me a list of descriptions of the legal subdivisions of the lands then under consideration, which he stated was sent to him by Wickham, the Assistant Commissioner of the General Land Office, for his use in making the applications to homestead.

CLINTON JOHNSON.

Subscribed in my presence and sworn to before me this 26th day of August, A. D. 1929.

[SEAL.] J. C. LADEVEZE.

My commission expired January 23, 1931.

STATE OF CALIFORNIA,
County of Los Angeles, ss:

I, Rufus D. Morris, being first duly sworn according to law, do say upon oath, that early in the month of August, 1922, on one occasion I was at room 307,

Western Mutual Life Building, in Los Angeles, Calif.; that I there had a conversation with Ben McLendon and others, the subject of the conversation being the advisability of making applications to homstead certain lands in Orange County, Calif., a part of what is generally known as the Irvine Ranch; that it was there stated for good reasons it was believed said lands did not belong to Irvine, but instead were part of the public domain and were subject to homestead entry; that parties present on that occasion were in favor of filing the necessary applications to homestead the lands without any delay; that the said McLendon was against such action and said under no circumstances would he make an application nor would he advise anyone else to undertake to homestead the lands until it was ascertained whether or not the applications would be looked upon with favor by the Commissioner of the General Land Office; that it was agreed McLendon would be a proper party to go to Washington and confer with the commissioner and find out whether or not, in his opinion, the lands were public domain and open to homestead entry and if applications were made whether or not they would be received and the homesteads would be allowed; that arrangements were made and the money to defray the expenses was put up and McLendon in a very short time thereafter left Los Angeles, Calif., and went to Washington, D. C.; that it was understood and agreed all parties would wait until McLendon returned and reported the result of his conference with the officers of the Land Department; that if it was ascertained, as a matter of fact the lands were public lands and open to homestead entry, and the officers of the Land Department would look upon applications to homestead with favor, the applications would be made, but if the officers of the Land Department indicated the applications would not be recognized and the homesteads would not be allowed, then there would be no applications made and the subject would be dropped—in other words, nothing would be done in opposition to the Commissioner of the General Land Office; that some time during the middle of September, 1922, McLendon returned from Washington to Los Angeles and reported he had conferred with William Spry, the Commissioner of the General Land Office, and George R. Wickham, the assistant commissioner; that he had discussed with them the condition of the lands that were under consideration and the advisability of filing applications to homestead certain parts of them; that the commissioner and the assistant commissioner assured him the lands were public domain of the United States and were open to homestead entry, and they assured him if he and those he represented would apply to homestead the lands all of the assistance he needed would be given him to show conclusively the lands were public lands and that when the applications reached the commissioner's office the assistant commissioner would handle the cases and the homesteads would be allowed; that McLendon left Washington with the understanding the assistant commissioner would send him the legal descriptions of the lands on which to file; that in a very short while thereafter McLendon submitted to me a letter from the assistant commissioner giving the legal descriptions of the lands as agreed upon.

RUFUS D. MORRIS.

Subscribed in my presence and sworn to before me this 26th day of August, A. D., 1929.

[SEAL.] HELEN MITCHELL, *Notary Public.*

My commission expires July 29, 1931.

CITY OF WASHINGTON,
District of Columbia, ss:

I, Charles D. Hamel, being first duly sworn according to law, say upon oath that I am a member of the law firm of Hamel & Doyle, with offices in the Southern Building at Fifteenth and H Streets NW., in the city of Washington; that for several years last past I have resided and at the present time reside in the city of Washington, District of Columbia; that in September, 1922, I was employed as an attorney in the offices of the Solicitor of Internal Revenue; that I was acquainted with George A. Ward, who for several years prior to his death, resided in Washington, D. C.; that I was acquainted with Ben McLendon who for several years prior to his death lived at Alhambra, near the city of Los Angeles, Calif.; that I am acquainted with George R. Wickham,

who lives at or near Los Angeles, Calif.; that the said George R. Wickham was the Assistant Commissioner of the General Land Office in 1922 and by reason of his office was then residing in Washington, D. C.; that some time during the month of August, 1922, I was invited to and did join the said George R. Wickham, George A. Ward, and Ben McLendon at a noonday lunch in the Old Ebbitt House at Fourteenth and F Streets NW., Washington, D. C.; that said Wickham on that occasion stated to Ward and myself that McLendon was here to get all the information he could about some lands in Orange County, Calif., claimed by a man by the name of Irvine as a part of what was known as the Irvine Ranch; that the matter had been turned over to him by the commissioner with directions to help McLendon in every way possible; that Wickham said he had been helping McLendon; that they had gone over the records and were then familiar with all the facts and that there was no question in their minds, and in the mind of the commissioner, but what the lands were a part of the public domain, and as such were open to homestead entry; that McLendon was going back in a few days and he and his associates were going to make applications to homestead parts of these lands and that the homesteads would be allowed; that Wickham said he had a notion to resign and go and file on 160 acres himself; that he had invited Ward and myself to the lunch to tell us about the opportunity and give us a chance to file if we could; that if we could not file we could arrange for some member of our families to file; that Ward said he had a brother living in Los Angeles and he would send word to him at once; that Wickham asked me about having my father file. I told him my father was in poor health; that he would have to go on the land in person before he could file and the distance was so great I was afraid to have him undertake it.

CHARLES D. HAMEL.

Subscribed and sworn to before me this 24th day of January, 1930.

[SEAL.] CAROLYN G. GROFF,
Notary Public.

STATE OF CALIFORNIA,
County of Los Angeles, ss:

I, Grace L. Ward, being first duly sworn according to law, do say upon oath that I am the widow of the late Dr. Joseph O. Ward, who in September, 1922, lived at 925 South Alvarado Street, Los Angeles, Calif.; that on or about September 20, 1922, my late husband, Doctor Ward, received from his brother, Mr. George A. Ward, then of Washington, D. C., a letter relating to certain lands within what is known as the Irvine Ranch, in Orange County, Calif.; that said letter was to the effect that the said lands were public lands of the United States and open to homestead; that this affidavit is attached to a portion of said letter; that I have diligently searched for the remainder of the said letter at the place where I found the portion here submitted, and have searched all other places where I had any idea it could be found, but to no avail; that I well remember the contents of said letter and the circumstances connected with it for the reason my late husband discussed with me the advisability of acting on the advice and at the suggestion of his brother, George A. Ward, and making an application to homestead 160 acres of the land to which he referred; that a short time thereafter my husband and my daughter, Marjorie B. Ward, conferred with Mr. Ben McLendon and Mr. Clinton Johnson, and after the conference, acting on the advice of Mr. George A. Ward, my husband made application to homestead the northwest quarter of section 13, township 5 south, range 9 west, and my daughter made application to homestead the southwest quarter of section 13, township 5 south, range 9 west; that I am acquainted with the handwriting and the signature of George A. Ward; that the portion of said letter to which this affidavit is attached is in his handwriting and the signature attached thereto was taken from another letter and is his signature.

GRACE WARD, *Affiant.*

Subscribed and sworn to before me this 15th day of January, 1930.

[SEAL.] HELEN MITCHELL, *Notary Public.*

My commission expires July 29, 1931.

LETTERS

WASHINGTON, D. C., *September 6, 1922.*

Mr. BEN MCCLENDON,
Los Angeles, Calif.

DEAR MCC.: Have not received Joe's address. Wrote for it again to-day. Will send it soon as I get it.

Don't forget to send me brief and a copy of your speech on international law. I also wish you would send me a copy of that document.

How do you expect to get away from the inclosed decision?

Yours truly,

GEO. A. WARD,
1521 Monroe NW.

WASHINGTON, D. C., *September 16, 1922.*

DEAR JOE: Ben McClendon, of 1121 Orme Avenue, Los Angeles, will call on you with letter of introduction.

He has a scheme to homestead certain land in Orange County which are very valuable and are in the possession of James Irvine. What he will tell you about the Mexican grant is absolutely true, but whether the lands can be recovered at this late date is not free from doubt; at any rate, the cost will only be about $16 and then one has six months to get on the land, but he will not get onto it unless case is decided in his favor, as Irvine will not let him. There are about 17,000 acres involved, and I understand from McClendon it is all to be filed on. There are about 30,000 acres in excess of the grant, but only about 17,000 acres are good. I am to have a one-half interest in what we win, and I want an understanding.

Your brother,

GEO. A. WARD.

You should write Cathie how to proceed, as above. Merry Christmas and Happy New Year.

THE FEDERAL BAR ASSOCIATION,
Washington, D. C., September 16, 1922.

Dr. J. O. WARD, *Los Angeles, Calif.*

DEAR JOE: This will introduce to you Mr. Ben McClendon, of whom I wrote you. Mr. McClendon is reliable and you may put implicit confidence in him and anything he tells you. I have known him two years.

Yours truly,

GEO. A. WARD,
1521 Monroe NW.

The CHAIRMAN. Now, Mr. Summers, tell us just what are these affidavits referred to?

Mr. SUMMERS. They cover the circumstances under which McLendon left Los Angeles and came to Washington with a view to ascertaining whether or not the lands involved were public lands of the United States.

The CHAIRMAN. Do they by any chance contain reference again to the charge that Mr. Spry, the Commissioner of the General Land Office, had declared upon one occasion that not a damned homestead application would be allowed?

Mr. SUMMERS. That is not covered there. These affidavits cover the facts relative to a meeting that was held, in which they discussed the question of filing homesteads or homesteading these lands. McLendon declined to be a party to it unless the consent of the Commissioner of the General Land Office should be obtained; said he declared it public domain, and he would look with favor upon the application.

Senator BRATTON. Have you any other affidavits that you desire to submit now referring to the matter before the committee?

The CHAIRMAN. Right at that point let me read to you, Mr. Summers, just what the decision was at that meeting. Senator Bratton said:

Now, when you speak of submitting affidavits and the Chair suggested that the proof which you desire to submit to the committee be tendered in affidavit form, I think the Chair has in mind affidavits made by the witnesses themselves setting forth facts within their own personal knowledge.

To which you answered:

So I assume

Senator BRATTON. And not an affidavit by some one that he believes the facts to be so and so, and that John Smith and Jim Jones and Eliza Brown will testify to that.

To which you reply, "Yes."

Senator Bratton continued:

In other words, in that sort of a case we want the affidavit of John Smith, Jim Jones, and Eliza Brown. I wanted it to be sure that we understood each other about that.

To which you reply:

In other words, the affidavit must be made by the person who is expected to testify, and if there is anything additional that the committee feels it is necessary to know, they will make that inquiry.

Senator BRATTON. My question is this: Do you have other affidavits which you desire now to offer?

Mr. SUMMERS. I have the affidavit of Mr. Hammel, the affidavit of Mrs. Ward, and photostats of the correspondence between Mr. George Ward and his brother, Dr. J. O. Ward, relative to the meeting that was held here.

Senator BRATTON. With those in the record, do you have any other affidavits which you desire to submit to the committee now?

(Mr. Summers hands documents to Senator Bratton.)

Senator BRATTON. You have just handed me an affidavit of Grace A. Greer. Assuming that those are in the record, do you have any other affidavits which you desire to submit at this time?

Mr. SUMMERS. The affidavit of Anna L. Fries, the affidavit of Daniel Gartling, the affidavit of Florence B. Makee, the affidavit of Grace A. Greer, the affidavit of Britta M. G. Stott.

Senator BRATTON. Do you have any others?

Mr. SUMMERS. A certified copy of a complaint filed in the commissioner's office—that is, the United States commissioner's office—at Los Angeles.

Senator BRATTON. Do you have other affidavits that you desire to submit?

Mr. SUMMERS. An affidavit signed by Clinton Johnson and signed by Ben McLendon just prior to his death. I think that is all the affidavits that I have. I refer particularly, however, to the affidavit I submitted to the chairman of the committee last week.

The CHAIRMAN. Those were the two affidavits made reference to this morning?

Mr. SUMMERS. Yes.

(The papers referred to are inserted, as follows:)

AFFIDAVIT OF COMPLAINT

UNITED STATES OF AMERICA,
Southern District of California, ss:

Be it remembered that on this 15th day of August, 1923, before me, Stephen G. Long, United States commissioner duly appointed by the District Court of the United States of America for the Southern District of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes pending in the courts of the United States, etc., pursuant to the acts of Congress in that behalf, personally appeared A. A. Wilhelm, who, being duly sworn according to law, deposes and says that W. R. Price and Ben L. McLendon heretofore to wit on or about the 12th day of December, 1922, and within the jurisdiction of the United States aforesaid and of this honorable court did devise and intend to devise a scheme to defraud Edith Campbell and upwards of 50 other persons and for obtaining money and property by means of false and fraudulent pretenses and promises and in furtherance of said scheme did knowingly, wilfully, unlawfully, and feloniously place and cause to be placed in the United States post office at Los Angeles, Calif., to be transmitted through the United States mails a certain letter or package containing a paper more particularly described as an appeal in homestead entry No. 035417, Los Angeles Land Office series, said homestead entry being that made by Miss Edith Campbell, of Los Angeles, Calif, in violation of section 215 of the Federal Penal Code.

Second count: Affiant further states that on or about the 1st day of May, 1922, the said W. R. Price and Ben McLendon did knowingly, wilfully, unlawfully, feloniously, and corruptly conspire, combine, confederate, and agree together and with other persons not named herein to commit an offense against the United States, to wit: The offense of devising and intending to devise a scheme to defraud and for obtaining money and property by means of false and fraudulent pretenses and promises and in furtherance of said conspiracy to defraud, did knowingly and unlawfully mail an appeal in homestead entry No. 035417, Los Angeles Land Office series, in the United States mails.

Affiant further states that in furtherance of said conspiracy and to effect the object thereof, and on or about the 12th day of December, 1922, the said defendants, W. R. Price and Ben McLendon mailed and caused to be mailed a certain letter or package containing a paper more particularly described as an appeal in homestead entry No. 035417, Los Angeles Land Office series, said homestead entry being that made by Miss Edith Campbell, of Los Angeles, Calif., said letter of package being mailed at Los Angeles, Calif., in violation of section 37, Federal Penal Code.

Contrary to the form of the Statutes of the United States in such case made and provided, and against the peace and dignity of the said United States.

A. A. WILHELM.

Subscribed and sworn to before me this 15th day of August, 1923.

[SEAL.]

STEPHEN G. LONG,
United States Commissioner.

AFFIDAVITS

STATE OF CALIFORNIA,
County of Los Angeles, ss:

I, Anna L. Fries, being first duly sworn according to law, do say upon oath that I am a resident of Eagle Rock, Los Angeles County, Calif.; that I am one of the parties who offered a homestead filing for and on a tract of land in Orange County, Calif.; that I believed at the time I made said offer and I now believe the said tract of land therein described was subject to homestead entry under the laws of the United States; that a short time prior to the return of the indictment by the Federal grand jury against Dr. W. R. Price, Judge Ben McLendon and others, one A. A. Wilhelm came to my home and represented himself to be a secret agent of the Interior Department: That the said Wilhelm said many abusive things about Doctor Price and Judge McLendon and charged them with being professional crooks and with being now engaged in getting money under false pretenses; that thereafter the said Wilhelm told me the land on which I had offered my filing was patented and was owned by a man by the

name of Irvine and that Price and McLendon knew it; that I asked Wilhelm if Irvine could show the land had been patented and that he had title to it and to this Welhelm said Irvine did not have to show his title; That said Wilhelm told me he had great influence in Washington and would use it to protect me, but to get his protection I must release the land and withdraw my claim that I had made for it and that when I did this he would return to me the amount of money I had paid; that said Wilhelm told me I would never get the land and unless I did what he asked me to do that no money would ever be returned to me.

ANNA L. FRIES.

Subscribed in my presence and sworn to before me this 30th day of June, 1924.

[SEAL.] W. L. MILLER, *Notary Public.*

My commission expires May 8, 1925.

STATE OF CALIFORNIA,
Los Angeles County, ss:

I, Daniel Gartling, being first duly sworn depose and say that I live in Los Angeles County, Calif.; that I am one of the claimants for homestead rights on a certain tract of land in Orange County, Calif.; that I was informed and believed when I offered my application and I am now advised and now believe the land described in said application is a part of the public domain and is subject to homestead entry; that several months ago A. A. Wilhelm came to my home and told me he was a secret agent of the United States Government; that he had made an investigation and had come to tell me the land I claimed I could never get and I asked him why and he told me it was owned by a man by the name of James Irvine and I asked him if Irvine could show any title, and Wilhelm said Irvine did not have to show title and with great emphasis declared Irvine is the owner of the land and nobody can take it away from him; that Wilhelm then told me I was the victim of crooks and had been defrauded out of my money, that he was sorry for me and was well acquainted with the men who settle cases of this kind and had great influence with them and that if I would sign a statement showing I was defrauded and would release the land by signing a paper he would prepare he would then use his influence and have the amount of money I had paid returned to me, but he said he could not do anything for me unless I would first withdraw my claim for and release the land; that I then told Wilhelm I was well acquainted with the men who represented me and had great confidence in them and would neither sign a statement against them nor sign a release of the land claimed by me in the application I had made; that Wilhelm then said I was a party to a fraud that I would not get the land and would never get my money or anything for it.

DANIEL GARTLING.

Subscribed in my presence and sworn to before me this 30th day of June, A. D. 1924,

[SEAL.] W. L. MILLER, *Notary Public.*

My commission expires May 8, 1925.

STATE OF CALIFORNIA,
Los Angeles County, ss:

I, Florence B. Makee, being first duly sworn according to law, do say upon oath that I reside at No. 2600 Valley Boulevard, Alhambra, Calif.; that heretofore I offered a homestead filing on a tract of land in Orange County, Calif.; that said offer was made and is now urged in good faith; that some time ago and since said filing was made a man, A. A. Wilhelm by name, came to my home and demanded an interview with me; that the said Wilhelm then claimed to be a secret agent of the United States Government and told me he had come to see me and get me out of a skin game put up by some professional crooks; that said Wilhelm told me in order to get the protection I must answer some questions in the manner he wanted them answered and must sign a withdrawal of my filing and release all of my interest in my application for the homestead in Orange County; that said Wilhelm told me if I would

answer the questions and sign a release of my claim he would use his influence in my behalf and would get and turn over to me the amount of money I had paid; that I asked said Wilhelm how he could get the money and he said he had great influence with the men in Washington and on his recommendation they would pay the money to me; that I told said Wilhelm I did not see my way clear to sign any papers or answer any questions, that I had confidence in the parties of whom he spoke and that I was satisfied I would get the land for which I had made application; that said Wilhelm then said unless I signed the papers he wanted me to sign and did the things he wanted me to do I would be sorry and when I still refused to do as he requested he declared that he would make me regret it.

FLORENCE B. MAKEE.

Subscribed in my presence and sworn to before me this 30th, day of June A. D. 1924.

M. W. LEWER, *Notary Public.*

[SEAL.]

My commission expires April 15, 1925.

STATE OF CALIFORNIA,
Los Angeles County, ss:

I, Grace Greer, being first duly sworn according to law, do say on oath that I reside in the city of Los Angeles, Calif.; that I am one of the parties who made application in the year 1922 for a homestead entry on a tract of land in Orange County, Calif.; that at the time I made said application I believed the land described therein was Government land and was subject to homestead entry; that I now believe said land described in said application is a part of the public domain and is subject to homestead entry; that I know Edith Campbell, who lives in the city of Los Angeles; that Edith Campbell is a locator who has made application for homestead a tract of land in Orange County, Calif., at or about the same time I offered my application; that on or about the 9th day of August, 1923, in a conversation with Edith Campbell I was asked by her if I would like to get my money out of the Orange County land deal, and I made answer by saying, "How would I get it?" to which she said, "Go and see Wilhelm; he will tell you. I have already been paid $250 and I am going to get $400 more." I asked her how she would get it, and she said, "I can not tell you; but you go and see Mr. Wilhelm. I will give you his phone number, and if you go and see him before Monday you will get all your money, provided you will talk." I then asked her again to tell me how she got the money, and she said, "See Mr. Wilhelm; he will fix it for you." Then she said, "After I get the balance of my money I will tell you how I got it." And later she said to me she had nothing against Judge McLendon, but she wanted her money: that a few days thereafter Judge McLendon was placed under arrest on a complaint made by Edith Campbell.

GRACE A. GREER.

Subscribed in my presence and sworn to before me this 30th day of June, A. D. 1924.

J. C. LADEVEZE, *Notary Public.*

[SEAL.]

My commission expires on the 23d day of January, 1927.

STATE OF CALIFORNIA.
Los Angeles County, ss:

I, Britta M. Stott, being first duly sworn according to law, do say upon oath that I am a resident of the city of Los Angeles, State of California, and I am one of the persons who made an application for a homestead entry on a tract of land in Orange County, Calif.; that on or about the 17th day of August, 1923, I called at the residence of Grace Greer on an errand, and very shortly after I called one A. A. Wilhelm came to see Miss Greer, and I was present at a conversation between said Wilhelm and Miss Greer, and at this conversation the said Wilhelm was asked what does Miss Campbell mean by telling me to see you and get my money back, and he refused to answer, but said, "Well, McLendon knows he can't get the land"; that then Wilhelm was asked where the money came from that was paid to Miss Campbell, and again he refused

to answer; that said Wilhelm was asked who paid for having all the work done, and Wilhelm said, "It is paid for by the Government."

BRITTA M. G. STOTT.

Subscribed in my presence and sworn to before me this 30th day of June A. D. 1924.

[SEAL.] J. C. LADEVEZE, *Notary Public.*

My commission expires on the 23d day of January, 1927.

STATE OF CALIFORNIA,
County of Los Angeles, ss:

Before me, R. M. Martin, a notary public in and for the county of Los Angeles, State of California, duly commissioned and sworn, personally appeared Clinton Johnson and Ben McLendon, both of the county of Los Angeles, State of California, and to me personally known, who, being first duly sworn according to law, did each separately depose and say:

That on a day in the month of August, A. D. 1922, they were in the Federal Building in the city of Los Angeles, State of California, in company with John S. Cooper, of the law firm, Cooper, Collings & Shreve, offices in the city of Los Angeles, Calif.

That just prior to said date the said McLendon, under an information filed against him before United States Commissioner John S. Long, sworn to by one Edith Campbell, appeared before said commissioner.

That said John S. Cooper was representing the said McLendon as his attorney.

That Joseph C. Burke on said date was United States attorney for the southern district of the State of California, with offices in the Federal Building, in the city of Los Angeles, Calif.

That the said Burke had stated the substance of the charges contained in the information signed by said Edith Campbell and filed before the said United States commissioner were to be submitted to the United States grand jury, then in session, for the southern district of California.

That it was known the said Edith Campbell had been offered and had accepted a money consideration for swearing to and signing said complaint before the United States commissioner, and it was stated that she was to be called to testify before said grand jury.

That said John S. Cooper was directed by deponents to confer with United States Attorney Joseph C. Burke and inform him of the fact that the said Edith Campbell had been offered and had accepted a money consideration for signing the complaint, and had been offered other considerations for testifying against said McLendon; and to secure from the said Joseph C. Burke, United States attorney, an agreement to call the deponent Ben McLendon before the United States grand jury, and was directed to inform the said Burke, United States attorney, that McLendon would waive any and all constitutional rights that he might have, and would freely and fully answer any question that might be put to him by the United States attorney or any member of the grand jury touching his connection with the subject matter set out in the complaint signed by said Edith Campbell, and would freely and fully answer any other question which the United States Attorney or any member of the grand jury desired to ask.

That the said Cooper, pursuant to his instructions, went into conference with the said Burke, United States attorney, and, at the conclusion of the conference, these deponents were informed by the said John S. Cooper that he had delivered the information to Burke relative to the consideration paid for the testimony of the said Edith Campbell, and that he had made the request that said McLendon be called before the grand jury, and then and there stated in substance that—

"I saw Burke and told him that $250 was paid to Edith Campbell as an inducement for her to swear to the complaint against McLendon. You may as well know it now because you will find it out later. Burke said he did not expect the complaint to hold, but was going to get an indictment before the grand jury. I then asked Burke to call McLendon before the grand jury and let him testify and assured him there was nothing in the charges and that no indictment would be brought if McLendon were allowed to testify, and assured him that McLendon would waive all constitutional rights that he might have and would answer any question that he or any member of the grand jury would ask; and the request was refused."

On the same day, and as well on a subsequent day, said John S. Cooper, in his own offices in the Washington Building, at the corner of Third and Spring Streets, in the city of Los Angeles, made the same statements in substance in the presence of these deponents and of his law partner, Lewis D. Collings.

CLINTON JOHNSON.
BEN MCLENDON.

Subscribed and sworn to before me this 13th day of June, 1925.
[SEAL.]

RACHEL M. MARTIN, *Notary Public.*

My commission expires December 9, 1928.

The CHAIRMAN. Now, Mr. Summers, does this constitute whatever evidence is available in the way of affidavits indicating fraud, indicating any lack of will on the part of Federal officials to do the right thing in relation to these controverted lands in California?

Mr. SUMMERS. There is some evidence, but it is a difficult thing to go and get a lot of affidavits and make a case of this nature in affidavit form.

The CHAIRMAN. Well, we found, Judge, that is largely true, too. We found it exceedingly difficult; for example, when we got out there at Los Angeles and called certain of these people who had been named as witnesses who would testify to certain points or certain facts, that they would not do anything of the kind.

Mr. SUMMERS. It seems the very facts that are discussed there are very largely—I mean the suggestions that you make, it seems they have been covered to a considerable extent under these affidavits that are here filed to-day.

The CHAIRMAN. Senator Bratton, have you any more questions you want to ask? If not, when might the committee convene, if we are finished now, and take up these affidavits, to the end that we can quickly wind up this hearing and make our report to the Senate?

Senator BRATTON. I hope early in the week.

The CHAIRMAN. That would be in executive session?

Senator BRATTON. Yes.

Mr. SUMMERS. Will the committee permit me to make—to leave with the chairman a statement? If you will permit it, I will speak to it for just a minute now, or else I will leave it with the chairman.

The CHAIRMAN. I personally think you ought to be permitted to read that statement. Let us know what is in it.

Mr. SUMMERS. Senate Resolution 291, Seventieth Congress, second session, directs the Committee on Public Lands and Surveys, or any subcommittee it may designate, to make a thorough investigation of the charges that vast tracks of land within the area of the lands ceded to the United States by Mexico were corruptly and fraudulently turned over to and delivered into the possession of private interests; that said lands have been and are now held by private interests without color of title; that citizens seeking to exercise rights relative to said lands have been intimidated, slandered, libeled, arrested, indicted, and otherwise grossly mistreated; that private interests continue in unlawful possession of public lands by reason of exerted influence over those whose duty it is to enforce the law.

The committee is authorized to require the attendance of witnesses, to require the production of books, papers, maps, records, surveys, grants, patents, and any and all other documents pertaining to the inquiry. Any member of the committee is authorized to administer

the oath and require a witness to attend and testify, and is empowered to punish anyone who refuses to obey the process, refuses to testify, or testifies falsely. The power to compel the attendance of witnesses and the power to punish belong to the committee.

The committee alone can compel a witness to attend. The committee alone can compel a witness to answer. The committee alone can compel the production of records, of grants, of surveys, and of patents. The committee alone can punish a witness who refuses to answer pertinent questions. The committee alone can punish a witness who answers material questions falsely. The committee has no power to delegate authority.

The man who acquires a herd of cattle by the skillful use of the branding iron applied to mavericks will not voluntarily appear and admit it, nor will he make and file an affidavit.

The man who has accumulated a fortune by exploiting public lands with guilty knowledge will not ask this committee to give him an audience, nor will he prepare and file a sworn statement as to his activities.

Reference is here made to the session held by the committee in Los Angeles. The chairman says:

> We are going to confine the witnesses to the points which are in the bounds of the resolution. (P. 3 of record.)

Senator Bratton says:

> We desire to secure all of the facts for the purpose of ascertaining what legislation, if any, is needed to remedy evils which have occurred and to prevent similar evils occurring elsewhere. Keep this in mind and do not wander afield from those two things. (Pp. 14 and 15 of record.)

But three or four days later Senator Bratton, with the approval of the chairman, said the investigation had gone beyond the scope of the resolution and has involved matters not covered by it. The committee indulged a wide departure from the scope of the inquiry. (P. 808 of the record.)

The question may now be asked, "What jurisdiction did the committee have in a field far away from the scope of the Senate Resolution 291?"

The scope of the inquiry under the resolution is limited to two questions. The first one is: Where is the fee title to the lands? Is it in the United States as trustee? Or is it in private interests? If it is in private interests, then we have nothing to do with the lands. If it is in the United States as trustee, who is in possession of the lands? How was possession of the lands acquired? What disposition is being made of the lands?

At once we ask, Did Mexico make a grant? If not, then Mexico ceded the lands to the United States. If the lands were ceded by Mexico, then they are acquired territory. If this be true, then nothing but an act of Congress authorizing it will enable the Land Department to move the title. If Congress gave the authority to pass the title to private interests, produce the act.

The second one is, What consideration has been given and what treatment has been accorded citizens, who in good faith, have been advised and who believe the fee title is in the United States as trustee?

Mr. Musick, on behalf of the chamber of commerce and the Los Angeles Realty Board, said:

We who are familiar with the facts and the law know and assert that our California land titles as based upon the original Mexican land grants and confirmed by patents issued by the United States Government are absolutely valid and impregnable.

There is no controversy over lands that were granted by Mexico The controversy is over lands that were not granted—lands that were ceded to the United States, lands that are public lands and yet have been and are being exploited by private interests.

I have read you the exact language used by Mr. Musick. Who has any controversy with them? Who would argue that? In other words, whether "Our California land titles, as based upon the original Mexican land grant"? California titles, based upon an original Mexican land grant, certainly are good; but suppose Mexico did not make the grant?

Here are several days and several hundred pages of record made under circumstances, of course, that I refer to with a great deal of regret, but nevertheless here are a great many things that were put in before the committee. I do not know why they were put there, but they are there, a great many things that were said and that were done. In other words, the chamber of commerce and the realty board and other interests in Los Angeles, of course, took up the time of this committee with land grants, but the fact remains that the committee is charged with the duty of ascertaining where is the title. Is the title in the Government?

Senator BRATTON. Mr. Summers, you are an experienced attorney. The committee gave you the right to attend the hearings in Los Angeles. You are familiar with the record made in Los Angeles?

Mr. SUMMERS. I am.

Senator BRATTON. Well, there is no argument between you and the committee that whatever the committee may have done in wandering afield from the issues properly presented under the resolution, Mr. Wheeler did virtually all of that, did he not?

Mr. SUMMERS. I don't think so.

Senator BRATTON. Well, then, we can not agree, because it is my personal opinion that whatever digression may have occurred, practically nine-tenths of it was due to Mr. Wheeler's unfamiliarity with the procedure, he being a layman, but he was your associate, and the committee had great difficulty in confining him to the proper bounds of the inquiry. It was an unfortunate circumstance that he, a layman, had to try the case.

Mr. SUMMERS. The answer is this: Mr. Wheeler, if you will permit me to correct you, was not my associate.

Senator BRATTON. That statement is a surprise, Mr. Summers.

Mr. SUMMERS. I did state this: I stated to you gentlemen when you were in my sick room that Mr. Wheeler knew enough about this matter here to go over it and give you an idea as to the scope the inquiry would take, but I never had an idea that Mr. Wheeler would undertake to conduct a hearing. In the first place, Mr. Wheeler would not have any authority. I could not put him in charge of them any more than I could put myself in charge of it. All I can do is to help this committee. The responsibility of making this inquiry is upon the committee.

Senator BRATTON. We recognize that.

Mr. SUMMERS. Yes.

Senator BRATTON. We are perfectly conscious of that.

The CHAIRMAN. What was the name of the person who did appear for a time with Wheeler or for Wheeler in Los Angeles? What was his name?

Mr. SUMMERS. You probably have in mind a man by the name of Westerfeldt.

The CHAIRMAN. That was it. Do you consider him as having been at any time an associate?

Mr. SUMMERS. With me?

The CHAIRMAN. With you.

Mr. SUMMERS. Never. Not for a moment.

Senator BRATTON. Do you use the same offices as Mr. Wheeler?

Mr. SUMMERS. We use the same—the answer to that is, no. Mr. Wheeler has an office—that is, he offices across the hall, and he occupied a room there; yes, but not to say officed with me. He did not. He came down to the office some time—I think the first time I got down to the office was in the latter part of June after you were out there the first of July, and I saw a lot of stuff on the front door relative to the homestead association, and I said, "Get that off of the door immediately," and it was done.

Senator BRATTON. Well, Mr. Summers, the testimony is not altogether clear in my mind. My recollection is that Mr. Wheeler testified that you were associated together, that he had a set of books relating to your financial transactions in connection with this whole matter, and he declined to produce the books. Is that your memory of the record?

Mr. SUMMERS. I don't recall, but as a matter of fact, to take a short cut now to what you have in mind, Mr. Wheeler evidently gave you, or you got the impression that Mr. Wheeler was acting or associated with me in getting these people to apply for a homestead.

Senator BRATTON. Let us confine ourselves to these books. He testified, as I recall, that he had those books showing your financial transactions in connection with this whole matter in his custody, and refused to produce them before the committee, saying that he could not do so without your consent. Did he have the records?

Mr. SUMMERS. He did not. He never had any records of mine.

Senator BRATTON. Well, did he have books of account relating——

Mr. SUMMERS. That he kept for me? Not one.

Senator BRATTON. Have you read the part of his testimony where he declined to submit certain books at that time because he did not have your consent?

Mr. SUMMERS. My recollection is he did submit.

Senator BRATTON. That is not true?

Mr. SUMMERS. Absolutely. If he made that statement it was purely volunteered on his part, just a voluntarily statement.

Senator BRATTON. But my question is was it untrue?

Mr. SUMMERS. That he had books?

Senator BRATTON. Yes.

Mr. SUMMERS. I don't remember the form the statement was made.

Senator BRATTON. Well, the substance was he had books showing the financial transactions between you and these homestead applicants, and he declined to submit them to the Committee, saying that he had no authority so to do without your express consent.

Mr. SUMMERS. Well, if he had, that would not be true, because of the fact he had no books of account showing my relations to any member—that is, to these homesteaders. He didn't have them.

Senator BRATTON. Well, were you not related to them?

Mr. SUMMERS. Just in the manner indicated by the record in that hearing.

Senator BRATTON. In connection with these homestead matters?

Mr. SUMMERS. I will tell you what I will do, Senator, then you can take your own course. I have down in my room a copy of the communication that I addressed to Wheeler, and I will be glad to give that to you. It shows the limit, the extent of any authority that Wheeler had, or any relation he sustained to me.

Senator BRATTON. Well, you can state that so that I can understand it.

Mr. SUMMER. All right. Wheeler did not represent me in any—to any extent. Wheeler represented the homesteader.

Senator BRATTON. Whom did you represent?

Mr. SUMMERS. I represented the homesteader after he filed.

Senator BRATTON. Did you and Wheeler represent the same homesteaders?

Mr. SUMMERS. Wheeler had nothing to do with them after they retained me.

Senator BRATTON. All right. He represented them before they filed and you represented them afterwards?

Mr. SUMMERS. I never saw them until after they filed.

Senator BRATTON. Then you represented them?

Mr. SUMMERS. I represented them after they made an agreement that I should.

Senator BRATTON. Well, then, you and Wheeler did represent the same individuals, he representing them before they filed and you representing them afterwards?

Mr. SUMMERS. My agreement with him was this. I said to him that if any person wants to file an application to homestead and wants me to represent him, it can only be done under certain conditions.

Senator BRATTON. Now reverting to the question that I asked you, he represented certain persons before they filed their homestead applications and you represented them afterwards?

Mr. SUMMERS. They talked to him about it, yes; I suppose they did, but I had nothing to do with them, nor nothing to say to them until after they made that contract.

Senator BRATTON. About now many different persons did he represent before they filed and you represent afterwards?

Mr. SUMMERS. I don't know.

Senator BRATTON. What is your judgment?

Mr. SUMMERS. Well, I could not tell you now. Quite a good many.

The CHAIRMAN. Were there a thousand?

Mr. SUMMERS. No.

The CHAIRMAN. Eight hundred?

Mr. SUMMERS. No.

Senator BRATTON. Can you give us any estimate?

Mr. SUMMERS. I would think there were perhaps 200.

The CHAIRMAN. It seems to me that I recall evidence taken out there to the effect that there were 800 or a thousand filings under one of the so-called grants alone—the San Fernando.

Mr. SUMMERS. No; I would not think so.

The CHAIRMAN. I have here before me, Mr. Summers, one letter addressed to me at the Biltmore Hotel in Los Angeles, signed by H. N. Wheeler as trustee. Trustee of what?

Mr. SUMMERS. I don't know.

The CHAIRMAN. Your offices, the offices occupied by Wheeler and others, were across the hall from one another in the same building, were they not?

Mr. SUMMERS. Yes, sir.

The CHAIRMAN. Was the rent for these offices paid from the same fund?

Mr. SUMMERS. Which? You mean the suite of rooms there? I paid it.

The CHAIRMAN. You paid for them?

Mr. SUMMERS. Yes, sir.

The CHAIRMAN. For all the rooms?

Mr. SUMMERS. Yes, sir.

The CHAIRMAN. Those occupied by Wheeler as well as your own?

Mr. SUMMERS. Those that were occupied by Wheeler and those that were occupied by Morris. I paid them.

The CHAIRMAN. Then, surely, Wheeler was an associate of yours.

Mr. SUMMERS. No.

The CHAIRMAN. What was the relation?

Mr. SUMMERS. He came and went. He was there part of the time and part of the time he was not.

The CHAIRMAN. Then Wheeler was occupying your offices? That is the better way to put it?

Mr. SUMMERS. Yes; he was there, and when I was away, and part of the time he was there and would come in and out when I was there.

Senator BRATTON. Why did you pay the rent on his office?

Mr. SUMMERS. Well, I paid the rent because the lease ran to me, and they presented the bill to me.

Senator BRATTON. You did not pay the rent on other people's offices promiscuously, of course?

Mr. SUMMERS. Certainly not.

Senator BRATTON. Why did you pay the rent on Wheeler's office if you were not associated together?

Mr. SUMMERS. I say that he did not have an office there. He just came in—in and out. There is no reason why he would be there to-day or to-morrow or why he would not be.

Senator BRATTON. That does not concern the committee. What concerns us is why you paid the rent on his office if you were not associated together.

Mr. SUMMERS. Well, the answer is, I didn't pay on his office. It was my office.

Senator BRATTON. Let us put it the other way, then. Why did Wheeler occupy your office, you paying the rent on it, if you were not associated together?

Mr. SUMMERS. I was away a great deal of the time, and I wanted somebody in the office.

Senator BRATTON. Well, Mr. Johnson was there.

Mr. SUMMERS. No. Mr. Wheeler never was there until Mr. Johnson went over and opened his office in the Hibernian Building?

Senator BRATTON. Did you ever pay Wheeler a salary?

Mr. SUMMERS. I did not.

Senator BRATTON. Did you ever pay him money otherwise?

Mr. SUMMERS. You mean for any purpose?

Senator BRATTON. Yes.

Mr. SUMMERS. I have loaned him money. I have given him money, and I paid him some money in connection with the corporation. That is their headquarters. In other words, he is resident agent—that is, the agency is there—and he is the secretary, or was until recently, secretary-treasurer of that corporation.

Senator BRATTON. In what building are those offices located?

Mr. SUMMERS. 571 Helman Building.

Senator BRATTON. How many rooms are there in the suite?

Mr. SUMMERS. Five.

Senator BRATTON. How long have you occupied them?

Mr. SUMMERS. I have occupied them since—oh, about four years.

Senator BRATTON. How long has Wheeler occupied one room in the suite?

Mr. SUMMERS. Wheeler has been in the office since 19—January 16, 1928.

Senator BRATTON. And where did he office before then?

Mr. SUMMERS. I don't know.

Senator BRATTON. Now you told us awhile ago that Wheeler represented certain persons before they filed homestead applications.

Mr. SUMMERS. Yes.

Senator BRATTON. And you represented them afterwards, to the number of about two hundred. Was all of that done since January, 1928?

Mr. SUMMERS. I think they were. I would say about that many.

Senator BRATTON. Well, now, can you tell us how it happened that 200 applicants for homestead filing happened to employ him before they filed and happened to employ you afterwards if you and Wheeler were not acting together?

Mr. SUMMERS. No; I don't think it was—it was not an accident at all.

Senator BRATTON. How did it happen, if you and Wheeler were not being associated together?

Mr. SUMMERS. I think Wheeler knew these people, knew about the homesteading of these lands, and they went to Wheeler, talked it over with Wheeler, and they understood at the time that they felt—he gave them to understand that their applications would be carried forward by me.

Senator BRATTON. He gave them to understand that the applications would be carried forward by you?

Mr. SUMMERS. Yes.

Senator BRATTON. Well, by what authority did he give them to understand that?

Mr. SUMMERS. Well, I was handling these cases, and I have no doubt at all but what he represented to them that I would do so.

Senator BRATTON. And did you think at the time he was getting these homesteaders to file that they were coming to you to represent them?

Mr. SUMMERS. How is that?

Senator BRATTON. Did you have that thought in mind at the time he was filing those applications that the applicants were coming to you to carry their applications forward? Did you know that he was doing that?

Mr. SUMMERS. Yes.

Senator BRATTON. Now, Mr. Summers, how much did Mr. Wheeler charge those people for filing?

Mr. SUMMERS. I don't know.

Senator BRATTON. He never did tell you?

Mr. SUMMERS. No. Some phases about it that I don't know yet.

Senator BRATTON. How much did you charge them for representing them?

Mr. SUMMERS. A great many of them didn't pay anything.

Senator BRATTON. Regardless of whether they paid it, how much did you charge them?

Mr. SUMMERS. I told them—I told him that I would not represent—I would not carry those cases forward for less than a certain sum of money.

Senator BRATTON. What was that sum?

Mr. SUMMERS. That sum of money was $500.

Senator BRATTON. $500?

Mr. SUMMERS. Yes, sir.

Senator BRATTON. And you have been employed by approximately 200 homesteaders since January, 1928, and have charged them at the rate of $500 each?

Mr. SUMMERS. No, sir; I have not, because a great majority of them didn't pay anything.

The CHAIRMAN. You mean the majority of the 200, Mr. Summers?

Mr. SUMMERS. Yes.

Senator BRATTON. Mr. Summers, how many homesteaders have you represented altogether?

Mr. SUMMERS. Something in the neighborhood of—I suppose close to a thousand.

Senator BRATTON. Now, what has been your minimum charge?

Mr. SUMMERS. I haven't—I can get that. Will you let me make a statement of the facts, just what they are?

Senator BRATTON. Wait until I finish my question, then you can make a statement.

Mr. SUMMERS. All right.

Senator BRATTON. What was your minimum charge?

Mr. SUMMERS. There was no minimum charge.

Senator BRATTON. What was the lowest you ever charged?

Mr. SUMMERS. Nothing.

Senator BRATTON. Did you agree to represent some without fixing any fee?

Mr. SUMMERS. I did.

Senator BRATTON. What was the most you ever charged?

Mr. SUMMERS. I think the most that has been paid is $500.

Senator BRATTON. How much have you collected, altogether, for representing homesteaders?

Mr. SUMMERS. I don't know, sir.
Senator BRATTON. Well, approximately.
Mr. SUMMERS. I don't know, sir.
Senator BRATTON. You have no idea?
Mr. SUMMERS. No; I don't.
Senator BRATTON. Over how many years have your services run?
Mr. SUMMERS. Since the 3d day of—about the 10th day of—about the 1st of September, 1923.
Senator BRATTON. You have told us this morning that you have read the transcript of the hearings at Los Angeles. Some enormous figures were given to us out there as to the amount collected by you and your associates in carrying this movement forward. I assume that you have read those figures in the transcript.
Mr. SUMMERS. I read something about them.
Senator BRATTON. Well, have you collected out of that—having read those figures as given to the committee out there, are you unable to give us any estimate as to how much you have been paid?
Mr. SUMMERS. No; I didn't collect them. That is what I am trying to tell you.
Senator BRATTON. Who did collect them?
Mr. SUMMERS. Mr. Wheeler did, and Mr. Johnson did, but I never did.
Senator BRATTON. Wheeler was collecting your fees?
Mr. SUMMERS. They always turned it over to him or to Johnson.
Senator BRATTON. Wheeler or Johnson?
Mr. SUMMERS. I don't recall that they ever turned it over to me.
Senator BRATTON. Well, I don't see that that would affect the amount that you received, whether Wheeler handed it to you or the homesteader handed it to you. The point that I am trying to elicit testimony upon is how much you received.
Mr. SUMMERS. And my answer is I don't know. I have not received as much as I have spent. I will tell you that.
Senator BRATTON. How much have you spent?
Mr. SUMMERS. A good deal.
Senator BRATTON. That is rather indefinite.
Mr. SUMMERS. Yes; that is true; and it will have to be indefinite.
Senator BRATTON. How do you know you have spent more than you received if you are unable to tell us either figure?
Mr. SUMMERS. Because I know that it has cost me more money than I have received out of it.
Senator BRATTON. What is your memory about the figures stated in the transcript of the hearings?
Mr. SUMMERS. I think they are very unreliable.
Senator BRATTON. I say what is your memory on the figures furnished us out in Los Angeles as to the amount that was paid you for representing these homesteaders?
Mr. SUMMERS. I don't recall the amount now.
Senator BRATTON. My recollection is that it was about $900,000. Is that your memory?
Mr. SUMMERS. My memory is that—you mean the amount?
Senator BRATTON. Yes.
Mr. SUMMERS. The amount that was paid me, it was not one-tenth. It was not one-twentieth.
Senator BRATTON. One-twentieth of $900,000?

Mr. SUMMERS. Yes.

Senator BRATTON. Mr. Summers, my question was, that is my memory as to the testimony given us in Los Angeles.

Mr. SUMMERS. Yes.

Senator BRATTON. Is that your memory of the testimony given?

Mr. SUMMERS. I have not any memory on that, because I don't recall it. I will be glad to look it up and let you know.

Senator BRATTON. We could do that.

Mr. SUMMERS. Yes; of course.

Senator BRATTON. We could do that. Now, you said awhile ago that you had received $500 each from some of the homesteaders?

Mr. SUMMERS. Yes.

Senator BRATTON. About how many paid you $500?

Mr. SUMMERS. I don't know. That I can not recall.

Senator BRATTON. The testimony given us out there was that you started with a fixed fee of $100 and then raised it from time to time. Is that true?

Mr. SUMMERS. I didn't start out at all.

Senator BRATTON. Well, when you began representing them, were you taking their cases at $100 per homesteader?

Mr. SUMMERS. I was not.

Senator BRATTON. How much?

Mr. SUMMERS. No man can say that. Now, Senator, I want to raise the question here, and I insist upon your giving me the opportunity, because this matter has been discussed, and it was discussed before that committee out there when in session, and perhaps when not in session.

Senator BRATTON. Why do you make that last statement "Perhaps when not in session"?

Mr. SUMMERS. I am saying that in defense of myself, but I do, in fairness, want to make a statement, and want to make it for two reasons, in justice to myself and because I think you want to be fair. For that reason I want to make this statement.

Senator BRATTON. Go ahead.

Mr. SUMMERS. I was retained to appear in the case of the United States *v.* McLendon and others on the criminal side of the court—the Federal court. That was in 1923, in September. I say retained. I agreed to go and see the United States attorney. I said to him that I did not appear in the case, did not want to appear, and did not want to get into court, but the relation that I sustained to one or two of these defendants was such that I felt constrained to ask him if it could not be adjusted. I did not sign the docket as attorney for these people for nearly four months, and all the time I begged the United States attorney to adjust this in some way so that it would be unnecessary for me to become the attorney for these homesteaders, that I did not want to do that.

Now, that is the 300 who had filed over on the Irvine ranch. I never saw them. I never met any of those people until all these filings were made. Finally Mr. Burke, the United States attorney, insisted that what he was going to do to McLendon and others, after we had carried this over now from time to time for some four or five months, then Mr. Burke and I, after I, perhaps, had humiliated myself more in his presence than I ever did before any other attorney

or in any other office, I then went and suggested to him that the next time I saw him would be in court, and I signed the docket as their attorney. Thereafter I became the attorney for the homesteaders on the Irvine ranch, and I came down here to ascertain all the facts that McLendon had talked about, getting ready to try this lawsuit, to see whether his stories stood up or not, and I came here, I interviewed the Commissioner of the General Land Office, the Assistant Commissioner, the Secretary of the Interior, the Assistant Secretary, the first Assistant Secretary of the Interior, and several other parties. I then returned and suggested to Mr. Burke that whenever, at his convenience, the defendants were ready for trial. Shortly thereafter, because there was no disposition to press this case for trial at that time, I came to Washington and prepared and filed an application for extraordinary relief over here before the Land Department. We got a hearing, briefed it, and carried that through. Finally there was an opinion handed down by the Land Department in which they made a finding that there were some 29,000 acres of land there that was in a fabricated survey, and they sent it to the Department of Justice for an action to be instituted to clear the title to that 29,868 acres of land. The counsel followed the case over there and wanted a hearing before the Department of Justice.

That hearing was held before Judge Wells, who now is in Porto Rico, at that time in charge of litigation over there in the Department of Justice. Judge Wells made his finding. Then the Attorney General requested a survey, and then there was a discussion as to the land being turned over, and it was currently rumored that the lands would be turned over to the homesteaders and, as a matter of fact, I thought they would be, and I wired out there as to the action that had been taken here. When I returned to Los Angeles that was the end of it with me. I had never received a dollar from any homesteader. The homesteaders association—that is, these two or three homesteaders, got together over there, and they passed a resolution, and they paid me a retainer of $5,000. When I got back to Los Angeles after the hearing in the Department of the Interior and in the Department of Justice it was, I should think, the 23d day of December, no man was as much surprised as I was when I learned that on the 18th or the 19th of December some 98 or 100 people had gone out and filed an application to homestead part of the Palos Verdes. To me the Palos Verdes was just simply a story. I never had seen it and had never seen a person who had homesteaded there, and I did not know it was going to be done. I had nothing whatever to do with it except to use language that was, perhaps, a great deal more forceful than eloquent when I learned it had been done. I got back there and contended with these people that it was a bad thing to do, that they had no business to do it, and that I would be blamed for it when I had nothing to do with it and knew nothing about it, and it was not until the 20th day of the following January that I consented to have anything to do with it whatever, and then only that they were to make an arrangement for a reasonable fee to handle that work. They said they would do it. I can not tell you how many people came to me and tried to prevail upon me to represent them and carry the case forward. Perhaps there were 25 or 30 or maybe 50. At the end of that time, on the 20th of

January, I signed an agreement upon the express consideration that Mr. Johnson would be—would act as trustee, as it were, to take care of that, because I had to come down here at once.

Now they were going to turn over several thousand dollars at a certain time, Palos Verdes. My recollection is that instead of turning over some $20,000, they turned over $975. I do not know of any money—Palos Verdes, a grant that was being exploited for many millions down there—I do not know of any money that anyone of these people who had filed at that time paid except the $975. That was turned over to Mr. Johnson and he turned it over to me.

Now I came down here and represented the Palos Verdes. I carried it ever since that because I signed the docket. Now later on the Irvine ranch was involved; that is, the Irvine ranch and the Palos Verdes. When I came down here there were some people talking about homesteading, and I said under no circumstances do you make an application to file on any more land. Don't involve any more of this land, under no circumstances. If there is anybody else files it must be limited to the Ivine ranch and the Palos Verdes. Don't involve any other of these so-called grants.

Senator BRATTON. Tell us why you advised them that.

Mr. SUMMERS. Because I—I went to California on a visit. I got into this by accident. I did not want to get into this thing. I had other things to do and I wanted to get out of it.

Senator BRATTON. If you felt the land was public land subject to homestead entry why did you advise people not to file on it?

Mr. SUMMERS. I did not advise them not to file. I did not want to represent them.

Senator BRATTON. I thought that you just said that you advised them not to homestead any more land.

Mr. SUMMERS. I told Mr. Johnson and these people in the office that, then Judge McLendon, not to involve me in any more of this litigation. I did not advise these people, because I had never seen them. Now I came here in connection with the Palos Verdes, and when I returned, to my surprise the Malibu and the San Fernando were both involved, and again I refused to have anything to do with them. These people had agreed—I am talking about Judge McLendon and Mr. Johnson. They had agreed that I would represent them. That was our agreement. My agreement was on the Irvine ranch and the Palos Verdes, because they were already involved. But these people had paid certain moneys over and I said, "Return the money, because I don't want to get in there," but they didn't want the money. These applicants to homesteaders didn't want the money returned, and they wanted the service, and I don't have to tell you, as an attorney, what that meant, and it was under those circumstances, because it involved an agreement that Judge McLendon and Mr. Johnson had made that I would appear for them in these cases. I didn't want to do it. The people insisted that I render the service or else return to McLendon and Johnson and insisted that they make good. It was under those circumstances that I became the attorney in the Malibu and in the San Fernando. Now, again, my reason for that was that—not so much the Malibu—the Palos Verdes in my judgment was a flagrant exploitation of lands that these people knew—they were exploiting it with guilty knowl-

edge, and they were getting this money under circumstances that were at least very questionable.

The CHAIRMAN. Whom do you mean by "These people"? Who were the promotors of that?

Mr. SUMMERS. I am talking now of the promoters of the Palos Verdes.

The CHAIRMAN. Who were those?

Mr. SUMMERS. The Palos Verdes was promoted by the Title Insurance & Trust Co., a man by the name of J. Lawyer, and a man by the name of Lewis. The agreement, that is, the trust agreement, referred for the title to the land to a case that had been in the old district court out there on a petition for partition, and that is the only reference to title in the trust agreement. When they commenced to sell, the most wonderful piece of advertisement you ever saw, in which they said the Palos Verdes was a gift from the Crown of Spain.

Senator BRATTON. Mr. Summers, you have outlined to us——

Mr. SUMMERS. Now wait; I have not finished. As the time that Mr. Wheeler came into the activities, as it were, I took this position, and that is the time that I insisted upon the $500 being paid, and I insisted upon every contract that had been made with any homesteader being turned over to me, and that I wanted those contracts where they were at my disposal, and I stated to Mr. Johnson, to Mr. Wheeler, to all parties concerned, that there was intensive development in San Fernando and Malibu, that these lands had been developed with money that was paid in honestly, that those who had exploited these lands knew it, that those who had permitted it as the agents of the Government either knew it or should have known it, that the Government, in my opinion, through its agents had been guilty of failure to discharge its duty as a trustee, that ultimately those would have to be adjusted, that if there was no title, and in that case I did as in the other, I submitted to those in charge of the land, to the Land Commissioner, the Attorney General, and to the President, if there was a title, if there had been a Mexican grant, if Congress had ever authorized acts that would move that title, that I would be glad to see it, that I held myself in readiness to file a relinquishment for every homesteader just as soon as they could demonstrate that the homesteaders were wrong, but in the meanwhile I said this, these contracts are worth nothing unless the homesteaders win.

If the homesteaders win, then these contracts are very valuable, and for that reason I want them where I can put them any place I desire to put them; and I said whenever the Government, through any agency of the Government, compels these people who have exploited these lands and have accumulated these fortunes, whenever the Government makes those people respond, then every contract that I have will be put at the disposition of the Government to be used in compensating the people who have been induced to put their money down there without getting any title. The question was asked then, and I repeat to you what my answer was: What do you get out of it? I said, "All I want is for some one with the integrity of a man and a knowledge of the law to fix a reasonable fee for the service that I have rendered and I will be very glad to accept that in full and deliver the contracts to the Government agents to adjust with

the homesteaders these cases, to the end that those who have been induced to invest their money without title can be compensated."

Senator BRATTON. Mr. Summers, let me ask you a question. How do you think this situation should be adjusted? What should be done to adjust it?

Mr. SUMMERS. I think that the men who have exploited these lands, who have grown rich off of them, should be compelled to do all in their power to recompense those they have wronged. I think the Government should take it upon itself, not only because of the fact that it holds these lands as trustee for the people, but it has been guilty of neglect in letting this condition arise, and I think the Government should take it upon itself to do everything in its power to compensate them.

Senator BRATTON. That is a very generic statement, Mr. Summers. What should be done with the title?

Mr. SUMMERS. The title?

Senator BRATTON. Yes.

Mr. SUMMERS. The title should be put where it belongs. It stands in the people, and there is no way except by an act of Congress that you can move them.

Senator BRATTON. Then, do you think that these homestead applications should be allowed and the homesteaders given the land?

Mr. SUMMERS. Do I?

Senator BRATTON. Yes.

Mr. SUMMERS. Absolutely.

Senator BRATTON. What would you do with the people who have invested millions of dollars on the strength of the titles?

Mr. SUMMERS. I have just been telling you what I would do.

Senator BRATTON. I see. What would you do with a man that has got a brick building costing hundreds of thousands of dollars that he invested on the strength of a patent issued by the United States?

Mr. SUMMERS. You are assuming that a patent was issued, but the patent was not issued.

Senator BRATTON. You say there was no patent issued to these lands?

Mr. SUMMERS. Not one. No patent was issued on these lands; no.

Senator BRATTON. Assuming that a patent was issued, what would you do with a man who had invested hundreds of thousands of dollars on the strength of that title?

Mr. SUMMERS. If patent had issued, he would not need to have anything done to him at all, because he would carry the patent.

Senator BRATTON. Well, that does not quite answer the question. I said that, assuming that a patent did issue, would you undertake to disturb him?

Mr. SUMMERS. I would not undertake to disturb, but he could not be disturbed if the patent issued.

Senator BRATTON. Well, you recall that these grants were renewed by the Board of Private Land Claims. Is that the technical name of it?

The CHAIRMAN. Is that the commission authorized by Congress?

Mr. SUMMERS. You mean the commission about March 3, 1851?

Senator BRATTON. Yes. Now, let us assume that commission, exercising the power vested in it by an act of Congress, validated what purported to be a title eminating from the Mexican Government,

and upon that validation persons have invested money in faith of a title coming from that source. Would you dispute that title and evict them from the land?

Mr. SUMMERS. Read that question.

(The question was read by the reporter as above recorded.)

Mr. SUMMERS. That question, Senator, is put in such form I could hardly say yes or no.

Senator BRATTON. Let me ask you this: You are familiar with the physical conditions about and on the land in controversy?

Mr. SUMMERS. Yes, sir.

Senator BRATTON. Well, is not that land highly improved?

Mr. SUMMERS. Some of it.

Senator BRATTON. Does it not have immense buildings on some of it?

Mr. SUMMERS. Some of it.

Senator BRATTON. And on that very land some of these applicants have filed homestead applications?

Mr. SUMMERS. I think so.

Senator BRATTON. What disposition do you think should be made of persons who have constructed these buildings and invested their money? Should they lose it or should they be recompensed and, if so, by whom?

Mr. SUMMERS. I think they should be recompensed.

Senator BRATTON. By whom?

Mr. SUMMERS. Recompensed by the people who induced them to put their money in there; recompensed by the Government, that has failed to discharge its duty as trustee.

Senator BRATTON. Of course, as an experienced lawyer, Mr. Summers, you must realize that your suggestion that they be recompensed by the people who induced them to put their money would not stand in a court of law for five minutes, because anyone 21 years of age who takes an abstract to a piece of property and acquires his title and invests his money and constructs buildings on it would not last until the first morning recess in a court of law.

Mr. SUMMERS. Yes.

Senator BRATTON. You agree to that?

Mr. SUMMERS. Yes.

Senator BRATTON. Then your suggestion that the people who induced them recompense them could not receive serious consideration.

Mr. SUMMERS. I am not saying that it could not. I am not saying it could if you go into a court of law and start in in a suit such as you indicate. I do think there are ways by which those people who have induced the investment of this money—that is, who have induced these sales to be made of these lands—are—I know they are very uneasy as to whether or not they will be called upon to reimburse a lot of these people.

Senator BRATTON. How could they be liable, Mr. Summers, in selling land to a man 21 years of age who gets an abstract and either himself or through his attorney approves the title and buys the land?

Mr. SUMMERS. Of course, your question does not apply in this case, because there is no such thing as an abstract in California.

Senator BRATTON. Well, it is a certificate.

Mr. SUMMERS. What is it?

Senator BRATTON. It is a certificate of title. That is what you call it out there.

Mr. SUMMERS. No.

Senator BRATTON. What do you call it?

Mr. SUMMERS. We call it a——

Senator BRATTON. Now, let us stay on what we are talking about. Let us keep on this. I am interested in how you think this situation should be corrected. If these applications for homestead are upheld and the homesteaders are given the land, what do you suggest be done with those who have improved the land, invested the money on them and improved them?

Mr. SUMMERS. That is the problem that has to be worked out.

Senator BRATTON. Yes; but, Mr. Summers, you have given it much more thought than we have, and you must have turned it over in your mind. What sort of a formula have you in mind on which it can be worked out?

Mr. SUMMERS. I have not reached a definite conclusion yet. As a matter of fact, I was in conference this morning, expected to be in conference within the next day or so with some parties who have a very concrete idea along that line, and I am trying to get the benefit of it.

Senator BRATTON. Well, you said a moment ago that they might have recourse against those who induced them to buy the land, and that the Government might make them whole. Is that your idea, that the Government should reimburse them through an appropriation?

Mr. SUMMERS. Well, no; I have not reached a conclusion on it.

Senator BRATTON. Well, Mr. Summers, as an experienced lawyer, has it not occurred to you that the rights of hundreds and hundreds of bona fide investors would be considered?

Mr. SUMMERS. Would be considered?

Senator BRATTON. Yes.

Mr. SUMMERS. I realize that; yes, sir.

Senator BRATTON. Naturally.

Mr. SUMMERS. I realize that the benefit of the doubt would be given to the innocent investor.

Senator BRATTON. Let us take this situation. Suppose an applicant filed a homestead application for 160 acres of land; that land is highly improved, worth possibly millions of dollars. Various persons have bought what they assumed to be title to the land, and they have improved it. If the application is granted and the homesteader is given property worth millions of dollars, has it not occurred to you that some disposition would have to be made of those who have improved the land?

Mr. SUMMERS. But that is not my problem. Some disposition; yes. Let me put this question.

Senator BRATTON. No. I am propounding questions. That problem does concern the committee. Now, having given it so much thought, we would like to have your views as to whether those people can be disregarded in solving the problem.

Mr. SUMMERS. The answer to it is this: The committee had better disregard the people who, as you say, have permitted themselves to put these buidings upon ground under which there is no title; it is better to work a hardship upon those people than to have this

country subscribe to the condition of things as they are now. Of all things that you can do, it is better that an indiyidual suffer than that the law fail to speak the truth.

Senator BRATTON. I say, Mr. Summers, that equity would be answered much more fully by handing back the homestead applicant every dime that he had paid out, so that he would not lose a dollar, than to take from an equally innocent man perhaps hundreds of thousands. The Government should do equity as between its citizens. You agree to that, do you not?

Mr. SUMMERS. To the extent of its ability; yes.

Senator BRATTON. Here are two of its citizens. One has spent hundreds of thousands of dollars in good faith; the other has tendered the Government $16 filing fee. Is it your thought that the Government should keep the $16 and evict the man and have him lose hundreds of thousands of dollars instead of handing back to the applicant his $16 and leaving both of them whole?

The CHAIRMAN. And, it might be added, after these holders had for years been paying taxes upon the property.

Senator BRATTON. Is that your view of the situation, Mr. Summers?

Mr. SUMMERS. My view of it is this, that the moment the homesteader files his application, to my mind he has a vested right in a patent, and that is the question that this Government must take up and adjust with him. But the answer is, Senator, when you adjust that with him you still leave—get him to relinquish and pay him back his money, but that does not fix your title. Your title still stands in the Government as trustee for the people, because we bought this land with the money out of the Treasury. And let me go just one step further. The homesteader out there knows about this condition. The homesteader has not any quarrel with anybody. I have told these homesteaders that in my opinion there was no title under these lands except the title that is in the Government.

Senator BRATTON. Well, Mr. Summers, while we are talking frankly about it, I think the attitude of a homesteader who would file an application and undertake, through an investment of say, $16, to acquire property worth hundreds of thousands of dollars, disregards those who have bought that property on what they thought to be a title, invested hundreds of thousands of dollars, is the coldest-blooded proposition I have ever understood or ever heard asserted anywhere. I do not think any court anywhere will ever lend the slightest ear to that sort of proposition.

Mr. SUMMERS. My answer to that is this, that any court, because there is no such thing in this country as judge-made law, and having been on the bench, nobody knows that better than you do, Senator——

Senator BRATTON. What would you do with equity as between the two men?

Mr. SUMMERS. That is all right, but you can not exceed the law.

Senator BRATTON. But what about the equitable rights? That is what I say. The position urged by these homesteaders, relying upon a strict, narrow construction of the law, loses sight of equity and justice, and it is the coldest-blooded contention I ever heard asserted, and I make the prediction with you now, Mr. Summers, that these homesteaders will never get the land, because this Government will never subscribe to such a proposition as that.

Mr. SUMMERS. But the fact remains, all the same, that this Government has and holds to-day, by reason of frauds that have been perpetrated—this Government holds some several million acres of land down there, not only does it hold it here, but it holds it in other States, that were acquired at the same time, with the same money, and it can never be removed—and that is why I am before this committee. I would not have been before this committee if it had not been for a vast tract of land down there in this same situation. I will cite the Santa Margarita.

The CHAIRMAN. You mean land that is not now occupied?

Mr. SUMMERS. Land that is not now occupied.

The CHAIRMAN. Then why have not filings been made upon those lands?

Mr. SUMMERS. I will tell you why. I do not know how many of them came to me and wanted me to represent them on the Santa Margarita. Now, what is the Santa Margarita? Here are the facts. Four leagues, 17,750 acres, was fabricated, and then it has been surveyed four times since then. Each time the survey encroached upon the public domain, until to-day they boast of the Santa Margarita containing 253,000 acres.

Two years ago I was consulted and asked if I would accept a fee of $50,000 to attempt to establish that title, and I said no. Within 90 days I have been consulted, and they wanted to know if I would not accept a fee and handle a bunch of 100 or 200 homesteaders down there, and I said no. Why? I said it because of the fact that this question is here before this committee, and that ultimately Congress should withdraw these lands from homestead entry. It should take such steps as would put a basic title under some 12,000,000 or 14,000,000 acres down there in California, and a lot of lands elsewhere. If it had not been—and, frankly, I consulted with the homesteaders and told them why it was my idea to submit this to the Committee on Public Lands and work out some way by which they could make a report which would induce Congress to act, to combine the judgment and experience and ability and see if they could not work out some way to cure this condition down there.

The CHAIRMAN. Did this commission authorized by Congress pass judgment on that particular tract?

Mr. SUMMERS. Which?

The CHAIRMAN. The one you have just been discussing.

Mr. SUMMERS. The Santa Margarita?

The CHAIRMAN. Yes.

Mr. SUMMERS. I don't think so.

The CHAIRMAN. At that point, Senator Bratton, did it not pass judgment on all of these so-called land grants at that time?

Senator BRATTON. I don't think this one was mentioned.

Mr. SUMMERS. Yes; there were 553 grants that were manufactured.

The CHAIRMAN. And this commission acknowledged them?

Mr. SUMMERS. A good many of them.

The CHAIRMAN. And upon that acknowledgment people have gone in, perfected their claims and their improvements, and lived upon it?

Mr. SUMMERS. The answer is this: No court or no commission can acknowledge something that it has not jurisdiction to acknowledge, just like the issuing of a patent the Senator was talking about. No

patent can issue for any land unless it is for land that has been committee to the Land Department, or it is land over which it has jurisdiction.

Senator BRATTON. What force do you give to the acknowledgment made by a commission created under an act of Congress? Does it not constitute a finality? If it does not, is it a title upon which people may buy and sell? What force or what efficacy ought an adjudication of that board have?

Mr. SUMMERS. It ought not to have any efficacy.

Senator BRATTON. It was just a vain thing?

Mr. SUMMERS. No. Now, wait a minute. Wait a minute. That board was brought into existence for the purpose of ascertaining the facts, that this land over here belongs to an individual or private interests, and this land over here belongs to the public, was it not? Now, if that commission sitting there does not act—suppose it acts without jurisdiction. In other words, it says that it goes in there and says this land belongs to a private individual. Now, if it does, then there was a Mexican grant; but suppose there was no Mexican grant?

The CHAIRMAN. They held that there was.

Mr. SUMMERS. Suppose they did. That does not make it. The finding of the commission, if there was no grant, no committee, no commission, no court can make the grant.

Senator BRATTON. Suppose a suit is filed to quiet title and the court holds that the plaintiff has title and enters a decree quieting his title.

Mr. SUMMERS. Yes.

Senator BRATTON. You come along 20 years afterwards and say that the court went astray, that although the court found there was title, there actually was none.

Mr. SUMMERS All right.

Senator BRATTON. Therefore you undertake to go behind the decree of the court and review the very issue that the court considered and determined. Do you think you would have any standing?

Mr. SUMMERS. I think that the—just suppose——

Senator BRATTON. No. Let us take that hypothetical case.

Mr. SUMMERS. Yes; I would.

Senator BRATTON. Then there is no finality to a decree of any court. Why get a decree quieting title to land unless it constitutes repose of title?

Mr. SUMMERS. That makes me think of an illustration. John Jones is convicted of murder, sentenced to life in the penitentiary, but he is convicted of killing John Brown. Five or ten years afterwards you and I walk down the street here and we meet John Brown, and we say, "John Jones is in the penitentiary for life for killing you." He says, "Well, I have been away for several years, but I am not killed. I am here." Would not you and I agree that it is too bad that John Jones—that the court settled that 5 or 10 years ago, and he has got to stay in the penitentiary all his life?

Senator BRATTON. You overlook a distinction that must occur to your mind. There are no millions of dollars of innocent persons involved there. Here you have millions of dollars invested by innocent parties upon the strength of an adjudication made by a tribunal with vested jurisdiction.

Mr. SUMMERS. But you have not got jurisdiction.

Senator BRATTON. Of course it has jurisdiction.

Mr. SUMMERS. You mean the commission?

Senator BRATTON. Yes. Of course it has jurisdiction. That is what Congress created it for.

Mr. SUMMERS. The Congress created it to settle the question—to pass upon these grants.

Senator BRATTON. And it passed upon the grants.

Mr. SUMMERS. But there was not any grant.

Senator BRATTON. And it found there was a grant. Now you undertake to go behind that finding and say that the commission found something true that did not exist.

Mr. SUMMERS. If it did not exist, then it could not find it is true, could it?

Senator BRATTON. Now, Mr. Summers, you have impressed me all along as being quite an able lawyer, and I am convinced in my own mind that where a court or a committee or a commission with vested jurisdiction finds certain facts to be true, and when there is a decree or a judgment on it, that is a finality, unless you appeal from it within the time specified by law.

Mr. SUMMERS. In other words, if it has jurisdiction; but the commission in the cases that we are talking about did not have jurisdiction. It could not get jurisdiction.

Senator BRATTON. What is your opinion of the jurisdiction of the commission?

Mr. SUMMERS. The commission was charged with passing upon lands that were—that is in finding the difference between lands that belonged to private interests and lands that belonged to the public domain.

Senator BRATTON. The commission was vested with jurisdiction to determine whether or not there was title, and if there was, where, and in these cases the commission, exercising that jurisdiction, found there was title and where, and nobody appealed from that, and the finding became a finality, and upon the strength of that adjudication these titles have been bought and sold, money has been invested by the hundreds of thousands of dollars, perhaps well into the millions, by innocent purchasers, relying upon that adjudication, and in the face of that 800 or 1,000 people attempt to come in and file upon the land and divest those people of their occupancy.

Mr. SUMMERS. Now, let me show you that your statement is erroneous.

The CHAIRMAN. What is it you have there, Mr. Summers, that you are going to show us?

Mr. SUMMERS. I am going to show you this [indicating].

The CHAIRMAN. I wish you would confine yourself to this point that has been up here, what were the powers of this commission?

Mr. SUMMERS. How is that?

The CHAIRMAN. Don't you agree with Senator Bratton relative to the powers of this commission of 1851? Has he not stated the facts with relation to its powers?

Mr. SUMMERS. The answer is this: Take, for instance, the case of San Fernando. The commission, in the first place, sat and assumed to approve 62,000 acres. Now, there is one thing that it could not do. If it had been a valid grant, the commission could approve 11

leagues, but it could not approve 62,000 acres, because of the fact that that is about 20,000 acres more than 11 leagues. That is excess. But suppose that that was true; that it could validate 62,000 acres, now an agent of the Government goes around and runs a line around what—129,619 acres. Is that title valid?

Senator BRATTON. Well, that is not the question that we are discussing.

Mr. SUMMERS. But the answer is—I have just given you the Santa Margarita—and that grows from 17,000 acres to 253,000.

The CHAIRMAN. Has not the same representation been made with relation to cases that have been laid before it—San Fernando, Santiago—was not the representation made there that the lines were stretched, made more than they originally contained?

Mr. SUMMERS. The lines were stretched and the Land Department over here found 29,860 acres excess that had been taken out of the public domain and added to the so-called Lomas de Santiago grant; and be it said that those lands are the ones, in that 29,000 acres, these are the lands that every one of these homesteaders filed upon. Not on the grant.

The CHAIRMAN. Very well, but when the commission made its findings there was there any appeal taken from the findings and the adjudication of the commission?

Mr. SUMMERS. The commission only adjudicated upon the 17,000 acres. This other was all put in under survey. Two hundred and forty thousand of the Santa Margarita was put in. Nearly all of this other I am talking about was put in on survey. I am not talking about these grants so much as I am the fact that they reach out and extend those lines around the lands that were not even considered by the commission.

The CHAIRMAN. I want to get back here to one point. We are a long ways away from what we started in with.

For what services did you pay Wheeler? You said he was not associated with you in any way and yet money was paid to him by you.

Mr. SUMMERS. I did not say that. I said I had given him money in connection with a corporation.

The CHAIRMAN. You had given him money in connection with a corporation?

Mr. SUMMERS. Yes; but I did not say I had paid Wheeler money in connection with these homesteads.

The CHAIRMAN. You have paid the association money, then, with which you have had no contact?

Mr. SUMMERS. I am talking about a corporation that has nothing to do whatever with the homesteaders.

The CHAIRMAN. During the hearing that was held at Los Angeles Wheeler called you up frequently, did he not?

Mr. SUMMERS. No; he did not.

The CHAIRMAN. I recall quite definitely our presence at your home at which you said that Wheeler would take care of things for you.

Mr. SUMMERS. I do not recall very distinctly the conversation there, because of the fact, as I think you recognize, of the serious illness taht I was suffering at that time. I do, however, remember saying to you that Wheeler could give you some information as to the

scope the hearings would take, but it never occurred to me that Mr. Wheeler would be put in charge of any hearings out there. I never dreamed that. In fact Wheeler——

The CHAIRMAN. You had great confidence in Wheeler, did you not?

Mr. SUMMERS. As a lawyer?

The CHAIRMAN. Oh, no. He was not a lawyer.

Mr. SUMMERS. No.

The CHAIRMAN. You had great confidence in Wheeler?

Mr. SUMMERS. Why, in some respects, yes; but I mean in other; no.

The CHAIRMAN. You had enough confidence in him so that in a large sense you were associated upon this one homestead proposition?

Mr. SUMMERS. The only reason in the world that I had anything to do with Wheeler in the homestead proposition at all was this.

(At this point Senator Dale entered the room.)

Mr. SUMMERS (continuing). I specifically said to him and others that I would not carry this burden forward unless the parties whom I was called upon, who wanted me to represent them, would pay a specific sum of money, and that sum of money was larger than what they had been paying, because I said that would have to meet these expenses, and that these contracts that were taken would have to be set apart so that ultimately, as I said then and repeat now, if the homesteader did not win, then the contracts were worth nothing, and if the homesteader did win, that I wanted to be in a position where I could say to the Senate or to Congress or to whatever agency of the Government handled the situation, that the contracts were at their disposal to compensate those people who had made investments there under misapprehension or had been misled to make the investment.

The CHAIRMAN. You say Wheeler was in no sense a trustee of yours?

Mr. SUMMERS. You mean in the sense of there being a trust agreement?

The CHAIRMAN. Did he act as trustee for you in any case?

Mr. SUMMERS. To the extent, that is, in the sense of people paying him certain sums of money and handing that money to me, if you call that trustee; yes.

The CHAIRMAN. Wheeler represented himself as being trustee for the homesteader and for yourself?

Mr. SUMMERS. I think he did, as far as they were concerned, but he did not do it with my knowledge or consent.

The CHAIRMAN. Is he still associated in the same work with you out there?

Mr. SUMMERS. No.

The CHAIRMAN. He no longer has offices with you?

Mr. SUMMERS. He goes in and out there once in awhile, but he is not——

The CHAIRMAN. Just as he has always done?

Mr. SUMMERS. No; I don't think so. I don't know of any work that he has done for several months.

The CHAIRMAN. Is he still trustee for these homesteaders?

Mr. SUMMERS. I don't think he was ever trustee for them. I think he just simply came up and they talked to him and gave him to

understand that they wanted him to make an application for a homestead, to get into this thing.

The CHAIRMAN. Then he would bring them to you, would he?

Mr. SUMMERS. No; he never did. He never did. They signed this paper. As I say, they paid this money to him and he brought the contract and the money to me.

The CHAIRMAN. And then you paid Wheeler?

Mr. SUMMERS. No; I didn't.

The CHAIRMAN. You never paid Wheeler any——

Mr. SUMMERS. No, sir. Whatever money he got he kept as his own money.

The CHAIRMAN. He testified before the committee that you paid him.

Mr. SUMMERS. Well, that may be his way of looking at it; but then I think he is in error.

The CHAIRMAN. Senator Bratton, I do not think at any time the law authorizing the commission of 1851 has been incorporated in the record, has it?

Mr. SUMMERS. It is in the hearing on Senate Resolution 333.

Senator BRATTON. I have it here, Mr. Chairman.

The CHAIRMAN. It will be ordered incorporated in the record.

The CLERK (Ingham G. Mack). I desire to call attention to the fact that there are additional acts amending and supplementing this act.

The CHAIRMAN. Several amendments to that act?

The CLERK. Additional acts amending and supplementing this act.

The CHAIRMAN. Let them all be incorporated, then, as a part of the record at the conclusion of to-day's proceedings. (See p. 493.)

The CHAIRMAN. Mr. Summers, who was the head of this homesteaders' association?

Mr. SUMMERS. I don't know, sir.

The CHAIRMAN. Did they have a head?

Mr. SUMMERS. I don't know, sir. I was not there.

The CHAIRMAN. In your contact with it whom did you find seemed to be the biggest force?

Mr. SUMMERS. I did not have any contact. I did not have any contact. It seems that it was organized—it seems they got together—I was going to say that as far as I know, they got together after I was—I don't know whether they got together before I was attorney or afterwards; but I know this much, that the only time I ever heard of it was when I insisted that the name be taken off the door.

Senator BRATTON. What name was that?

Mr. SUMMERS. I don't remember the exact wording now, but it was something about a homesteaders' association. I think it said, "Headquarters, homesteaders' association," or something like that.

Senator BRATTON. What sign is on your door now?

Mr. SUMMERS. Now?

Senator BRATTON. Yes.

Mr. SUMMERS. Just my name and the Construction Products (Inc.), with H. N. Wheeler, resident agent.

Senator BRATTON. What other signs have you had on your door at any time in the past?

Mr. SUMMERS. I never had any other name on the door, except, I think, Mr. Johnson's name was on the door.

Senator BRATTON. Has Wheeler's name ever appeared on any of the doors to the suite?

Mr. SUMMERS. No.

Senator BRATTON. It has not?

Mr. SUMMERS. It has not, except as resident agent for that corporation.

Senator BRATTON. What is Wheeler doing now?

Mr. SUMMERS. I think he is—I think there is a gentleman in Los Angeles who has something to do with the building of the bridge over the bay at San Francisco, and I am told Wheeler has some connection with the contract, as sales agent, or something.

Senator BRATTON. Does he still come to your office in your suite occasionally?

Mr. SUMMERS. Yes.

Senator BRATTON. About how often?

Mr. SUMMERS. Sometimes he is there every day and sometimes he would not be there for a week.

Senator BRATTON. Does anybody else occupy that room?

Mr. SUMMERS. No, sir.

Senator BRATTON. Is it available for his use just as it has been in the past?

Mr. SUMMERS. Yes. He uses it when he is there.

Senator BRATTON. Does he carry a key to the suite?

Mr. SUMMERS. No; not—what do you mean? The suite?

Senator BRATTON. Yes.

Mr. SUMMERS. Yes, sir.

Senator BRATTON. Is he still connected with these homestead matters?

Mr. SUMMERS. He is not.

Senator BRATTON. In any capacity?

Mr. SUMMERS. He could not be in any capacity unless it would be in the manner that he sustained heretofore.

Senator BRATTON. Is he still filing applications for homestead entries?

Mr. SUMMERS. I don't think so. I have not heard it.

Senator BRATTON. How recently have you been employed by any homesteaders?

Mr. SUMMERS. Two or three months ago.

Senator BRATTON. About how many applicants have employed you since the committee conducted this hearing in December?

Mr. SUMMERS. I could not say.

Senator BRATTON. Approximately.

Mr. SUMMERS. Oh, I think it would be limited, perhaps, to three or four, and they were on lands that had been originally—I don't think there is any that have filed on any land that was not covered by a prior filing.

The CHAIRMAN. Senator Dale, do you have any questions? If not, then, the hearing will be closed, and I hope that one afternoon this week we can find time to get together in executive session for action upon the resolution that we have been operating under.

(The following two affidavits of Mr. Summers, and laws relating to the Mexican land grants, ordered made a part of the record, are as follows:)

WASHINGTON, D. C., *January 28, 1930.*

HON. GERALD P. NYE,
Chairman, Senate Committee on Public Lands and Surveys,
Washington, D. C.

MY DEAR SENATOR: I hand you herewith a sworn statement covering the material facts connected with my introduction into the homestead cases in California.

From this statement you will see I had several conferences with Mr. Burke, the United States attorney for the Southern District of California; a conference with Mr. Spry, Commissioner of the General Land Office; a conference with Mr. Wickham, the Assistant Commissioner of the General Land Office; with Mr. Ward, who was connected with the law branch of the Interior Department; Mr. Hamel, who was then in the office of the Solicitor of Internal Revenue and was thereafter the chief of the Board of Tax Appeals, and is now in the general practice of the law in this city. You will also see that I conferred with Mr. Work, the Secretary of the Interior, and with Mr. Finney, the First Assistant Secretary.

These conferences were all for the specific purpose of ascertaining what facts I could establish, for the reason I had been put to the necessity of signing the docket as the attorney for McLendon and the other defendants and was notified the case would go to trial and no quarters would be asked or given.

The statement will disclose that I had known McLendon and the other parties only a very short time. It was my desire and my duty, both on account of my clients and myself, to establish beyond question every material point in McLendon's statement to me.

I have in my possession a showing as to the meeting before McLendon went to Washington, what he did while in Washington, and some of the activities of the agents of the Government prior to and after the indictments. They are at your disposal at any time.

I will file with you to-morrow the points covering my second trip to Washington in connection with these cases.

Respectfully,

WILLIAM S. SUMMERS.

CITY OF WASHINGTON,
District of Columbia, ss:

I, Williamson S. Summers, being first duly sworn according to law, do say that, on or about September 1, 1923, I met for the first time Ben McLendon, Clinton Johnson, and Rufus D. Morris at room 319, on the third floor of the I. W. Hellman Building, No. 124 West Fourth Street, Los Angeles, Calif.; that after the usual remarks generally following an introduction, we discussed at some length the late President McKinley and his administration, Senator Hanna of Ohio, and Senator Knox of Pennsylvania. This in connection with the personal friendship between them and members of the McLendon family in Georgia, of which family Ben McLendon was a member. This it was made to appear was brought out in order to identify me as the party who was named quite some time prior thereto by Senator P. C. Knox in a conversation with S. G. McLendon and Ben McLendon. My acquaintance with Senator Knox dated back to the time when I reported to him while he was Attorney General.

Thereafter, in the same meeting, I was informed that McLendon and others had made applications to homestead certain lands in Orange County, Calif. The lands to which reference was made were well within what was generally known as the Irvine Ranch; that the applications had been rejected by the local land office and the applicants had thereupon taken an appeal to the General Land Office. The local office being in Los Angeles, the general office being in Washington, D. C., the appeals were transmitted through the United States mails. The question put to me was as to whether or not section 215 or section 37 of the Federal Penal Code was violated by the use of the mails, on the part of the officers of the local office, to carry the appeals to the general office. Upon inquiry, I was informed that one A. A. Wilhelm, representing himself as acting under the direction of the Interior Department, had hunted up and sought out every applicant to homestead and urged and demanded of every one of them that they make a statement to him that would involve McLendon and others in violation of the laws; that he carried his demands to the point of threatening them if they did not do so; that he charged McLendon and others of being in bad faith, with being crooks, with getting their money under false pretenses; that he offered to reward them if they

would sign a statement that would involve McLendon and others and would execute and deliver to him a relinquishment of their applications to homestead the lands; that out of all the applicants he found one, Edith Campbell by name, a young woman who was at that time in very poor health. He was able to intimidate her and representing that he was entrusted with money from Washington to pay her, prevailed upon her for a consideration to sign an affidavit; that using this affidavit to shield himself he did on the 15th day of August, 1923, sign a complaint before United States Commissioner Long, in Los Angeles, caused the arrest of Ben McLendon and W. R. Price and insisted upon their each being put under a $10,000 bond and held for hearing; that the offense charged was, the local land office by reason of the applications to homestead being rejected and appeals being filed, had been caused to mail the appeals from the rejection of applications to the General Land Office in Washington, D. C. The complaint was as follows:

AFFIDAVIT OF COMPLAINT

UNITED STATES OF AMERICA,
Southern District of California, ss:

Be it remembered that on this 15th day of August, 1923, before me, Stephen G. Long, United States commissioner, duly appointed by the District Court of the United States of America for the Southern District of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, etc., pursuant to the acts of Congress in that behalf, personally appeared A. A. Wilhelm, who, being duly sworn according to law, deposes and says that W. R. Price and Ben L. McLendon heretofore, to wit, on or about the 12th day of December, 1922, and within the jurisdiction of the United States aforesaid and of this honorable court, did devise and intend to devise a scheme to defraud Edith Campbell and upward of 50 other persons, and for obtaining money and property by means of false and fraudulent pretenses and promises, and in furtherance of said scheme did knowingly, wilfully, unlawfully, and feloniously place and cause to be placed in the United States post office at Los Angeles, Calif., to be transmitted through the United States mails, a certain letter or package containing a paper more particularly described as an appeal in homestead entry No. 035417, Los Angeles land office series, said homestead entry being that made by Miss Edith Campbell, of Los Angeles, Calif.; in violation of section 215 of the Federal Penal Code.

Second count: Affiant further states that on or about the 1st day of May, 1922, the said W. R. Price and Ben McLendon did knowingly, wilfully, unlawfully, feloniously, and corruptly conspire, combine, confederate, and agree together and with other persons not named herein to commit an offense against the United States, to wit, the offense of devising and intending to devise a scheme to defraud and for obtaining money and property by means of false and fraudulent pretenses and promises, and in furtherance of said conspiracy to defraud did knowingly and unlawfully mail an appeal in homestead entry No. 035417, Los Angeles land office series, in the United States mails.

Affiant further states that in furtherance of said conspiracy and to effect the object thereof, and on or about the 12th day of December, 1922, the said defendants, W. R. Price and Ben McLendon, mailed and caused to be mailed a certain letter or package containing a paper more particularly described as an appeal in homestead entry No. 035417, Los Angeles land office series, said homestead entry being that made by Miss Edith Campbell, of Los Angeles, Calif., said letter or package being mailed at Los Angeles, Calif.; in violation of section 37, Federal Penal Code, contrary to the form of the Statutes of the United States in such case made and provided, and against the peace and dignity of the said United States.

A. A. WILHELM.

Subscribed and sworn to before me this 15th day of August, 1923.

STEPHEN G. LONG,
United States Commissioner.

That I asked why, if the mail had been used for improper purposes, the complaint had not been made by the post-office inspectors under the direction of the Post-Office Department; that I was informed the post-office inspectors had respectfully declined to have anything to do with the case on the ground no

offense had been committed; that I agreed to and did see the commissioner and was informed there did not seem to be any disposition on the part of the Government to have a hearing, and the indications were it would not amount to much; that I reported to McLendon the complaint had evidently been made as evidence of industry by some incompetent person who either did not know or did not care anything about a man's reputation, and while it was a nasty thing to have on the records it would no doubt soon be dismissed.

That at or about this time I went over in detail with McLendon all the facts relative to the applications to homestead that were made; this to ascertain if the parties making the applications were in good faith; that I was informed by him at a meeting held during the latter part of July or the early part of August, 1922, in the city of Los Angeles, attended by several citizens of the city and county, the subject of public lands and the titles to certain lands in California was brought up incidentally, the meeting being, as a matter of fact, for some other purpose; that the meeting was attended by A. C. Routhe, Clinton Johnson, Rufus D. Morris, Ben McLendon, and others; that one remark led to another about the lands until it grew into a general discussion; that from what was said it was plain to be seen that most of the people there believed parts of what was known as the Irvine ranch were public lands; that as a result of the discussion some of the men who were present proposed to file applications to homestead the lands; that it was made to appear the proposition was put up in earnest by men who believed that Irvine's possession of the lands was the result of a deliberate plan made and executed to defraud the Government; that McLendon listened to all that was said and then took a decided stand to the effect that no one should make or file an application to homestead an acre of the land, in his opinion, unless the approval of the Commissioner of the General Land Office at Washington could first be had. He was unequivocal in his statement that unless the officials in charge of the Land Department were fully advised and were friendly he would not file nor would he advise or aid anyone else. His contention was those who proposed to apply must first find out if the Commissioner of the General Land Office looked upon the lands as public lands and as such open to entry, and would he frown upon or favor the applications if and when made. As a direct result of McLendon's position, it was agreed by all present that no action would be taken, no applications would be prepared or filed unless someone authorized to represent the others would go to Washington and see the Commissioner of the General Land Office and ascertain all facts relative to the lands being public land and as well the attitude of the commissioner, that is, whether or not he would favor or oppose qualified applicants to homestead should applications be made. The parties acquiesced in McLendon's views upon the condition, however, that they would put up the expenses and McLendon must go to Washington, examine the records, get the facts, confer with the Commissioner of the General Land Office and find out his views and the attitude he would take, and then come back and report to them. This McLendon agreed to do. He was delegated and authorized to go to Washington and to the Land Department and there investigate the status of the lands, then interview the officers of the department and ascertain what advice they would offer and what assistance, if any, they would give or resistance, if any, they would lodge against qualified citizens to have homestead applications for parts of these lands allowed. This upon the condition that McLendon and the officials agreed the lands were part of the public domain of the United States and open to homestead entry. Thereafter, McLendon went to Washington and to the Land Department. He there inspected records, maps, and documents, and had several conferences with the Commissioner of the General Land Office. In these conferences he discussed fully the nature of the work in which he was engaged and the purpose he and his associates had in view. The commissioner said he was familiar with all the facts that pertained to the survey of the Irvine ranch and knew many thousands of acres within the survey was public land and was open to homestead and pledged himself and his office to aid in every way possible all qualified citizens who would file applications to homestead within the survey.

The assistant commissioner was called in to confer with McLendon and the commissioner, and by the commissioner the purpose of McLendon was made known to the assistant, and the commissioner then directed his assistant to aid McLendon in every way possible, and under his direction the assistant commissioner worked with McLendon and secured for him books, certified copies of maps, records, and other data and information showing the Irvine

Ranch included many thousands of acres of land that belonged to the public domain of the United States. As well, the assistant commissioner agreed to furnish and did furnish a few days later a list of the lands by sections, quarter sections, 80 and 40 acre tracts within the survey, knowing that applications to homestead them would at once be made; that a very few days before McLendon left Washington for his home in Los Angeles, Wickham, the assistant commissioner, made arrangements to have George A. Ward, vice president of the Federal Bar Association in Washington, D. C., and one of the attorneys in the Interior Department, and Charles D. Hamel, an attorney in the office of the Solicitor of Internal Revenue, both well known to Wickham and McLendon, join him and McLendon at lunch in the old Ebbitt Hotel; that this engagement was made by Wickham expressly for the purpose of telling Ward and Hamel of the work he had been doing with McLendon; of the conclusions they had reached relative to the lands in question being public lands and open to homestead entry; of the fact that McLendon and his associates were going to file applications to homestead the lands; of the value of the lands to be homesteaded, and of the further fact that there was no question but what the homesteads would be allowed; to give them an opportunity to take advantage of the situation and to file or have some members of their families file on parts of the land if they so desired. The statement with respect to this meeting, as made by Mr. Charles D. Hamel, is as follows:

CITY OF WASHINGTON,
District of Columbia, ss:

I, Charles D. Hamel, being first duly sworn according to law, say upon oath that I am a member of the law firm of Hamel & Doyle, with offices in the Southern Building at Fifteenth and H Streets NW., in the city of Washington; that for several years last past I have resided and at the present time reside in the city of Washington, District of Columbia; that in September, 1922, I was employed as an attorney in the offices of the Solicitor of Internal Revenue; that I was acquainted with George A. Ward, who for several years prior to his death, resided in Washington, D. C.; that I was acquainted with Ben McLendon, who for several years prior to his death lived at Alhambra, near the city of Los Angeles, Calif.; that I am acquainted with George R. Wickham, who lives at or near Los Angeles, Calif.; that the said George R. Wickham was the Assistant Commissioner of the General Land Office in 1922, and by reason of his office was then residing in Washington, D. C.; that some time during the month of August, 1922, I was invited to and did join the said George R. Wickham, George A. Ward, and Ben McLendon at a noonday lunch in the Old Ebbitt House at Fourteenth and F Streets NW., Washington, D. C.; that said Wickham on that occasion stated to Ward and myself that McLendon was here to get all the information he could about some lands in Orange County, Calif., claimed by a man by the name of Irvine as a part of what was known as the Irvine Ranch; that the matter had been turned over to him by the commissioner with directions to help McLendon in every way possible; that Wickham said he had been helping McLendon; that they had gone over the records and were then familiar with all the facts and that there was no question in their minds, and in the mind of the commissioner, but what the lands were a part of the public domain, and as such were open to homestead entry; that McLendon was going back in a few days, and he and his associates were going to make applications to homestead parts of these lands and that the homesteads would be allowed; that Wickham said he had a notion to resign and go and file on 160 acres himself; that he had invited Ward and myself to the lunch to tell us about the opportunity and give us a chance to file if we could; that if we could not file we could arrange for some member of our families to file; that Ward said he had a brother living in Los Angeles and he would send word to him at once; that Wickham asked me about having my father file. I told him my father was in poor health; that he would have to go on the land in person before he could file and the distance was so great I was afraid to have him undertake it.

CHARLES D. HAMEL.

Subscribed and sworn to before me this 24th day of January, 1930.

CAROLYN G. GROFF, *Notary Public.*

Herein a letter of date September 6, 1922, to McLendon from George A. Ward relative to his brother's address; a letter of September 16, 1922, from George A. Ward to his brother, Dr. J. O. Ward, of Los Angeles, introducing his

brother to McLendon; a letter of the same date, September 16, 1922, to Dr. J. O. Ward from George A. Ward relative to the application to homestead; an affidavit made by Mrs. Grace L. Ward, the widow of the late Dr. Joseph O. Ward, made January 15, 1930:

WASHINGTON, D. C., *September 6, 1922.*

Mr. BEN MCCLENDON,
Los Angeles, Calif.

DEAR MCC: Have not received Joe's address. Wrote for it again to-day. Will send it soon as I get it.

Don't forget to send me brief and a copy of your speech on international law. I also wish you would send me a copy of that document.

How do you expect to get away from the inclosed decision?

Yours truly,

GEO. A. WARD,
1521 Monroe NW.

WASHINGTON, D. C., *September 16, 1922.*

DEAR JOE: Ben McClendon of 1121 Orme Avenue, Los Angeles, will call on you with letter of introduction.

He has a scheme to homestead certain lands in Orange County, which are very valuable, and are in the possession of James Irvine. What he will tell you about the Mexican grant is absolutely true, but whether the lands can be recovered at this late date, is not free from doubt. At any rate the cost will only be about $16 and then one has six months to get on the land, but he will not get onto it unless case is decided in his favor, as Irvine will not let him. There are about 17,000 acres involved, and I understand from McClendon, it is all to be filed on. There are about 30,000 acres in excess of the grant, but only about 17,000 acres are good. I am to have a one-half interest in what we win and I want an under-

Your brother,

GEO. A. WARD.

You should write Cathie how to proceed, as above. Merry Christmas and Happy New Year.

THE FEDERAL BAR ASSOCIATION,
Washington, D. C., September 16, 1922.

Dr. J. O. WARD,
Los Angeles, Calif.

DEAR JOE: This will introduce to you Mr. Ben McClendon, of whom I wrote you. Mr. McClendon is reliable and you may put implicit confidence in him and anything he tells you. I have known him 10 years.

Yours truly,

GEO. A. WARD,
1521 Monroe NW.

AFFIDAVIT

STATE OF CALIFORNIA,
County of Los Angeles, ss:

I, Grace L. Ward, being first duly sworn according to law, do say upon oath, that I am the widow of the late Dr. Joseph O. Ward, who in September, 1922, lived at 925 South Alvarado Street, Los Angeles, Calif.; that on or about September 20, 1922, my late husband, Doctor Ward, received from his brother, Mr. George A. Ward, then of Washington, D. C., a letter relating to certain lands within what is known as the Irvine Ranch, in Orange County, Calif.; that said letter was to the effect that the said lands were public lands of the United States and open to homestead; that this affidavit is attached to a portion of said letter; that I have diligently searched for the remainder of the said letter at the place where I found the portion here submitted, and have searched all other places where I had any idea it could be found, but to no avail; that I well remember the contents of said letter and the circumstances connected with it for the reason my late husband discussed with me the advisability of acting on the advice and at the suggestion of his brother, George A. Ward, and making an application to homestead 160 acres of the land to which he referred; that a short time thereafter my husband and my daughter, Marjorie B. Ward, conferred with Mr. Ben McClendon and Mr. Clinton Johnson, and

after the conference, acting on the advice of Mr. George A. Ward, my husband made application to homestead the northwest quarter of section 13, township 5 south, range 9 west, and my daughter made application to homestead the southwest quarter of section 13, township 5 south, range 9 west; that I am acquainted with the handwriting and the signature of George A. Ward; that the portion of said letter to which this affidavit is attached is in his handwriting and the signature attached thereto was taken from another letter and is his signature.

GRACE WARD, *Affiant.*

Subscribed and sworn to before me this 15th day of January, 1930.

[SEAL.] HELEN MITCHELL, *Notary Public.*

My commission expires July 29, 1931.

A day or two after the meeting at the Ebbitt House, McLendon returned to California and reported to those in whose interest he went to Washington. He submitted evidence that the lands were public lands; he repeated the assurances given him by the commissioner and the assistant commissioner; he let it be known that these officers had assured him the applications to homesteads when filed would be allowed; as well, in this report he set forth that the applications when made would be rejected by the local land office as had been suggested to him by the commissioner, and, therefore, it would be necessary for the applicants to appeal to the General Land Office; that the commissioner and the assistant commissioner had both emphatically assured him that in the General Land Office the rejections of the local land office would be set aside and that the homesteads would be allowed. He reported that the assistant commissioner had agreed to send him the description of the lands on which to file and that all that it was necessary to do was to wait until he received this information from the assistant commissioner; that in due time under date of September 7, 1922, a communication was received from the assistant commissioner as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, September 7, 1922.

Mr. BEN MCLENDON,
Los Angeles, Calif.

MY DEAR MR. MCLENDON: Referring to your personal call of August 29, requesting the names of certain homesteaders who in 1906 filed upon certain lands within the Lomas de Santiago and San Joaquin Ranchos in Orange County, Calif., together with the descriptions of the lands filed on by said homesteaders, I have the honor to submit herewith such information as you have requested. The dates at the head of the list of names refer to the day on which the applications were filed in the Los Angeles land office. (Herein description of the land.)

Trusting that this information will answer your purposes, I remain,

Very respectfully,

GEO. R. WICKHAM, *Assistant Commissioner.*

"Trusting this information will answer your purposes." This is the closing sentence in the assistant commissioner's letter. The assistant commissioner well knew the "purposes" of McLendon. Well did he know what information the expression "this information will answer your purposes" carried to McLendon. And be it said McLendon relied on the "information" for he claimed to his knowledge no application was filed by any applicant for land not within the lands included in the "information" given him by the assistant commissioner.

Without any more delay the necessary papers were prepared. The applications to homestead were filed. As was expected from what the Commissioner of the General Land Office had said to McLendon, the applications were all rejected by the local land office and appeals were promptly taken to the General Land Office with no apprehension whatever that they would not be allowed.

The commissioner in the presence of McLendon put the cases in the hands of the assistant commissioner. He stated the assistant commissioner would handle the cases and would allow the homesteads. McLendon knew or thought he knew the cases were all in the hands of the assistant commissioner. McLendon was in Washington on or about the 19th day of October, 1922, and to know how the cases were progressing, he did the most natural thing. He

wrote a short letter of inquiry to the assistant commissioner. On the same day he received a reply which was as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, December 19, 1922.

Mr. BEN MCLENDON,
New Ebbitt Hotel, Washington, D. C.

In re homestead application 035363.

MY DEAR SIR: This office acknowledges receipt of your letter dated December 19, 1922, relative to homestead application, Los Angeles 035363, filed October 23, 1922.

In reply you are advised that no action has been taken in this case, but the same is now before the division having charge of the adjudication of such cases and a decision will be made in conformity with the facts in the case in the very near future.

Very respectfully,

GEO. R. WICKHAM, *Assistant Commissioner.*

NOTE.—Wickham as assistant commissioner says "no action has been taken," then adds "a decision will be made in conformity with the facts, in the very near future."

But only a few weeks before Wickham wrote that letter, he and McLendon had agreed upon the facts. Wickham told Hamel and Ward at the lunch table a short while before what the facts were. The facts were, it was public land. It was open to entry—Wickham had been directed to allow the homestead. "A decision will be made in conformity with the facts" was good news to McLendon. It was what he expected. The fact was the cases had been considered and a decision had been handed down some two weeks before that date, and had it not been that McLendon accidentally learned the rejections by the local land office had been affirmed by the General Land Office, the time for him and all the others to appeal would have expired without him or them knowing it.

The appeal by the homesteaders to the Secretary of the Interior from the rejection of their application by the Commissioner of the General Land Office was argued and submitted. In time the action of the commissioner was affirmed. Meanwhile the homsteaders who had acted in good faith, had sought and received the advice of the commissioner and the assistant commissioner and acted as advised, were humiliated and maligned. They were widely and notoriously advertised as frauds, crooks, conspirators, and generally people who had no respect for right and no regard for law.

That I said to McLendon, "admit all you say to be true, and it doubtless is true, are you sure you are through?" And in answer to his inquiry I told him I had known of cases where dependents had been held under heavy bonds on complaints before commissioners while an investigation was being made before the grand jury. Having done what you say they have done they may get an indictment against you. This he thought was not possible because he and others had gone to the United States attorney and assured him there was nothing to conceal or to hold back, that he would be glad to go before the grand jury and give all the facts in detail, that he had offered to submit to the United States attorney and the grand jurors a statement of everything that was done both before and after the applications to homestead were filed. He had no fear of being indicted when the grand jury knew he had acted with the full knowledge and approval of the commissioner of the General Land Office.

On September 7, 1923, Ben McLendon was, together with several others, indicted by the grand jury. They were charged with violating the provisions of sections 87 and 215 of the Penal Code. They were charged with the fraudulent use of the United States mail. The indictment is a voluminous document and bears Docket No. 5885–J. The title of the case is the United States *v.* Ben McLendon, et al. All the parties defendant were arrested and all gave bonds each in the sum of $10,000.

Very shortly after the bonds were signed and approved I asked for and in time was granted an interview with the United States attorney, Mr. Joseph Burke, then representing the southern district of California.

I frankly stated to Mr. Burke that I was not engaged in the practice of law in California; that I had no desire to do so; that, however, it was my wish to talk with him about the cases against McLendon and those growing out of the applications to homestead certain lands that were alleged to be a part of the

Irvine Ranch in Orange County, Calif. I stated further, that I did not want to get into the cases, but that there were relations between McLendon and some of his friends to whom I was under lasting obligations and on account of those relations I had been urged and had consented to confer with him; that I hoped we could agree upon some facts of benefit to both the Government and the defendants. I tried to show Mr. Burke, as United States attorney, it was as much his duty to protect good citizens as it was to prosecute bad ones, and I wanted to confer with him with the view of developing the fact that there was no intent on the part of the defendants to violate the law. My recollection is we agreed the cases would be passed to October 1, 1923. In the meanwhile I offered to present the defendants cases to Mr. Burke in full and asked him if he would tell me the Government's contention. To this he would not agree. I then wanted him to name some parties acquainted with the land laws and open-minded and we would agree to meet them. I would have McLendon present and assured him all questions asked would be fully answered. This was not satisfactory. I gave Mr. Burke to understand that for me to go on the docket and prepare and try these cases would change my plan very materially, and I much hoped he would not make it necessary. I admitted to him that I was persistent in bothering him because I did not see how I could refuse to represent McLendon, if he insisted upon my doing so. These conferences extended over quite a period. The cases were continued from time to time for several months. At no time during these months did I become the attorney of record. At almost all of the conferences had with Mr. Burke, in some manner he would suggest if I wanted the cases dismissed I had better get the applicants to homestead to relinquish their applications. At last he bluntly stated it as a condition. To this proposition I could only say I did not represent the homesteaders; did not know them; never saw them; could not speak for them; that the condition he imposed I could not meet. Still hoping for an opportunity to present the facts to some fair-minded person with the idea of disposing of the element of intent to do wrong on the part of the parties accused, I agreed to have McLendon with me and meet a man said to be well posted on the land laws and to be without prejudice. When all the delays, which were many, were finally overcome, it was made to appear the moving spirit of the conference was to be a man of the name Wilhelm. When this man put in an appearance I asked if he was the Wilhelm who had put in several months interviewing and attempting to intimidate the homesteaders. To this no definite answer was made. I then asked if he was the man who had secured the affidavit from Edith Campbell and used it to protect himself in making the complaint before the United States commissioner. Being informed that Wilhelm was the man who made the complaint, I plainly stated that I would not confer with him and I would ask no gentleman to meet him. Thereafter, and in the next talk I had with Mr. Burke he said the cases would be tried; that he was going to send McLendon and his crowd to the penitentiary; that the punishment he would give them would be enough to end the homestead business for all time.

The next time I saw Mr. Burke was in the court room. Having agreed to represent McLendon and others in court, I met and agreed to represent the interests of the homesteaders. The necessity for this needs no explanation. Without further delay I prepared and filed a motion to quash the indictment and prepared and filed a brief in support of the motion. Mr. Burke wanted time to answer the brief, and I readily consented to any reasonable time he might desire. At once I had McLendon restate to me the facts relative to the meeting before he left for Washington; what he did when he was in Washington; his report to those he represented on his return; the preparation of the applications to homestead after receiving the description of the lands from the assistant commissioner, and shortly thereafter I prepared to go and went to Washington. This for the specific purpose of ascertaining if McLendon's story as to the commissioner, the assistant commissioner, Ward, Hamel, and others, would stand up. In other words, I was preparing to try a lawsuit.

When I arrived in Washington I made inquiry and was informed that Horace F. Clark, of the law firm of Clark & Clark, in the Bond Building, Washington, D. C., was a very close friend of the Commissioner of the General Land Office. I proceeded to his office; made myself acquainted with him; stated my case generally; retained him, and then gave him the facts in detail. I gave him to understand I wanted an appointment at the convenience of the Commissioner of the General Land Office, and I wanted him to go with

me and introduce me to the commissioner. In due time the appointment was made, and in company with Mr. Clark I met the commissioner. After talking generally about Utah and Salt Lake City, California, and Los Angeles, in substance, this is what followed: Mr. Clark said to the commissioner, "Summers wants to talk to you about Ben McLendon." The commissioner said, "Are you the man who wants to take Irvine's range off of him," and I said, "No; I am the man who wants to find out how Irvine got the ranch." The commissioner said, "Well, he probably does not want to tell you." After several remarks of this nature I asked the commissioner about the conferences he had with McLendon and if he gave McLendon to understand some 30,000 acres of land that Irvine claimed as a part of his ranch belonged to the public domain and that it ought to be homesteaded. The commissioner said that he told McLendon all the land that was in the survey of what was known as the Lomas de Santiago in excess of 4 leagues was stolen from the public domain, and that he thought there were 29,000 or 30,000 acres of it, and that it was the best part of the ranch; that he told McLendon, Irvine got it by fake survey and he ought not to be allowed to keep it. I said to the commissioner, "McLendon says you told him if qualified citizens would make applications to homestead these lands that you would allow the homesteads," and the commissioner said that was true. I stated to the commissioner, "McLendon says you called the assistant commissioner into a conference; told him what McLendon was going to do in Washington, and directed the assistant commissioner to aid McLendon in every way possible to get all the facts, and said that McLendon and some of his friends are going to make application to homestead some of these lands and we are going to allow the homesteads." The commissioner answered and said, in substance, "That is true." I then said, "Do you care, Mr. Commissioner, to tell me, and will you tell me, why the applications to homestead were afterwards rejected by you?" His answer was, "We can not always do what we would like to do. It would have been no benefit to the homesteaders for me to allow their homesteads down here and then be reversed upstairs." He said he was in no position to get into a row over the cases, so he decided the best thing for him to do was to affirm the local land office and let McLendon and his crowd fight it out on appeal from him. The commissioner then said, "There is a new man upstairs now. It may be you can get along with him without any trouble. Anyway, the cases are no longer here. They are out of my hands; you will have to fight it out with the Secretary." Unconditionally, the commissioner said he had conferred with Ben McLendon and had told him the lands included in the survey in excess of 4 leagues of the so-called Lomas de Santiago grant were public lands of the United States and were open to homestead entry.

From the commissioner's office Mr. Clark and I went to the office of the assistant commissioner. I had with me the evidence of the work McLendon and the assistant commissioner had done together and the aid McLendon had received from the assistant commissioner, including the letter giving the descriptions of the lands. Mr. Clark introduced me to the assistant commissioner, and this, in substance, is what the assistant commissioner said: That he knew McLendon's purpose when he sent the letter of date September 7, 1922, describing the lands; that the letter was sent to aid him in his purpose; that the purpose was to prepare and file applications to homestead lands that were described in the letter. He was asked why, if he knew, the homesteads were not allowed, and he said at first the whole matter was turned over to him with instructions to aid McLendon in every way possible, and he had done so; that he was given to understand the homesteads would be allowed without question; that later the whole matter was taken away from him without any explanations; that all he was told was that he was to have nothing more to do with it. He was asked if he did not know when the cases were taken away from him that they were all to be rejected, and he said he had an idea that was what would happen.

From the assistant commissioner Mr. Clark and I went to the office of George A. Ward. Mr. Ward told us about the lunch at the Ebbitt House and stated that he, McLendon, Hamel, and the assistant commissioner were there; that the assistant commissioner stated why McLendon was in Washington; that he and McLendon had made an investigation and had found there were several thousand acres of land that a man by the name of Irvine claimed as part of his ranch in California that was part of the public domain; that McLendon and some of his friends were going to apply to homestead them; that the

matter had been turned over to him and that there was no question but what the homesteads would be allowed; that this had been agreed to in the office; that they called him over to this lunch to tell him about it and give him an opportunity to file, if he could; and if not, to have some member of his family file, and that the information given to him by the assistant commissioner of that date was the reason he wrote to his brother, Dr. Joseph O. Ward, of Los Angeles, and advised him to file.

From Mr. Ward's office Mr. Clark and I went to the office of Mr. Charles D. Hamel. Mr. Hamel gave us a statement about the lunch. He told us he, McLendon, Ward, and the assistant commissioner were at this lunch together; that the assistant commissioner told him and Ward that there was a large body of land in what was known as the Irvine Ranch in California that was in fact public land; that it was wrongfully included in a so-called survey of an old Mexican grant; that he and McLendon had secured all the facts and that McLendon was going back to California and get ready to homestead parts of the land; that it had been agreed upon in his office the homesteads would be allowed; that the matter had been turned over to him; that the assistant commissioner assured him the homesteads would be allowed in short order, and told him it was a great opportunity and advised him to have some member of his family take advantage of it.

Thereafter, as soon as an appointment could be made, Mr. Clark went with me to the office of the Secretary of the Interior. I met the Secretary, talked with him for a short while on the difference between the duties connected with the Post Office Department and the duties in the Interior Department. I then referred to the McLendon cases and the fact that the applications to homestead the lands had been rejected in the General Land Office, and that appeals to the Secretary of the Interior had been perfected. The Secretary stated it was doubtless true, but that he knew nothing about it; that all such matters were handled by the First Assistant Secretary, Mr. Finney. Shortly thereafter, Mr. Clark and I went from the Secretary's office to the office of the First Assistant Secretary and there met Judge Finney. After a general conversation, in substance, I stated to Judge Finney if a man has made plans to do certain things and before doing them he goes to the Department of Justice and gives the Attorney General all of the facts and asks him if he can legally do what he desires to do, and with all of the facts in his possession the Attorney General advises him to go ahead, that he is within the law, and it should subsequently turn out that the Attorney General was in error, could the man be successfully prosecuted for violating the law? In answer Judge Finney said he ought not to be prosecuted and that, in his opinion, he could not be successfully prosecuted. I then told him that in the matter of the homesteads that were filed on the Irvine Ranch in California that McLendon, before any applications were filed, came to Washington, conferred with the Commissioner of the General Land Office; that the commissioner told him he knew all about the facts; that the lands were public lands; had been wrongfully included in a survey; that they were open to homestead entry and that if qualified citizens were to apply to homestead these lands the applications would be allowed and the applications would get the lands, and that it appeared McLendon was right in his claim. Judge Finney in reply said if this be true, then McLendon ought not to be prosecuted and, in my opinion, can not be successfully prosecuted.

My purpose in Washington had been accomplished. I had the facts from the commissioner, the assistant commissioner, from Mr. George A. Ward and Mr. Charles D. Hamel. All question on the part of McLendon and the other defendants of any intent to do wrong had been eliminated, as well the Interior Department had declared under the facts the defendants could unquestionably establish, no prosecution ought to be instituted or could be sustained. A short time thereafter I returned to Los Angeles, Calif., and made a report to my clients, notified the Government's counsel that at any time, with reasonable notice, the defendants would be ready for trial.

WILLIAMSON S. SUMMERS.

Subscribed in my presence and sworn to before me this 28th day of January, A. D. 1930.

[SEAL.] EDNA W. SCHALLER,
Notary Public.

My commission expires March 18, 1932.

CITY OF WASHINGTON,
District of Columbia, ss:

I, Williamson S. Summers, being first duly sworn according to law, do say that for a long time I have been a sincere believer in the fact that the truth, when published, with good motives and justifiable ends, is always a sufficient defense, and finding that there was no disposition on the part of the Government's counsel to press the case of United States against McLendon and others, Docket No. 5885–J, for trial, and having read the opinion of the First Assistant Secretary of the Interior in the McLendon case and being unable to agree with his conclusions, very shortly after I returned to Los Angeles I made my plans and went back to Washington for the purpose of making an independent investigation and establish the fact, if possible, that there was a large body of land deliberately taken out of the public domain and included within the lines of a pretended survey of a Mexican grant and called Lomas de Santiago; that the independent investigation so instituted by me disclosed facts that, in my opinion, justified the preparation and filing of a petition for the exercise of supervisory action on the part of the Secretary of the Interior. This petition so prepared and filed was and is as follows:

Before the Department of the Interior. Ben McLendon et al. *v.* Rancho Lomas de Santiago and James Irvine. In re grant to, and patent for, certain lands located in Orange County, Calif., designated and known as the Rancho Lomas de Santiago. Petition for the exercise of supervisory action to the end that the Land Department on the record recommend to the Attorney General of the United States the institution of a suit in equity to set aside, vacate, modify, or reform the patent heretofore issued to Theodocia Yorba for certain lands in Orange County, Calif., designated and known as the Rancho Lomas de Santiago, to the extent of about 29.471.89 acres in excess and outside the 4 square leagues granted to the said Yorba

Your petitioners respectfully represent as follows:

I. That on or about the 26th day of May, 1846, one Theodocia Yorba applied to the Mexican Government through its officers and agencies for a grant of 4 square leagues of land located in and within what is now known as the county of Orange, in the State of California; that said application was limited to the range of hills situated upon the slope of the sierras known by the name of Santiago, was adjacent to the Serrito de los Ranas and the San Joaquin, alongside of the Rancho del Toro, and was for 4 square leagues and no more, as shown by the map.

II. That on or about the 26th day of May, 1846, having received favorable consideration by the said officers and agencies of the said Mexican Government, the said application so made by the said Theodocia Yorba for a grant of 4 square leagues, was granted, and said grant so made was in terms as follows:

"Whereas, Don Theodocia Yorba, Mexican by birth, has petitioned for his personal benefit and that of his family the range of hills situated upon the slope of the sierras known by the name of Santiaga, being bounded by the same upon the east; by the Serrito de Los Ranas and the boundary of San Joaquin upon the west; and by the Rancho del Toro upon the south, being to the extent of 4 square leagues (cuatro sistious de ganada mayor), more or less, as is shown by the map (diseño), which accompanies this expediente and as expressed in the petition of the interested party."

That paragraph 2 of said grant was as follows:

"When the ownership is confirmed to him he shall solicit juridical possession of the respective judge, which shall be given to him in virtue of this despatch by me, the boundaries shall be marked out, upon whose limits shall be placed the respective landmarks."

That paragraph 3 of said grant was as follows:

"The land of which this donation is made is entirely what is shown by the map which accompanies this expediente, the extent of which is 4 square leagues, more or less."

III. That thereafter in keeping with paragraph 2 of the grant, juridical possession was solicited and proceedings were had; that the order was entered and possession was delivered, and that the possession applied for by said Yorba and by him acquired was for 4 square leagues of land described in the following language:

"The cord was stretched from the small red hill, the boundary of D'n Jn'e Sepulveda, in the east direction 7° to the south, and they measured and

counted 17,500 varas along the whole length of the boundary of the said Sepulveda, as this measurement for the possession of the land was made transversely, and to terminate to the flat piece of land that is contiguous to a waste tract where a landmark was ordered to be placed; and an oak tree was marked from this point in the direction of north 70° to the east, the line was drawn and they measured 7,500 varas that terminated at the sierras where a landmark was ordered to be placed from this point; and in a direction to the west the cord was stretched and there resulted 12,500 varas that terminated in the mouth of the Canada de los Bueyes; from this place and in a direction to the south the cord was drawn, and there resulted as measured 7,500 varas, which terminated at the point where the measurement commenced."

IV. That on or about the 26th day of October, 1852, the said Theodocia Yorba submitted to the United States Board of Land Commissioners for the State of California, that he was the owner in fee of a tract of land, situated in what was then a part of Los Angeles County, and now is Orange County, Calif., known as Lomas de Santioga, and that said tract of land contained 4 square leagues; that he further represented to said board of commissioners he, the said Yorba, had been given and was in juridicial possession of said land under proceedings had and held by competent authority; that the boundaries of said land had been and were clearly defined and marked out; and that he then deposited as a basis for his claim of legal possession a map correctly showing and accurately defining the land applied for and claimed by him. (See Exhibit O, Los Angeles, 1522.)

V. The said United States Board of Land Commissioners for California having well considered the application made by said Yorba, and being fully advised in the premises, handed down their decision in which the third condition of the grant is quoted in full, and commenting upon said condition, the said board of commissioners expressed itself as follows:

"The map, which is thus made a part of the grant and of which a traced copy from the archives in the office of the United States Surveyor General is filed in the case."

Again, the board of commissioners in considering the act of juridicial possession, used the following language:

"The act of juridicial possession describes the western and southern lines in accordance with the calls of the grant and the delineations on the map, but on the other two lines the officer making the measurement has evidently committed an error in the degrees which his survey calls for. * * * the error in the present instance may be readily corrected by a reference to the grant and map."

In fixing the boundaries of the grant the said board of commissioners in the degree used the following language:

"On the east by the Sierra, on the west by the Serrito de los Ranas and the boundary of San Joaquin, on the south by the Rancho de Toro, and on the north by the line of Santa Ana, containing 4 square leagues, more or less. Reference for a more particular description to be had to the original grant and act of juridical possession, together with the map contained in the expediente in the archives."

VI. On appeal to the district court the judge of that court reached his conclusions and rendered his decree. In so doing he used the following language:

"It is ordered, adjudged, and decreed that the decision of the State board of commissioners be, and the same hereby is, affirmed."

Thereupon it was ordered, and the original papers and proceedings in the cause were deposited with the clerk of the United States District Court for the Southern District of California, and duly authenticated copies thereof were transmitted to the office of the Attorney General of the United States at Washingon, D. C.

VII. That thereafter, on or about the 3d day of December, 1860, the said Theodocia Yorba executed and delivered an instrument of conveyance to one Wolfskill, which deed of conveyance intended to, and did transfer and convey all of Yorba's interest in and to and called for by the grant, the possession, the confirmation, the decree, of 4 square leagues.

VIII. That thereafter, on or about the 31st day of March, 1866, the said Wolfskill made, executed, and delivered to one Flint all the lands conveyed to him by Yorba, to wit, 4 square leagues called for by the grant.

IX. That thereafter, and in June, 1866, a survey of the said Rancho Lomas de Santiago "filed and confirmed to Theodocia Yorba" was presumed to have been made in accordance with the grant, the map of the land granted, and the confirmation, which survey was approved on the 10th day of January, 1867, but which said survey shows a tract of land embracing 47,226.61 acres, and, as well, said survey disclosed that it departed from and in no wise adhered to the map filed by said Yorba in support of his claim to a grant, and in no wise conformed to the grant or the findings and decree of the several tribunals which acted upon and confirmed said grant of 4 square leagues.

X. That thereafter, on or about the 1st day of February, 1868, a patent to said Yorba was executed, which patent recites that it is for a tract of land comprising 4 square leagues, as called for by the grant, but through error, inadvertence, and mistake the said patent purported to embrace and include an area of 47,226.61 acres, or 29,471.89 acres in excess of the 4 square leagues in and called for by the grant.

XI. That thereafter, and on or about the 13th day of August, 1868, Flint et al. conveyed to one James Irvine an undivided one-half interest of, in, and to the land described as "being the same land confirmed to Theodocia Yorba by the United States Board of Land Commissioners on the 15th day of August, 1854."

XII. That on or about the 27th day of September, 1876, the said Flint et al executed and delivered to said Irvine a conveyance of the other or remaining one-half interest in said tract of land and described it as "being the same land confirmed to Theodocia Yorba by the United States Board of Land Commissioners on the 15th day of August, 1854."

XIII. That the said patent so issued on the 1st day of February, 1868, through error, by inadvertance and mistake, and without authority of law, includes about 29,471.89 acres in excess of the lands applied for, granted and solemnly confirmed to the said Yorba for "4 square leagues," and said patent as to the excess is void.

XIV. That the excess lands so erroneously, inadvertently, and by mistake included in said patent always have been and are now in law and equity a part of the public domain of the United States.

XV. That on and at different dates, but in the year 1922, your petitioners and others, all of whom were then and are now citizens of the United States and citizens of the State of California, and in all respects qualified to avail themselves of the homestead laws of the United States, being fully advised by proper and competent authority and having been led to believe that said excess lands were the property of the United States and as such were a part of the public domain, made applications to enter under the homestead laws of the United States, certain of said excess lands.

XVI. That said applications to enter said lands under the homestead laws of the United States were denied in turn by the register and receiver, Commissioner of the General Land Office and this department, the last named basing its decision on the ground, "that the land is covered by an outstanding and uncanceled patent * * * and is prima facie valid on its face," and that "the issuance of the patent took away from and deprived the Land Department of the power to allow an entry under the application or take any action looking to its allowance."

XVII. That the proofs on file in the General Land Office to which petitioners have referred, disclose that the said erroneously and inadvertently issued patent does in fact include an excess of about 29,471.89 acres of lands, which said lands are the property and a part of the public domain of the United States and with respect to which said lands your petitioners contend that the proper officers of the Government of the United States have no alternative but to proceed in the manner provided by law, without added delay to recover and restore said lands to the public domain of the United States.

Wherefore the premises stated, your petitioners pray that pursuant to the procedure in such cases made and provided, the holder of such erroneous patent, James Irvine, and all other parties in interest, if any there be, be called upon and directed to forthwith surrender the said patent to the proper department and officer for reformation and correction in accordance with the law, and rules and regulations, and upon a refusal to so surrender said patent, that you thereupon recommend to the Attorney General of the United States that a suit be instituted, in a court of competent jurisdiction, to vacate, annul, and

reform said patent as to the excess lands so patented erroneously, inadvertently, and without warrant of law.

Respectfully submitted.

BEN MCLENDON ET AL.,
Petitioners.
By WILLIAMSON S. SUMMERS,
CLARK & CLARK,
SAMUEL H. MOYER,
Attorneys for Petitioners.

To the honorable the SECRETARY OF THE INTERIOR OF THE UNITED STATES OF AMERICA.

DISTRICT OF COLUMBIA, *ss:*

Horace F. Clark, being first duly sworn, deposes and says that he is a member of the firm of Clark & Clark, of counsel for Ben McLendon et al.; that a true copy of the petition of said Ben McLendon et al. has this day been mailed to James Irvine, the purported present owner of the so-called rancho Lomas de Santiago, addressed to him at the Crocker Building, San Francisco, Calif., as more fully appears by reference to the post office registry receipt hereto attached.

Subscribed and sworn to before me this ——— day of August, 1924.

———, *Notary Public.*

On the petition for the exercise of supervisory action to the end that the Land Department recommended to the Attorney General the institution of a suit a hearing was granted, a date was fixed, notice was served, a hearing was held. Briefs were prepared and filed. Oral arguments were made. The case was submitted, taken under advisement and thereafter, that is to say, on December 4, 1924, the First Assistant Secretary of the Interior submitted to the Attorney General the following:

DEPARTMENT OF THE INTERIOR,
Washington, December 4, 1924.

The ATTORNEY GENERAL.

DEAR MR. ATTORNEY GENERAL: This communication is to suggest that you consider the advisability of a suit by the Government to re-form a patent issued under the Rancho Lomas de Santiago grant for 47,226.61 acres, or nearly 11 square leagues, southern California, instead of the 4 square leagues, or 17,557.72 acres, covered by the grant and embraced in a survey made by the Mexican Government.

In conformity with the prescribed procedure, one Theodocia Yorba filed his petition for a grant of 4 square leagues by the Mexican Government, in which he gave a boundary description of the land, and with which he furnished a map of the tract. This petition was granted "to the extent of 4 square leagues, more or less, as shown by the map," and "expressed in the petition of the interested party."

Later the proper Mexican authorities confirmed the grant, decreed judicial possession to Yorba, and surveyed and monumented the tract.

After the passage of the act of March 3, 1851, creating the board of land commissioners to adjust claims of this character, Yorba exhibited his title to the tract which "is entirely what is shown by the map * * * the extent of which is 4 square leagues, more or less." That board, in confirming the grant, described the tract by boundaries as containing 4 square leagues, more or less.

On appeal by the Government that action was affirmed by the district court, and a controlling question to be considered at present is as to whether the language used by the court in its decree justified the surveyor in disregarding and going far beyond the map filed by Yorba and the declarations in the record on which his grant was based to include nearly 11 square leagues in his survey, on which patent was issued. The pertinent language of that decree reads as follows:

"That the decision of the said board of commissioners be, and the same hereby is, affirmed, and that the claim of the appellee (i. e. Theodocia Yorba) is good and valid, and that the same be, and hereby is, confirmed to him to the extent of 11 square leagues and no more within the boundaries specified in the grant or 'titulo' filed in this case, reference being had to the expediente and map referred to in said grant and to the act of judicial (sic.) possession filed in this case: *Provided*, That if there be less than the quantity of 11 square

leagues of land contained and included within the boundaries mentioned, the confirmation is hereby made of such less quantity."

We find the expression "11 square leagues" mentioned for the first time in this decree, and the question arises as to whether the court intended to name that area as the size of the tract granted to Yorba, or as to whether it had in mind the fact that the laws of Mexico permitted only 11 square leagues and "no more" to be granted to any one person. The proviso added to the body of that decree seems to strongly, if not conclusively, indicate that the court did not intend to fix 11 square leagues as the acreage to be patented to Yorba, but did intend to prevent the patenting of more land than was granted to him by the Mexican Government by referring to the map and the record on which the grant was based and by declaring that "if there be less than the quantity of 11 square leagues of land contained and included in the boundaries mentioned, the confirmation is hereby made of such less quantity."

The fact that no one at any time prior to that decree or the survey by the Government ever thought of or mentioned the granted tract as containing anything like 11 square leagues or more than 4 square leagues sustains the conclusion that the survey must have resulted from a misinterpretation of the court's decree, to say the least. In 1860 Yorba himself conveyed the land as "containing 4 square leagues," and it was later conveyed by similar conveyances.

Furthermore, the entire lack of similarity in the shape and extent of the tracts covered by the original map and the present official survey fully justifies the conclusion that the surveyor acted arbitrarily and was in no way guided by either the map or the Mexican survey. The tract, as surveyed by the Alcalde, has exterior lines approximating a combined length of 23 miles, is practically a parallelogram less than 4 miles wide, and has a mean length of only about 7 miles, while the surveyed and patented tract has combined boundary lines about 36 miles long, is irregular in shape, and is about 7 miles wide in one place.

I will not undertake to here enter further into the details of this case or discuss its legal aspects, since they are fully set out and elaborately dealt with in briefs herewith, which are filed by counsel for the present claimants, and for Ben McLendon et al., who have petitioned for the bringing of a suit to re-form the patent. I will, however, say in passing that among the serious questions which may possibly obstruct an action of the kind mentioned is the question as to whether it is now barred by the statute of limitations, and the further question as to whether the courts would now under any circumstances assume jurisdiction, even if the action is not barred.

If after giving the matter consideration you inform this department that a suit is advisable, copies of pertinent parts of the record will be made and forwarded to you with such other data as in your opinion may be necessary or desirable.

Very truly yours,

E. C. FINNEY,
First Assistant Secretary.

The finding by the First Assistant Secretary of the Interior Department was, in effect, that a patent was issued under the Rancho Lomas de Santiago for 47,226.61 acres, or nearly 11 leagues of land, when it should have been issued for 17,557.72 acres, or 4 leagues; that Toedocia Yorba petitioned the Mexican Government for 4 leagues of land, giving boundaries and descriptions, and the petition was granted; that the proper Mexican authorities confirmed the grant and decreed the juridical possession to Yorba and surveyed and monumented the tract; that after the act of March 3, 1851, was passed and the commission was created with jurisdiction to separate Yorba's land from the public lands of the United States, Yorba exhibited his title to the commission and his title to 4 leagues was confirmed; that the Government appealed from the commission to the court and the confirmation was affirmed; that no one ever entertained the idea that the grant contained more than 4 leagues; that the survey of almost, if not quite 11 leagues, must have been made without reference to the grant; that the entire lack of similarity in the shape and extent of the tracts covered by the original map and the survey fully justify the conclusion that the surveyor acted arbitrarily and was not guided by the map or the Mexican survey. Maps were submitted, showing the tract confirmed and the survey that was made without reference to the tract.

The Land Department being a tribunal and the Secretary of the Interior being the head of the Land Department and the findings transmitted by the First Assistant Secretary of the Interior, representing the head of the Land

Department, to the Attorney General, it was assumed by me that the Attorney General would take the necessary steps and without delay institute the proceedings indicated in the findings. Instead, however, counsel for Mr. James Irvine, sr., who was in possession of and claimed title to the entire 47,226.61 acres of lands, followed the case from the Land Department to the law department and asked for a hearing there before any action was taken. This application was entertained and a hearing was granted by and was held before Hon. Ira K. Wells, Assistant Attorney General of the United States. As before the Land Department, the case was briefed, argued, and submitted, and on or about May 18, 1925, Mr. Wells made his findings which were, in substance, as follows:

"The facts disclosed by the record and ascertained from protracted investigation deemed necessary, and made, on account of the importance of the case, are as follows:

"Prior to July 7, 1846, the territory that is now the State of California was public domain of the Republic of Mexico. On July 7, 1846, the said territory became public domain of the United States.

"Prior to July 7, 1846, and while California was yet public domain of the Mexican Government, one Teodocia Yorba, a Mexican national, made application to and through Pio Pico, the then Territorial Governor of California, for a grant of 4 square leagues of land in the hills of the Santiago, then named and now known as the Lomas de Santiago. This application was granted and Yorba was awarded and received a grant of 4 square leagues of land. The grant was identified, the measurements were taken, the boundaries were marked out, the landmarks were fixed and Yorba, the grantee, was put in juridicial possession of 4 square leagues of land by the Mexican Government from the Mexican public domain.

"On February 2, 1848, the treaty of peace, friendship, limits, and settlement between the United States and the Republic of Mexico was concluded at the city of Guadalupe Hidalgo, and on May 26, 1848, a protocol containing explanations and additional provisions was made, accepted, and signed. The treaty provided that Mexican nationals were free to retain or dispose of their property in the California Territory and that their rights would be inviolably protected. The protocol made provisions for Mexican claimants to submit their claims to an American tribunal.

"On September 9, 1850, the Territory of California was admitted to statehood and became the State of California.

"On March 3, 1851, the Congress of the United States created the American tribunal in an act entitled 'An act to ascertain and settle the private land claims in the State of California.' This act provided that three commissioners should be appointed by the President and that they should constitute a commission clothed with the powers of a court and vested with exclusive jurisdiction to entertain, hear, and determine the claims to lands in California made by Mexican nationals, and that appeals could be taken from the findings of the commission to the United States district court and therefrom to the Supreme Court of the United States.

"When the commissioners were appointed and the commission was duly organized as by the act required, then Teodocia Yorba appeared and filed his claim for 4 square leagues of land known as the Lomas de Santiago and submitted his grant from the Mexican Government, and a map of the same. A hearing on the claim was ordered and had, and thereafter, on August 15, 1854, the commission confirmed the grant as represented by the map and entered a decree accordingly.

"In due time after the commission confirmed the Yorba grant an appeal was taken to the United States District Court for the Southern District of California. There the case was called in its regular order. A hearing was had and the cause was submitted. On December 11, 1856, the court filed an opinion in which it was ordered, adjudged, and decreed that the decision of the commission be and was affirmed. Thereafter the Attorney General of the United States directed a stipulation to be entered under which the decree of the court affirming the confirmation by the commission was made final. Thus the American tribunal found that the Mexican Government had vested in Yorba the fee title to the tract of 4 square leagues of land known as Lomas de Santiago and had surveyed and monumented it and had put him in judicial possession of the tract shown by the map.

"The Yorba claim having been finally confirmed to him by decree of court, it was then the duty of the surveyor general of California to forthwith cause

an accurate survey of the grant and a plat thereof to be made and certified for the use and benefit of the claimant. This it is found was not done.

"In 1866, some 10 years after the final decree was entered, which set at rest the fact that the Mexican Republic vested in Yorba the fee title to 4 square leagues of land claimed by him, what is known to the record as the Hancock survey was made. This survey it appears was not made by authority of the court or with any respect for the decree or with any regard for the grant. In fact, this survey appears to have been both arbitrary and unauthorized, and from no point of view can it be deemed to be a survey of the grant as required by law. The purpose of the act of March 3, 1851, was not to pass title. That was not possible. It was to ascertain if title had passed. Having found that Yorba had the title in fee to 4 square leagues, it was necessary to separate the lands that had been granted to him from the lands that were public domain. The United States can not give its waiver of claim to granted lands until there is a survey of the grant made after the final decree. And it can not be said that a survey of anything except the grant is a survey of the grant.

"In 1868, some two years after it was made, this Hancock survey seems to have been presented to the land department. The officers of the department failed to observe that it was not a survey of the grant, and issued a patent to Teodocia Yorba and his heirs that has no warrant in law.

"The act of March 3, 1851, created the American tribunal 'to ascertain and settle private land claims.' This tribunal had no power to pass title to Yorba. Its jurisdiction was limited to finding if title had passed to him by Mexican grant. If the grant had been surveyed and the plat made in exact accord with the final decree and then properly certified, the patent by the land department could add nothing to the title. It could only serve to make record of the fact that the United States had found, and recognized that the 4 square leagues was the private property of the claimant. It could serve only as a quit claim as it were of any interest in the granted lands. There was no jurisdiction to issue the patent of 1868. The survey is an assault upon the solemn decree of a court clothed with special and exclusive jurisdiction. The patent issued on the survey was without warrant in law and was and is void.

"In 1876 the case of the United States *v.* Flint et al. was filed in and heard by the United States Circuit Court for California. The record shows Benjamin Flint, Thomas Flint, Llewellyn Bixy, William F. Glassell, and James Irvine named as defendants and in court. At the hearing there were before the court the case No. 421, Theodocia Yorba, claimant, *v.* The United States in re the Lomas de Santiago grant to Yroba of 4 square leagues of land, the confirmation of the grant to Yorba by the commission, the decree of the court affirming the confirmation, the stipulation of the Attorney General, the survey by Hancock, the patent by the Land Department. But the patent was issued to Teodocia Yorba and his heirs. Yorba only made claim and filed proof for 4 square leagues, and no more could be or was confirmed to him. The survey was for 11 square leagues. The patent was for a like amount. In 1876 Yorba was dead. At no place in the record, at no time in the proceedings is there mention made of the heirs.

"It may be helpful to here call attention to the opinion of the circuit court. It is there held that the American tribunal clothed with exclusive jurisdiction found Yorba was granted by the Mexican Government 4 square leagues of land, that it was then surveyed, monumented, and he was put in possession; that an appeal was taken to the district court clothed with exclusive appellate jurisdiction and there the confirmation was affirmed; that the Attorney General caused a final decree to be entered on stipulation; that the confirmation by the commission, the decree of affirmation by the court, the stipulation by the highest law officer of the United States, were all within their jurisdiction, were valid, binding, and final; that the grant of 4 square leagues of land to Yorba as surveyed and as monumented was forever set at rest.

"Now the Hancock survey was arbitrary, unauthorized, and was made with utter disregard of the final decree confirming the grant. Being radically different from the grant, both in quantity and in location, either the grant or the survey was radically wrong. They could not both stand. One or the other hand to fall. The grant was set at rest by an American tribunal created by an act of Congress and clothed with exclusive jurisdiction. The survey was a voluntary assault upon the public domain. The opinion of the circuit court, speaking through Mr. Justice Field, annuls the survey.

"The act of Congress limited the duties of the Land Department. That department had nothing to do until after the claim was filed, heard, confirmed, and a final decree was entered. Then its jurisdiction could not exceed the limits of the grant as fixed by the final decree. Within these limits it could issue a patent showing the location, the lines, and the extent of private property. This could not be done until a survey was made in strict accord with the final decree. No such survey was ever made. It follows that there can be no patent as provided by the act of Congress. But the Land Department can issue no patent except by authority and within the provisions made by Congress. It follows there was no jurisdiction to issue the patent on the Hancock survey. The grant was to 17,557.72 acres and the patent was for 47,226.61 acres based upon the survey arbitrary 'to say the least' had to valid. One had to be void. The court said the grant to 17,557.72 acres was valid, final, and was forever set at rest. It follows that the patent for 47,226.61 acres based upon the survey arbitrary 'to say the least' had to fall. The opinion of Mr. Justice Field setting at rest the Yorba grant nullifies the Hancock survey and the patent issued thereon.

"The treaty was a contract made by the United States through the political branch of the Government. Its execution must be provided for by that branch of the Government. When this was provided the terms of the provision were exclusive. No other means could be adopted. The act of March 3, 1851, plainly sets forth what shall be done. The United States made a contract with Mexico. Under that contract the United States became a trustee and is bound to keep faith. A tribunal created for a specific purpose, clothed with exclusive jurisdiction, entered a solemn decree. By stipulation it was made final. But the duty of the United States does not end with the decree. The obligation is not discharged until a survey and a plat are made in exact accord with the decree and, properly certified, are presented to the claimant for his use and benefit.

"The statute of limitations can not be made to apply.

"The doctrine of res judicata can not be invoked with success.

"The decree, when it became final, set at rest all questions as to the validity and extent of the grant. The survey should then have been made. Not having been made then, a survey within the limits of the grant, in strict accord with the decree, should be made now. It is therefore recommended that you proceed forthwith to have a proper survey made of the premises granted and confirmed to Teodocia Yorba in order that the treaty stipulations may be fulfilled.

"There remains only for consideration at this time the fact that there are now pending before your department certain homestead applications covering lands outside the boundaries of the grant as confirmed by the board of land commissioners and the decree of the United States district court. These cases are before you on appeals from the action of the local land officers at Los Angeles, Calif., and the Commissioner of the General Land Office, holding the said applications for rejection.

"In view of the fact that the question involving the title to the lands outside the granted limits are now under consideration in this department, pursuant to the views expressed in your said letter of date December 4, 1924, it is suggested that action upon the pending homestead applications be withheld, awaiting the outcome of such proceedings as may be deemed advisable and necessary, with a view to the proper determination of the questions to which my attention has been directed by your said communication.

"At Washington, D. C., May 18, 1925."

Thereafter the findings made by Wells, Assistant Attorney General, were submitted to the Attorney General on May 20, 1925, and thereupon the Attorney General directed a communication to the Secretary of the Interior, which communication was and is as follows:

MAY 20, 1925.

Hon. HUBERT WORK,
Secretary of the Interior, Washington, D. C.

DEAR MR. SECRETARY: Reference is made to your letter of December 4, 1924, relative to the Mexican grant known as the Rancho Lómas de Santiago grant.

The matter has been carefully considered in this department. The attorneys for Ben McLendon et al., who attempted to make homestead settlements on a portion of the lands included in the survey and patent, have presented the matter orally and have also filed numerous briefs and memoranda with this department.

BEST AVAILABLE COPY

There are certainly very great difficulties in the way of now asserting a claim on the part of the United States to the large excess of lands which were apparently included in the survey and patent. Prima facie, it would seem that the survey was, to say the least, erroneous and did not conform to the terms of the grant. But it appears to me that before undertaking any proceeding in the courts we should first know whether the grant as made and confirmed may now be definitely located in accordance with what would appear to be its intent. I suggest, therefore, that the first step is to cause a resurvey to be made, taking the terms of the decree of the district court confirming the action of the board of land commissioners into consideration and in connection therewith, of course, Mtxican papers evidencing the grant.

It may be that if such survey is undertaken by your department the present claimants will seek to enjoin you from carrying it out, and in that way the burden of commencing the litigation may be thrown upon them.

Respectfully,

JNO. G. SARGENT, *Attorney General.*

The expression of the Attorney General, "I suggest, therefore, that the first step is to cause a resurvey to be made, taking the terms of the decree of the district court confirming the action of the board of land commissioners into consideration and in connection therewith, of course, the Mexican papers evidencing the grant," brought a storm of protests, opposition and threats that culminated, I was informed, in a declaration by the Commissioner of the General Land Office, in substance, that the survey would not be made. After several weeks of waiting I went to Washington to ascertain when, if at all, the work on the survey would go forward. I was informed nothing had been done and, as well, I was made to understand by the commissioner that he regarded the survey as impossible and that he was not disposed to undertake it; that he had taken the subject up with the Assistant Secretary in such a manner, in his opinion, would put a stop to it. Thereafter, I called on the First Assistant Secretary, told him of my interview with the Commissioner of the General Land Office and what he had said to me. In reply I was informed by the First Assistant Secretary that the commissioner had indicated he was not anxious to undertake the survey and in this connection he read to me a communication recently from the commissioner giving his views, his opinions, and expressing his opposition to complying with the request. The First Assistant Secretary then said to me, in substance, if the Department of Justice wants the survey made it is entitled to have it done and it will be done if we can do it, and he then gave me a copy of his letter to the Commissioner of the General Land Office, which was as follows:

JULY 23, 1925.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEAR MR. COMMISSIONER: I am in receipt of your letter of June 29, 1925, on the subject of the resurvey of the boundaries of the Lomas de Santiago grant, California, which grant the Attorney General of the United States suggests be resurveyed as a preliminary to further proceedings by his department by suit to reform or identify the grant.

You point out numerous difficulties in the way and conclude with the statement that if it be the desire of the Attorney General to have such a survey, it will be necessary that the surveyor be given more definite instructions as a guide for his work.

In his letter the Attorney General suggests that a resurvey be made "taking the terms of the decree of the district court confirming the action of the Board of Land Commissioners into consideration and, in connection therewith, of course, the Mexican papers evidencing the grant."

The legal questions raised in your letter presumably have been or will be considered by the Attorney General, and the survey which he asks be made is for the purpose of identifying, if possible, upon the ground the actual area granted to Yorba, which grant, it is contended, was of a much smaller area than that described by the former survey upon which patent was issued.

In view of the Attorney General's request, I have to direct that you make the survey asked for, and if a more definite understanding as to details of procedure is desired by your office, I suggest that a representative of your surveying branch confer with the Assistant Attorney General, Department of Justice, in charge of land matters.

Sincerely yours,

E. C. FINNEY, *First Assistant Secretary.*

A short while after the First Assistant Secretary took a decided stand to the effect that the Lomas de Santiago grant would be surveyed as per the suggestion of the Attorney General, I was given notice; that is, I was warned all possible influence would be exerted to have the request for the survey withdrawn by him. Having this warning, I took such action and made such inquiry as I deemed sufficient and concluded that if such an effort was being made it would be of no avail.

Early in September thereafter I had prepared, as requested by the Attorney General, an outline of my idea of the proceedings indicated by the Land Department. In discussing this with him, he remarked it would be well to have a history of the so-called grant and all the facts connected with it in the office. I indicated my willingness to see that this was done. A day or two after this talk with the Attorney General and just before I was leaving for California I was informed the Attorney General had fully a month before my talk with him withdrawn the request for the survey and had returned the papers in the case to the Secretary of the Interior. Not thinking this possible and yet being compelled to return to California on matters important, I left word with Mr. Horace F. Clark to get all the information he could and to confer with the Attorney General and ascertain if there was any question he desired to discuss or have discussed in connection with the cases, and to advise me. As a result, on September 23, 1925, Mr. Clark submitted to the Attorney General the following:

SEPTEMBER 23, 1925.

Hon. JOHN G. SARGENT,
Attorney General of the United States,
Washington, D. C.

MY DEAR MR. ATTORNEY GENERAL: Please permit your attention to be directed to the following:

August 20, 1924, a petition was filed with the Interior Department in re the Rancho Lomas de Santiago et al. A copy of said petition is submitted herewith.

December 4, 1924, the Interior Department submitted to the Department of Justice findings and conclusions of tremendous interest. A copy of said findings and conclusions is submitted herewith.

May 20, 1925, the Department of Justice requested the Interior Department to make a survey of the Lomas de Santiago grant as required by the final decree of the United States Circuit Court for the southern district of California, under date of December 11, 1856. The wisdom of this request must be admitted and the justice of it can not be called in question. A copy of the request is submitted herewith.

August 20, 1925, the record, so we are informed, was returned to the Department of Justice by the Interior Department without the survey having been made. We have not been advised, if this be the fact, the reason for so doing.

We have been notified that a report covering the history of and the facts in this case is being prepared and will be soon submitted to you for your consideration.

We feel that you must already know the case is vast in its importance; that it is vital to interests in the West, almost invaluable.

Mr. William S. Summers, whose home is in California, is the leading counsel for the petitioners. He has given many months of his time to the facts and the law; he has been in Washington for some weeks and available any day. He has been called West on very important business. We submit the business will be concluded as rapidly as possible and that Mr. Summers will return to Washington with all convenient speed thereafter.

We submit the petitioners are deeply concerned and they have rights very valuable; that the interests of the United States are of such proportion that they can not be expressed or estimated in money value.

We request that when the report is made complete and placed before you, that no conclusion be reached, no action be taken, that you hold your mind open until at a time convenient for you to hear Mr. Summers and possible for him to be heard.

Thanking you in advance for the courtesy we feel you will extend, we remain,

Respectfully,

CLARK & CLARK,
By HORACE F. CLARK,
WILLIAMSON S. SUMMERS,
For Petitioners.

Thereafter, I was informed by Mr. Clark that the Attorney General would see and hear me October 26, 1925, and Mr. Clark added there were several questions the Attorney General wanted to ask me personally. This being the case, I made my plans to be in Washington and was at the office of the Attorney General October 26, 1925, at 10 o'clock in the forenoon.

While in Los Angeles during the month of October, prior to my leaving for Washington, I was repeatedly told there would be no hearing on the 26th; that the Attorney General had agreed not to be in Washington; that he had agreed to withdraw the request for the survey and throw the cases out of the Department of Justice and send all records back to the Secretary of the Interior; that a definite program had been made and that as soon as the Secretary of the Interior received the cases from the Attorney General they would all be closed adversely to the homesteaders. Not believing such a program possible, I made my plans, went to Washington, was there on the 26th day of October, 1925, and was at the Attorney General's office at 10 o'clock in the forenoon of that day. Upon inquiry, I was informed the Attorney General was out of the city; that he would not return for several days; in fact, that he would not return until the 10th day of the following month, on which day I had reason to believe it was known that cases of importance in which I was interested would be called in the United States District Court in Fresno, Calif. I asked when the Attorney General left Washington, and I was informed he left the day before I arrived. I then inquired if any plans had been made for a hearing and learned that no one seemed to know anything about it.

I made arrangements for attorneys in San Francisco to go from that city to Fresno and be there when the court convened and appear for and represent me, and made my arrangements to remain in Washington until the return of the Attorney General to his office. On the afternoon of November 10 the Attorney General returned to Washington and to his office in the Department of Justice. I there saw him for a very short time. He stated he had an appointment with the President and it was necessary for him to go immediately to the White house. I asked if I could see him on the following morning early and he said no, and in substance said that the following day was armistice day and that armistice day was like Sunday in Washington; that he was going to be with the President when the wreath was placed upon the tomb of the Unknown Soldier and that he would not be in his office during the day; that he would see me early on the following day, that is, on the morning of the 12th of November. To keep this appointment, I went to the Attorney General's office and was notified he was not in and that he would not be in during the forenoon. I left word that I would call early in the afternoon, but on my return was informed the Attorney General was not expected in during the afternoon. On the following day, that is, on the morning of the 13th, I called at his office and was notified he was not in the department and would not be in until the afternoon. In the afternoon I called at his office and was informed that the Attorney General and some members of the Cabinet were in conference at the White House. On the following morning I called at the Attorney General's office and was informed that the Attorney General stated he knew what I wanted to see him about; that he was not ready to talk to me nor would he be prepared to discuss the matter with me for a week or 10 days; that it would not be necessary for me to remain in Washington; that he would write me at my home address as soon as he got around to it. I thereupon left a message for the Attorney General that was admittedly much more emphatic than elegant and, in substance, said that I was leaving for California and that if we ever had a conference on any subject it would be at his suggestion. On my return to my room at the Hamilton Hotel a few minutes thereafter, I was called on the telephone and was informed the Attorney General wanted to see me in his office. I returned immediately to the Department of Justice and went to the Attorney General's office and there met him. The Attorney General at once said, Summers, what can I do for you? And in substance, I said: Mr. Attorney General, I had a definite appointment on the 26th of last month for a hearing before you on a matter of very much importance; it involves interests that are of tremendous value and rights that are invaluable; out in California they boast that they have bought you and paid for you and I do not believe it. He said, I am glad you do not believe it. I said: You are the only man who can make me believe that you would betray a public trust or prostitute the office of the Attorney General; is there any truth in the statement that you have withdrawn the request for the survey? And he said, None whatever. I said, I have been informed that you have returned the records to the Land De-

partment; and he said, There is nothing to that; the records are all here in this department. I said, what about the hearing, and he replied, let us talk it over now. I thereupon invited him to ask me any question that he desired to ask relative to the facts or of the law applicable to the facts, and I would be very glad to answer it. We thereupon proceeded to discuss at considerable length questions that were raised by the Attorney General. While yet discussing these questions, the Attorney General was called on the telephone. He returned and said that he was going on the *Mayflower* with the President and some parties, and that he could not remain in the department longer; that he must necessarily go and keep that appointment. I asked him when we would conclude the discussion, and he asked me to fix the time. I said Monday morning. He stated there were appointments he must keep on Monday, and I said Tuesday morning, which date was agreed upon, and I remarked that is not October 26; that will be November 17, to which he made answer, I will be here. On Tuesday, the day agreed upon, I met the Attorney General in his office. We discussed several points and in order that he might keep an engagement that he said was important, we adjourned our conference until 2 o'clock in the afternoon. At the conclusion of the conference I said to the Attorney General, "Is there any other question you want to ask," and he answered no. I said, "Are you fully satisfied," and he answered yes. I said, "Are you satisfied the statute of limitations does not apply," and he said he was. I asked him if he was satisfied the doctrine of res adjudicata can not be raised, and he said he was. I said, "Are you satisfied that no rule of property can be based upon decisions that have been made in violation of law," and he said he was. I then said "Is there any question you want to ask," and he said "None, but I would like to have you do one thing for me." I said, "What is it?" He said, "I would like to have you call and see Mr. Parmenter." I said, "Why see Parmenter?" He answered that Parmenter might have some suggestion to make, and I said, "We passed Parmenter; Parmenter is in the office that was occupied by Wells before Wells was appointed to the bench in Porto Rico. We do not have to go down there to discuss anything do we," and he wanted to know if I would go down and see Parmenter as a courtesy to him, and I said if you put it on that ground I have no hesitation at all. He said, "I will send a note introducing him to you," and I said "That was unnecessary because I know Parmenter. I know all about him, but he probably is not in his office as it is past office hours." He replied that he would call on the telephone and ascertain if Parmenter was still at the office, and this he did. He notified Parmenter I was in his office; stated that I would be down and asked that Parmenter extend any courtesy to me that he could.

As requested by the Attorney General, I went to the office of Assistant Attorney General Parmenter, met him and said I was there at the request of the Attorney General and asked if he had anything to suggest about the proceedings in the cases known as the McLendon and others homestead cases. He very promptly said there was nothing to suggest; that there were no such cases in the department. I asked the meaning of this remark and he said I might as well; that the Attorney General made and signed his findings early on the morning of the 11th, that is, Armistice Day, and sent them and all the records in those cases out of the department by special messenger to the Secretary of the Interior. I asked what the findings were and was informed they could not be given to me. I asked why, and was told that was the instruction. I asked to see a copy of the communication to the Scertary of the Interior and this was refused for the same reason. I then returned immediately to the Attorney General's office and was informed the Attorney General had left the office and the building and would not be back until the following day. I tried to get him where I was informed he had gone and received word he could not be located. Thereafter, I wrote to him as follows:

NOVEMBER 17, 1925.

Hon. JOHN G. SARGENT,
Attorney General of the United States,
Washington, D. C.

MY DEAR MR. ATTORNEY GENERAL: Attached hereto is a copy of a communication addressed to you a short while ago. This is done that you may have the record of the case before you and have in mind the magnitude of the questions and interests involved.

I know what it is to trespass on the time of busy officials. It is my intention to avoid this in so far as it is possible, but a just conclusion must be based on a perfect understanding of facts.

Ira K. Wells, Assistant Attorney General, submitted findings of fact and conclusions of law to you on May 20, 1925. You adopted both the findings and the conclusions and requested a survey of a large and valuable tract of land, an unsurveyed Mexican grant. The survey was not made. The Interior Department returned the record to the Department of Justice and stated this action was taken by request. Quite naturally, in the interest of those I then represented and now represent, I inquired what reason could be given for the record being returned to the Department of Justice without the action requested and at the same time submitted to you that if you had any doubt relative to the facts of the law or the method of procedure I would like to be heard.

I was notified by your office you were having a full and detailed report made of the history, the facts, and the law of the case and before a hearing was had you wanted this report before you.

Having been informed this report was made and deposited with you, I came from California for the hearing requested. I was advised at your office that you were in Vermont on personal business; that you would not return until or about the 10th of November. I did not feel justified in asking for your time on Armistice day. The day following I was informed you wanted to confer with Mr. Horace Smith and have him produce in your office certain papers and records in the case for you in connection with the hearing. On the day following I was notified that you were not in your office; it was Cabinet day. On Saturday we opened the hearing, discussed the case for some time, and continued over until 2 o'clock yesterday. At the time fixed we met. After discussing different questions involved at length, you asked me to confer with Assistant Attorney General Parmenter. I could not understand then, nor do I now know why. Nevertheless, I undertook to do as you requested. To my surprise, Mr. Parmenter declined to discuss the case, instead he informed me the case was closed on last Thursday morning; that your findings were then signed by you, and together with the files in the case were sent to the Interior Department by special messenger. In the communication, a copy of which is herewith inclosed, there is the suggestion "We submit the petitioners are deeply concerned and they have rights very valuable; that the interests of the United States are of such proportion that they can not be expressed or estimated in money value."

If the findings were prepared and the conclusions were reached in the department without your knowledge, or when you were absent from the office, and they were presented to you for your signature, and, as a part of the day's work were signed without the promised hearing and without your careful consideration, then I can understand the conference of Saturday and yesterday.

Respectfully,

WILLIAMSON S. SUMMERS.

On the next day I went to the office of the Attorney General and was notified he was out of the city. Thereafter, I tried to find out in the office of the Secretary of the Interior the nature of the findings made by the Attorney General and was informed the Secretary had the records and findings and that they were not available. Having received this information, I asked Mr. Clark to arrange for a hearing before any action was taken adverse to the rights of the claimants; that I was assured this could be and would be done; that, however, it would not be for some time. Immediately thereafter I left Washington for my home in California. A few days after my arrival I received a copy of the findings of the Attorney General that were made and sent by special messenger by him to the Secretary of the Interior on November 11, and by the Secretary of the Interior sent forward. They were as follows:

WASHINGTON, D. C., *November 11, 1925.*

Hon. HUBERT WORK,
Secretary of the Interior, Washington, D. C.

DEAR MR. SECRETARY: Your letter of December 4, 1924, referred to this department the question of the advisability of a suit by the Government to reform the patent of February 1, 1868, to the Rancho Lomas de Santiago in Orange County, Calif., transmitting briefs relating thereto filed by counsel in the matter affecting this property, which had been pending in the Interior Department.

The questions presented by this reference have been exhaustively considered, extensive hearings have been held, and all parties interested have been heard at length, and voluminous documents have been examined in reaching a con-

clusion. Without going into details, I deem it sufficient to advise you that no suit should be instituted for the following reasons:

First. Any action attempted to be maintained would be barred by the statute of limitations of March 3, 1891 (26 Stat. 1093).

Second. The issues involved in such litigation are res judicata by the cases of United Sates *v.* Yorba (1856–1858); United States *v.* Flint (1875–1878) 4 Sawyer, 42.

Third. The institution of such a suit would be a third attack by the Government upon the title to this land. Sound public policy does not require that new litigation shall be instituted to disturb the rule of property established in California by United States *v.* Flint, where no new facts are submitted and no showing made that former executive officials were clearly wrong in their action in reference to these cases.

Fourth. The two suits mentioned were dismissed on appeal to the Supreme Court by former Attorneys General, with the same subject matter and the same relief involved. The transcript in the Supreme Court in the case of United States *v.* Flint (1878), clearly shows that the decision of that court can not be successfully avoided. Prior to the dismissal of this case, upon motion of the Solicitor General, the Supreme Court had said:

"So far as we can discover from the records, the only matter in dispute is the ownership of the land in controversy, the United States claiming it on the one hand and the appellees on the other."

It is assumed that you will communicate this disposition of the matter to the interested parties.

Respectfully,

JNO. G. SARGENT, *Attorney General.*

The findings of the Attorney General were sent out, it is presumed, by reason of the suggestion made by him that the Secretary of the Interior would communicate the disposition of the cases to interested parties. The communication by the Secretary of the Interior to interested parties was sent forward under date of November 17, with a communication from the Secretary stating he had examined the findings of the Attorney General, approved them and had finally closed the cases of the claimants adversely to their claims, apparently establishing the fact that on the 17th, when the request was made to examine the findings of the Attorney General, and on the 18th, when a hearing was agreed to before any order was made adverse to the claimants, the whole subject had been disposed of and the rights of McLendon and the other homesteaders had been foreclosed as recommended by the Attorney General, by the man who only a short while prior thereto had stated without reservation that he knew nothing whatever about the cases. A day or two after I received the communication from the Secretary of the Interior I found in my mail a letter from the Attorney General of date November 19, which letter is as follows:

DEPARTMENT OF JUSTICE,
Washington, D. C., November 19, 1925.

WILLIAMSON S. SUMMERS, Esq.,
Washington, D. C.

SIR: This will acknowledge receipt of your letter of November 17, requesting to be heard further on proposed litigation involving the lands in Orange County, Calif., known as the Rancho Lomas de Santiago.

For the purpose of giving you such a hearing, I directed that you be requested to call at my office on November 19 at 10 o'clock a. m. In endeavoring to communicate with you, a call was left with Messrs. Clark & Clark, and at 9.25 this morning Mr. Horace F. Clark advised that you had left for California for the trial of a case which could not be postponed.

Please advise me when you return to the city so that the hearing you desire can be arranged.

Respectfully,

JNO. G. SARGENT, *Attorney General.*

In this letter the Attorney General says, "Please advise me when you return to the city so that the hearing you desire can be arranged." Having been advised by Mr. Parmenter that the cases had been disposed of by the Attorney General, had been sent by special messenger to the Interior Department, having before me at that time a copy of the findings showing the disposition made by him, as well the action taken by the Secretary of the Interior foreclosing the rights of the parties I represented, I quite naturally was interested in knowing the nature and the purpose of the hearing to be arranged by the

Attorney General on my return to Washington. With this in mind, I prepared and sent forward a communication to the Attorney General as here set forth:

Hon. JOHN G. SARGENT,
Attorney General of the United Staes, Department of Justice,
Washington, D. C.

SIR: On November 11 I stood in silent prayer for the Nation and the Nation's Chief Executive while he was standing at the tomb of the Unknown Soldier paying sacred tribute to those who sacrified and served. At your office I had been advised you would likewise observe the day. Instead, a copy, now before me, of your communication to the honorable Secretary of the Interior discloses you set apart that day to crown a gigantic fraud against the Government.

Deep and sincere was my wish to find your disposition of the alleged Lomas de Santiago grant, delivered by special messenger to the Interior Department, was prepared by some one unencumbered with knowledge; unembarrassed by facts, and was given your signature, with no inquiry into conditions, law, or procedure. But the true copy precludes such a finding. The responsibility seems to have been assumed by you and appears to attach to you.

On November 11 you report to the Secretary of the Interior that—

"The questions presented by this reference have been exhaustively considered, extensive hearings have been held and all parties interested have been heard at length, and voluminous documents have been examined in reaching a conclusion. Without going into details I deem it sufficient to advise you that no suit should be instituted for the following reasons."

What parties interested did you hear at length? What voluminous documents did you examine subsequent to May 20, and prior to November 11? What details, if any, did you withold from the Secretary of the Interior when you transmitted your conclusions by special messenger?

On May 20 you approved findings of fact and conclusions of law and found—"The statute of limitations can not be made to apply," and following this finding you found "The doctrine of res judicata can not be invoked with success." You then said that before undertaking any proceedings in the courts, you should first know whether the grant was made and confirmed, may now be definitely located in accordance with what would appear to be its intent. I suggest therefore that the first step is to cause a resurvey to be made, taking the terms of the decree of the district court confirming the action of the Board of Land Commissioners into consideration and in connection therewith, of course, the Mexican papers evidencing the grant.

On July 23 the survey was ordered by the Interior Department. On August 20 the survey was counter ordered at your request, and the files were returned to you by your request. This fact was not known to the petitioners for several weeks.

On September 23 it was stated by the petitioners that if for any reason there was a doubt in your mind, a hearing was desired, and you stated it was your wish to have all the facts, and that you had ordered them to your office; that then a hearing would be granted and held. On the same day the request by the petitioners to be heard was reduced to writing and filed with you.

At the time the hearing was to be held you were absent from the department. You did not return until November 10. On November 11, without notice to the petitioners and without the promised hearing, you plead the statute of limitations and invoked the doctrine of res adjudicata for the benefit of those who for years through fraud and violence, with no color of title, without a dollar of consideration have fed and fattened on a vast tract of public domain and to-day boast of their ability to continue in undisturbed possession, because they control the Land Department and the Department of Justice. If this be true, then your communication of November 11 is inexcusable.

You dispose of a question, important to a degree it beggars description, by saying to the Secretary of the Interior "without going into details, I deem it sufficient to advise you that no suit should be instituted for the following reasons."

The expression, "without going into details," seems to be quite harmless, but in fact it reminds me of a certain little animal with an atomizer—a nice little thing to look at, a nasty thing to handle. Suppose, however, we take the courage and go "into details." When we do this we uncover the facts. Then in the spirit of fairness we must turn to the law. Now let us consider the facts and the law. This done and well done, candor compels the admission

that there is not one decision by any court, with jurisdiction, anywhere, to embarrass an action against the instrument that was not intended by Congress as a conveyance, and could not possibly convey. This being so, then "the following reasons" degenerate into excuses and the communication of November 11 is indefensible.

Having foreclosed the rights of the petitioners in the Department of Justice on November 11, it would be interesting to know why you granted me a hearing on November 14, and why the hearing was on that day adjourned by you over to November 16, and why, after agreeing on that day that all land under the alleged patent in excess of 4 square leagues was there as the result of premeditated fraud; that the alleged patent was issued without authority of law; that the statute of limitations does not apply; that res judicata can not be invoked; that the courts will not consider public policy. You asked me to discuss these questions with an assistant in the department. Was this request made because you did not know what you had signed, or was it because you did know, and knowing knew it was wrong? Be it as it may be, I undertook to do as you requested, and was at once confronted with the statement from your assistant to whom you sent me, that you knew there was nothing to discuss; that you knew you had closed the case, signed a communication to that effect on November 11, and sent it and the files out of the law department by special messenger to the Secretary of the Interior. As well, it would be interesting to know why at that time all knowledge was denied me of the facts, if any marshaled; the law, if any collated; the reasons, if any, given in support of your conclusions and such a communication.

On November 17 an effort was made to see you, with no avail. A letter was filed with your office stating the immediate necessity for my return to the West. On my arrival in Los Angeles I was amazed to find all information denied me in your department, November 16, had been communicated on November 11 to parties in California whose interests are adverse to the petitioners. Were this all, reference to it would not be made, but knowing ones state they had knowledge long prior to November 11 that you would avoid a hearing; that you would find against the petitioners and would close the case out of the Department of Justice immediately on your return to Washington.

I have before me a copy of a letter under date of November 17, signed by the honorable Secretary of the Interior, together with a copy of your conclusions of November 11. In this letter the honorable Secretary says, "In view of the conclusions of the Attorney General I have directed that this case be closed."

In your communication of November 11 you refer to the report made by the honorable Secretary of the Interior to the Department of Justice December 4, 1924. The same Secretary who made the report, received the communication. It is interesting to note you do not discuss the features of the frauds that are pointed out in the report. As well, you ignore the map attached to the report, which map was prepared by the Land Department and unmistakably shows the land, entered upon by the petitioners, is public domain of the United States and exactly conforms in sections, quarter sections, and forties with the particular list of sections, quarter sections, and forties furnished by the Land Department to the petitioners in 1922, designating what lands they could lawfully enter as homesteads.

The petitioners are involved because they sought information, listened to, relied upon, and acted under the representations, recommendations, advice, promises, and offers of assistance by and from a coordinate department of the Government. The Land Department advised them before they filed, that the lands were public lands and subject to homestead entry, assured them their filings would be received and their homesteads would be allowed. All they did was, consult with the Land Department, rely on the representations and act under the recommendations of its officers. For doing this, the Department of Justice charged them with felony, held them under indictment for two years, exhausted every effort to send them into Federal prisons, and at last finding all efforts fruitless, abandoned the proceedings and dismissed the charges on its own motion.

These outrages were induced by those who reap fortunes annually from schemes conceived in fraud and born in iniquity. And be it said that they credit themselves with dominating official Washington and claim your communication of November 11 to the Secretary of the Interior, is the climax of exerted influence.

Your letter bearing date November 19 is acknowledged. In it you say, "Please advise me when you return to the city, so that the hearing you desire can be arranged." The situation calls to mind the man who from habit sent for a physician, when in fact at last he was in need of undertaker. It appears pertinent to ask at this time: Is your letter granting a hearing on my return to Washington written with the knowledge of the honorable Secretary of the Interior? Have you arranged with the Interior Department to vacate the final order, that in its very nature precludes what you suggest? Accumulated wealth, favored by your conclusions of November 11, boasted it would deplete the purses and empty the pockets of the petitioners and thereby render them helpless. Its efforts have been fruitful. To-day they can ill afford the expense connected with a trip to Washington. With the record as now made, and for which you are directly responsible, I can not advise that my presence in Washington is necessary to attend a hearing before you.

You may ask, who are the petitioners? Are they the rabble, clamoring for a dole from the public store? Are they nomadic adventurers poaching on public preserves? Are they soviet propagandists calling for a division of private patrimony?

In the ranks of the homesteaders, who are now the petitioners, are found the most respectable elements of citizenship, who measure up to the highest standards of morals, intelligence and patriotism. They are men and women in the professions of law, medicine, pedagogy and other accomplishments; men and women engaged in manufacturing, banking, merchandising, and agriculture; men and women artisans and active in productive fields of industry; men and women who scorn the rôle attributed to them as suppliants for public bounty; men and women, whose primary payments for public domain guaranteed to them as a constitutional right, are impounded and still held by the United States Treasury. These are the petitioners facing this situation with honest purpose and serene and unyielding determination.

The petitioners have proceeded all along on the assumption the grant was valid as to 4 square leagues. They are advised and they now believe their rights could be fully protected by a survey of the alleged grant as requested by you on May 20, and by a suit to annul the Wilson Patent issued without authority of law. However, you have withdrawn the request for the survey and you have declined to bring the suit. Your conclusions as Attorney General put the sword of the statute of limitations and the shield of res judicata in the hands of parties who gloat over the possession of many thousands of acres of the public domain of your client. As though they needed added safety, in the same document, you put them behind the wall of public policy. There you leave them to stalk hither and from across the broad acres of Government lands, and, tiring of this, to wallow in wealth, harvested from the fertile soil held by the Nation in trust for the people, while they contemplate with satisfaction the hardships endured and the outrages suffered by the petitioners because they asked the advice of, and acted as advised by the officials of the Land Department.

You were under the impression on November 16 that I had slight regard for the findings of commission and court in re the Lomas de Santiago grant. The plain truth is, my respect for the confirmation and the decree is by no means unlimited. This may be due to a close study of surrounding facts and circumstances that will be suggested to you by a memorandum here to attached together with some remarks made in the Belknap case, 1882, by the Hon. George Frisbie Hoar.

You recall I submitted for your inspection certificates made by the highest officers and the duly constituted custodians of the records of another nation. They were in a foreign tongue. With them was an official translation. These certificates were properly certified by the accredited officers of the United States. They disclose the facts in the archives of that government and the supreme law of that nation. They put at rest all questions connected with what is known on paper and in reports as the Rancho Lomas de Santiago. There is nothing as brutal as a fact. It is sometimes an awful thing to face. But the time has come to face it. The fact is there is not now and there never was a Lomas de Santiago grant. The fact is there is no record in this or in any other country of such a grant. The fact is the vast tract of land, 47,226.61 acres, included in the fraudulent Henry Hancock survey and covered by the fraudulent B. S. Wilson patent is public domain of the United States.

The petitioners have been humiliated, maligned, outrageously and notoriously charged with fraud. They were indicted and held for many months

under heavy bonds. All this in the name of the United States—all because they accepted in good faith the promises of officials of their Government. It is with deep regret that I realize you have closed to them the door of the Department of Justice. By so doing you have accepted and assumed a grave responsibility; you force them to knock at the door of petition guaranteed by fundamental law. This will be deliberate and with intense concern. Do you wonder why? By way of answer, pardon an illustration: It is the fall of the year, out in the West on the range; the "round up" is on; there are 100 steers in a corral; a controversy arises; one inside should be outside—is that all—the inquiry at once is made. Are there others that belong on the outside? What of the ninety and nine?

Open the vaults where the records, if any, of the alleged Lomas de Santiago grant should be kept. Make diligent search there, then everywhere. Realize you have been looking for a fact and have found a fiction. Realize that the term grant, as it relates to the alleged Lomas de Santiago, was but a mere convenience in the United States, and that it was never a conveyance in the Republic of Mexico. Then answer this: Can you keep the question down? Can you answer the question, Are there any others?

If the reference of December 4, 1924, has been sent by you "exhaustively considered," then you must know when the petitioners go through the open door and approach in proper form a coordinate branch of the Government, all questions relative to the spurious Lomas de Santiago grant are settled for all time. As well, you must know the questions that will be asked and must be answered may embarrass the titles to many millions of acres of almost invaluable lands.

Respectfully,

WILLIAMSON S. SUMMERS
(For the Petitioners.)

LOS ANGELES, CALIF., *December 4, 1925.*

In connection with this letter of date December 4, the following memorandum was submitted:

"MEMORANDUM

"On May 26, 1846, the Mexican Government is alleged to have granted to a Mexican national, 4 square leagues of the Mexican public domain, known as California.

"On July 7, 1846, the Mexican public domain known as California passed to, and was thereafter known as, the public domain of the United States.

"On February 2, 1848, the United States entered into a treaty engagement with Mexico under which it was to hold inviolably the rights of the Mexican nationals to valid grants.

"In 1851, on March 3, the Congress created a commission and clothed it with special and exclusive jurisdiction to ascertain the location and lines of valid grants which had been separated from the public domain of the Republic of Mexico.

"On August 15, 1854, the commission confirmed the alleged grant to the Mexican national.

"On December 11, 1856, the only court clothed with the appellate jurisdiction under the act of March 3, 1851, affirmed the confirmation of the commission.

"Thereafter the Attorney General of the United States by stipulation made the decree of the court final.

"Under the law and the decree a survey of the grant should have been made in exact accord with the lines of the grant, but no survey was then made or has ever been made of said alleged grant.

"On December 3, 1860, the Mexican national signed a transfer of the grant to one Wolfskill—limited to 4 square leagues.

"Thereafter the Mexican national disappeared and later in 1863 he died.

"On March 31, 1866, Wolfskill transferred the 4 square leagues to one Flint.

"At once thereafter—that is, June, 1866—Henry Hancock, as stated by the Secretary of the Interior, December 4, 1924, without reference to the grant or the decree of the court, is alleged to have been made a survey around 47,226.61 acres of land and called it a survey of the grant to 4 square leagues.

"On February 1, 1868, these lines called a survey were presented to the then Commissioner of the General Land Office and approved, and an alleged patent

issued for 4 square leagues and the map unlawfully attached thereto called for 47,226.61 acres.

"This having been done under the direction of Irvine on August 13, 1868, he caused a one-half interest in the Mexican national's alleged grant to be transferred to him.

"Flint and Irvine are now cotenants in the Mexican national's alleged grant of 4 square leagues.

"But it is now interesting to know about the patent, so called. It is issued for 4 square leagues under an alleged survey of 47,226.61 acres, but 4 square leagues is 17,754.72 acres—but the alleged patent is issued to the Mexican national and his heirs.

"But in the meanwhile Flint had gone into politics, Irvine had gone into making big money; Flint wanted to sell the other half of the alleged grant; Irvine was anxious to buy yet not willing to take chances, so the United States *v.* Flint et al. was filed, wherein the Circuit Court for the District of California—why, the least said about it the better, but the opinion was filed September 4, 1876, and Flint sold to Irvine the other one-half interest in the alleged grant September 27, 1876.

"Why was not the Mexican national and his heirs made parties defendant or made parties by interpleading. The Mexican national was dead, but how could his heirs be foreclosed of their right to their day in court without being made parties and without notice."

Under date December 12, the Attorney General wrote me and said, "I still say I will hear you and consider what you have to say." The text of his letter is here given:

WASHINGTON, D. C., *December 12, 1925.*

WILLIAMSON S. SUMMERS, Esq.,
Los Angeles, Calif.

SIR: Your letter of December 4, with attached papers, is received and read.

When you were here I told you that upon the advice of the lawyers in this department having the matter in charge, conclusion had been reached that no suits should be instituted in the matter you write about, but that I would consider the matter further and would hear you, and I did hear you as long as I could devote the time to it, and when you left I told you I would hear you further. I found that you left town without seeing me further. I then wrote you that I would hear you further, and now, notwithstanding the tone of your letter, I still say I will hear you and consider what you have to say.

Yours truly,

JNO. G. SARGENT,
Attorney General.

I have always had an idea that a doctor is consulted for one purpose and an undertaker is employed for another. I could not understand why the Attorney General would hear me and would consider what I had to say after he had made his finding, advised that no suit should be brought and directed the Secretary of the Interior to notify all interested parties of his final disposition of their interests and rights.

With the view in mind of finding out if the cases, for any reason, had been referred back to the Attorney General, that is to say, if a hearing, should it be held, would avail any purpose, I wrote him, as here set out, under date December 26:

Hon. JOHN G. SARGENT,
Attorney General of the United States, Department of Justice,
Washington, D. C.

SIR: Your letter of December 12 was delivered to me in this morning's mail. Its condition, when received, was ample to justify the use of the express to convey my recent communication to you. Its importance is such as to demand an immediate answer.

You state "when you were here I told you that upon the advice of the lawyers in this department having the matter in charge, conclusion had been reached that no suits should be instituted in the matter you write about, but that it would consider the matter further and would hear you."

Now, this statement from you makes an examination of the record both interesting and necessary.

In June, 1924, it was agreed with the then Solicitor General that the proceedings in re the alleged Lomas de Santiago grant should be suggested by the Land Department.

Acting under this suggestion, the petition of the petitioners was filed before the Secretary of the Interior August 20, 1924.

On December 4, 1924, the Assistant Secretary of the Interior placed before the Attorney General findings, conclusions, and a map, showing the difference between the alleged grant and the alleged survey.

The case was referred to Assistant Attorney General Wells, who was placed in charge of the proceedings and was clothed with full power and authority in the premises.

At the request of interests adverse to the petitioners, a hearing was granted by and was held before Wells on February 21, 1925.

Findings of fact were made and conclusions of law were reached by Wells and were by you approved May 20, 1925, on which day you called for a survey of the alleged grant, the Lomas de Santiago, and on the day following you discussed with me the method of procedure as soon as the survey was concluded.

The only question before you after the order for the survey was one of procedure until on September 23, 1925, when you stated you intended to garner the facts in your office, go over them and the law in person, and would then hear me in behalf of the petitioners.

Having theretofore concurred in the findings of fact and conclusions of law presented by the lawyer charged with the duty and clothed with authority and thereupon ordered the survey, this announcement from you came as a great surprise to all except the knowing ones. As well it flatly contradicts your statement that you followed the advice of the lawyers in the department having the case in charge. Frankly, it was a short circuit to the confidence in you of those represented by me. But I gave them my pledge of faith in you, insisted you had a type of conscience that would not tolerate the betrayal of a public trust, or fall short in the discharge of a public duty, or withhold rights under the law in the interest of ill-gotten gains that enjoys a reputation below reproach. Now, "suppose a change of cases"—what ideas would you entertain were I in your position and were you in mine?

You say, conclusions had been reached that no suits should be instituted, and that you so told me. This is important if true. But unfortunately it is not important.

On the morning of November 14 you notified me that you had to get "some records from Mr. Horace H. Smith and go over them with him, and for this reason could not hear me until the latter part of the week following."

You recall the message sent by me to you which set forth the immediate necessity of my return to California, and your request shortly thereafter for me to see you in your office. It was in the afternoon of that day you heard me in behalf of the petitioners. But this was several days after their rights had been secretly betrayed.

You say the lawyers in the department who had charge of the case reached a conclusion and upon their advice you acted. It would be interesting to know the individuals in the department, entitled to an epithet indicating legal knowledge, who would lend their names to such advice. Yet the important fact is you did not do what you said on September 23 that you would do. And without doing it, you signed a document that is a reflection on integrity and an insult to intelligence.

But there remains the fact that the lawyers in the department who had charge of the case, who granted and conducted the hearing, reached a conclusion and on May 20, 1925, submitted that conclusion to you and received your approval. Your request for the survey of the alleged grant on that day is a monument to this fact.

The record as it now stands calls to mind the man of Eden who, hiding behind the abbreviated apparel of the first lady in Paradise, accounted for his conduct by a confession of his weakness.

Let us set down the facts that can not be controverted. They are, that you heard me November 14; that you continued the hearing over to November 16; that at the close of hearing on the 16th, you asked me to see one of your assistants; that he told me you closed the case November 11 and sent the files by special messenger out of the department; that he refused to show me your reasons for so doing or disclose to me what they were; that I went back to your office immediately thereafter and you had gone; that I tried to see you the day following and you were not in your office. You could not be seen.

From my viewpoint, the record in my office is as follows:

On November 11 the case was closed out of your department by you. It was closed in the Department of the Interior before the petitioners knew it

had been disposed of by you. Two days thereafter the rehearing was denied in an opinion promulgated by that department. The speed with which the Secretary of the Interior closed the case and the glaring injustice that stands out in the opinion filed by the Assistant Secretary will not be here discussed. On November 19 you wrote me that on my return to the city you would arrange for the hearing desired. On December 4 I asked you if the order of the Assistant Secretary had been vacated, if the action of the Secretary had been abrogated, if jurisdiction had been restored to you. On December 12 you write and say on my return to Washington you will grant me a hearing.

But you do not answer my questions. You ignore them. Again, therefore, I ask you: Has the action of the Assistant Secretary of the Interior been set aside? Has the case been reopened by the Secretary of the Interior? Has the Land Department referred the case back to you? Have you authority to hear an argument and to pass upon facts and law? In short, is your offer to hear me on my return to Washington based upon the rock of jurisdiction? These questions are plain, pointed, and pertinent. What answer do you make?

Respectfully,

WILLIAMSON S. SUMMERS, *for the petitioners.*

LOS ANGELES, CALIF., *December 26, 1925.*

The Attorney General never answered and indicated the Secretary of the Interior or anyone in the Land Department had any knowledge of his proposed hearing; never said the cases had been referred back to him; never suggested the prior disposition of the cases had been or would be vacated; never intimated the proposed hearing was for that purpose; never gave an impression that jurisdiction had been restored to him; in fact, it seems the "Please advise me when you return to the city so that the hearing you desire can be arranged," in the letter of November 19, and the "I still say I will hear you and consider what you have to say," in the letter of December 12, were only idle words. They appear to be the expressions of a man who was trying to live with himself after a signal failure to do what under the law and the facts he knew it was his duty to do. I say he knew it was his duty, because on November 11, Armistice Day, he knew, the Mexican Government had never made the Lomas de Santiago grant. He knew the Mexican Government had declared not only that no Lomas de Santiago grant had been made, but that under the law no such grant could have been made. He knew, if the Mexican Government had not made the grant, that no power in this country could make it. He knew the legislative, the executive, the judicial branches of this Government, all combined could not make the Lomas de Santiago grant. He knew, if Mexico did not make it, there was no such grant. He knew, if Mexico did not make the grant, the lands described in the alleged grant were immediately before the cession by Mexico to the United States, public lands of Mexico; that immediately after the cession by Mexico to the United States, they were public lands of the United States. He knew that the lands were acquired territory by reason of a treaty engagement; that they were purchased and paid for with moneys taken out of the Treasury of the United States; that they were held by the United States as trustee for the people of the United States; that the title was in the United States as trustee for the people; that as long as the title was in the United States the Secretary of the Interior had jurisdiction; that the title could not be moved in any manner except by an act of Congress; that Congress had never made any provision for the Commissioner of the General Land Office to give 47,226.61 acres of public lands of the United States to a Mexican national eight years after he was dead.

Be advised that some time during the early part of the year 1925 Mr. Joseph Burke retired from the United States attorney's office in the southern district of California. Mr. Samuel W. McNabb was appointed. Mr. McNabb has been at all times since then and is now the United States attorney for that district.

Let it be here said I have never been a party to moot court cases. When I filed the application for the exercise of supervisory action in the case of Ben McLendon and others it was believed by me that there was a Lomas de Santiago grant. When I contended before Judge Wells, then Assistant Attorney General of the United States, for a survey of the grant it was for the purpose of showing all lands outside of the grant and inside of the fabricated survey were public lands.

And here permit this added statement. When it was made known to me that no Lomas de Santiago grant had ever been made and the supreme officers of the Mexican Government had so declared, I caused certificates to that effect to be made by the proper officers of that Republic, to be delivered into my possession. These certificates show conclusively that Mexico not only did not make a Lomas de Santiago grant, but as well that under the law could not make it.

Having these certificates, I arranged for a meeting with Hon. John H. Pratt, Assistant Attorney General of the United States; Hon. Charles W. Fricke, then chief deputy in the district attorney's office, now judge of the superior court; Mr. Samuel W. McNabb, then and now the United States attorney for the southern district of California; and Mr. Lucian C. Wheeler, the then chief of the bureau of inspection for the United States, on the Pacific coast. These men met with me and I placed the certificates in their hands for inspection. As well, I placed before them and left in the possession of the United States attorney all facts, information, and assurances McLendon and others had at the time when they made their applications to homestead certain of the so-called Lomas de Santiago lands.

The agents of the Government made investigations searching and exhaustive. Their activities extended [illegible] more than two years. At last on its own motion the G[illegible] cases and exonerated the bonds. The reason in the [illegible] the General Land Office was that to try the [illegible] lands. No one knew this better than t[illegible] Well did [illegible] the cases would show the lands [illegible] just as he [illegible] they were back in August, 19[illegible]

[illegible]SON S. SUMMERS.

Subscr[illegible]y presence [illegible]ore [illegible] day of February, A. D., 1[illegible]

[SEAL] [illegible] SCHALLER,
Notary Public.

My c[illegible]

ME[illegible]RANT [illegible]

[illegible]. 9, p. 63[illegible]

Chap[illegible]

AN ACT [illegible] settle the priv[illegible]he State of California

Be it enacted [illegible] *sentatives of the United States of America* [illegible] the purpose of ascertaining and settling private [illegible] California, a commission shall be, and is hereby, constitu[illegible] consist of three commissioners, to be appointed by the President of the United States, by and with the advice and consent of the Senate, which commission shall continue for three years from the date of this act, unless sooner discontinued by the President of the United States.

SEC. 2. *And be it further enacted*, That a secretary, skilled in the Spanish and English languages, shall be appointed by the said commissioners, whose duty it shall be to act as interpreter, and to keep a record of the proceedings of the board in a bound book, to be filed in the office of the Secretary of the Interior on the termination of the commission.

SEC. 3. *And be it further enacted*, That it shall be lawful for the President of the United States to appoint an agent learned in the law and skilled in the Spanish and English languages, whose special duty it shall be to superintend the interests of the United States in the premises, to continue him in such agency as long as the public interest may, in the judgment of the President, require his continuance, and to allow him such compensation as the President shall deem reasonable. It shall be the duty of the said agent to attend the meetings of the board, to collect testimony in behalf of the United States, and to attend on all occasions when the claimant, in any case before the board, shall take depositions; and no deposition taken by or in behalf of any such claimant shall be read in evidence in any case, whether before the commissioners or before the district or Supreme Court of the United States, unless

BEST AVAILABLE COPY

notice of the time and place of taking the same shall have been given in writing to said agent, or to the district attorney of the proper district, so long before the time of taking the deposition as to enable him to be present at the time and place of taking the same, and like notice shall be given of the time and place of taking any deposition on the part of the United States.

SEC. 5 *And be it further enacted*, That the said commissioners shall hold their sessions at such times and places as the President of the United States shall direct, of which they shall give due and public notice; and the marshal of the district in which the board is sitting shall appoint a deputy, whose duty it shall be to attend upon the said board, and who shall receive the same compensation as is allowed to the marshal for his attendance upon the district court.

SEC. 6. *And be it further enacted*, That the said commissioners, when sitting as a board, and each commissioner at his chambers, shall be, and are, and is hereby, authorized to administer oaths, and to examine witnesses in any case pending before the commissioners, that all such testimony shall be taken in writing, and shall be recorded and preserved in bound books to be provided for that purpose.

SEC. 7. *And be it further enacted*, That the Secretary of the board shall be, and he is hereby, authorized and required, on the application of the law agent or district attorney of the United States, or of any claimant or his counsel, to issue writs of subpœna commanding the attendance of a witness or witnesses before the said board or any commissioner.

SEC. 8. *And be it further enacted*, That each and every person claiming lands in California by virtue of any right or title derived from the Spanish or Mexican Government, shall present the same to the said commissioners when sitting as a board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claims; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same upon such evidence, and upon the evidence produced in behalf of the United States, and to decide upon the validity of said claim, and within thirty days after such decision is rendered, to certify the same, with the reasons on which it is founded, to the district attorney of the United States in and for the district in which such decision shall be rendered.

SEC. 9. *And be it further enacted*, That in all cases of the rejection or confirmation of any claim by the board of commissioners, it shall be and may be lawful for the claimant or the district attorney, in behalf of the United States, to present a petition to the district court of the district in which the land claimed is situated, praying the said court to review the decision of the commissioners, and to decide on the validity of such claim; and such petition, if presented by the claimant, shall set forth fully the nature of the claim and the names of the original and present claimants, and shall contain a deraignment of the claimant's title, together with a transcript of the report of the board of commissioners, and of the documentary evidence and testimony of the witnesses on which it was founded; and such petition, if presented by the district attorney in behalf of the United States, shall be accompanied by a transcript of the report of the board of commissioners, and of the papers and evidence on which it was founded, and shall fully and distinctly set forth the grounds on which the said claim is alleged to be invalid, a copy of which petition, if the same shall be presented by a claimant, shall be served on the district attorney of the United States, and, if presented in behalf of the United States, shall be served on the claimant of his attorney; and the party upon whom such service shall be made shall be bound to answer the same within a time to be prescribed by the judge of the district court; and the answer of the claimant to such petition shall set forth fully the nature of the claim, and the names of the original and present claimants, and shall contain a deraignment of the claimant's title; and the answer of the district attorney in behalf of the United States shall fully and distinctly set forth the grounds on which the said claim is alleged to be invalid, copies of which answers shall be served upon the adverse party thirty days before the meeting of the court, and thereupon, at the first term of the court thereafter, the said case shall stand for trial, unless, on cause shown, the same shall be continued by the court.

SEC. 10. *And be it further enacted*, That the district court shall proceed to render judgment upon the pleadings and evidence in the case, and upon such further evidence as may be taken by order of the said court, and shall, on

application of the party against whom judgment is rendered, grant an appeal to the Supreme Court of the United States, on such security for costs in the district and Supreme Court, in case the judgment of the district court shall be affirmed, as the said court shall prescribe; and if the court shall be satisfied that the party desiring to appeal is unable to give such security, the appeal may be allowed without security.

SEC. 11. *And be it further enacted*, That the commissioners herein provided for, and the district and Supreme Court, in deciding on the validity of any claim brought before them under the provisions of this act, shall be governed by the treaty of Guadaloupe Hidalgo, the law of nations, the laws, usages, and customs of the government from which the claim is derived, the principles of equity, and the decisions of the Supreme Court of the United States, so far as they are applicable.

SEC. 12. *And be it further enacted*, That to entitle either party to a review of the proceedings and decision of the commissioners hereinbefore provided for, notice of the intention of such party to file a petition to the district court shall be entered on the journal or record of proceedings of the commissioners within sixty days after their decision on the claim has been made and notified to the parties, and such petition shall be filed in the district court within six months after such decision has been rendered.

SEC. 13. *And be it further enacted*, That all lands, the claims to which have been finally rejected by the commissioners in manner herein provided, or which shall be finally decided to be invalid by the district or Supreme Court, and all lands the claims to which shall not have been presented to the said commissioners within two years after the date of this act, shall be deemed, held, and considered as part of the public domain of the United States; and for all claims finally confirmed by the said commissioners, or by the said district or Supreme Court, a patent shall issue to the claimant upon his presenting to the general land office an authentic certificate of such confirmation, and a plat or survey of the said land, duly certified and approved by the surveyor general of California, whose duty it shall be to cause all private claims which shall be finally confirmed to be accurately surveyed, and to furnish plats of the same; and in the location of the said claims, the said surveyor general shall have the same power and authority as are conferred on the register of the land office and receiver of the public moneys of Louisiana, by the sixth section of the act "to create the office of surveyor of the public lands for the State of Louisiana," approved March third, one thousand eight hundred and thirty-one: *Provided, always*, That if the title of the claimant to such lands shall be contested by any other person, it shall and may be lawful for such a person to present a petition to the district judge of the United States setting forth his title thereto, and praying the said judge to hear and determine the same, a copy of which petition shall be served upon the adverse party thirty days before the time appointed for hearing the same: *And provided further*, That it shall and may be lawful for the district judge of the United States, upon the hearing of such petition, to grant an injunction to restrain the party at whose instance the claim to the said lands has been confirmed, from suing out a patent for the same, until the title thereto shall have been finally decided, a copy of which order shall be transmitted to the commissioner of the general land office, and thereupon no patent shall issue until such decision shall be made, or until sufficient time shall, in the opinion of the said judge, have been allowed for obtaining the same; and thereafter the said injunction shall be dissolved.

SEC. 14. *And be it further enacted*, That the provisions of this act shall not extend to any town lot, farm lot, or pasture lot, held under a grant from any corporation or town to which lands may have been granted for the establishment of a town by the Spanish or Mexican Government, or the lawful authorities thereof, nor to any city, or town, or village lot, which city, town, or village existed on the seventh day of July, eighteen hundred and forty-six; but the claim for the same shall be presented by the corporate authorities of the said town, or where the land on which the said city, town, or village was originally granted to an individual, the claim shall be presented by or in the name of such individual, and the fact of the existence of the said city, town, or village on the said seventh of July, eighteen hundred and forty-six, being duly proved, shall be prima facie evidence of a grant to such corporation, or to the individual under whom the said lot holders claim; and where any city, town, or village shall be in existence at the time of passing this act the

claim for the land embraced within the limits of the same may be made by the corporate authority of the said city, town, or village.

SEC. 15. *And be it further enacted*, That the final decrees rendered by the said commissioners, or by the district or Supreme Court of the United States, or any patent to be issued under this act, shall be conclusive between the United States and the said claimants only, and shall not affect the interests of third persons.

SEC. 16. *And be it further enacted*, That it shall be the duty of the commissioners herein provided for to ascertain and report to the Secretary of the Interior the tenure by which the mission lands are held, and those held by civilized Indians, and those who are engaged in agriculture or labor of any kind, and also those which are occupied and cultivated by Pueblos or Rancheros Indians.

SEC. 17. *And be it further enacted*, That each commissioner appointed under this act shall be allowed and paid at the rate of six thousand dollars per annum; that the secretary of the commissioners shall be allowed and paid at the rate of four thousand dollars per annum; and the clerks herein provided for shall be allowed and paid at the rate of one thousand five hundred dollars per annum; the aforesaid salaries to commence from the day of the notification by the commissioners of the first meeting of the board.

SEC. 18. *And be it further enacted*, That the secretary of the board shall receive no fee except for furnishing certified copies of any paper or record, and for issuing writs of subpœna. For furnishing certified copies of any paper or record, he shall receive twenty cents for every hundred words, and for issuing writs of subpœna, fifty cents for each witness; which fees shall be equally divided between the said secretary and the assistant clerk.

Approved, March 3, 1851.

(U. S. Stat. L., vol. 10, p. 99 (sec. 12))

SEC. 12. *And be it further enacted*, That the President of the United States appoint an associate law agent for California, learned in the law, and skilled in the Spanish and English languages, whose duties and compensation shall be the same as those of the law agent: *Provided*, That the compensation of the agent and associate shall not exceed five thousand dollars each. And in every case in which the board of commissioners on private land claims in California, shall render a final decision, it shall be their duty to have two certified transcripts prepared of their proceedings and decision, and of the papers and evidence on which the same are founded, one of which transcripts shall be filed with the clerk of the proper district court, and the other shall be transmitted to the Attorney General of the United States, and the filing of such transcript with the clerk aforesaid shall ipso facto operate as an appeal for the party against whom the decision shall be rendered; and if such decision shall be against the private claimant, it shall be his duty to file a notice with the clerk aforesaid within six months thereafter, of his intention to prosecute the appeal; and if the decision shall be against the United States, it shall be the duty of the Attorney General within six months after receiving said transcript to cause a notice to be filed with the clerk aforesaid, that the appeal will be prosecuted by the United States; and on a failure of either party to file such notice with the clerk aforesaid, the appeal shall be regarded as dismissed.

(U. S. Stat. L., vol 10, p. 265)

Chapter II

AN ACT To continue in force the act entitled "An act to ascertain and settle the private land claims in the State of California," and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to ascertain and settle the private land claims in the State of California," passed March third, eighteen hundred and fifty-one, be, and the same is hereby, continued in force for one year from and after the third day of March, A. D. eighteen hundred and fifty-four, for the purpose of enabling the board of commissioners appointed under said act to determine the claims presented to said board under the act aforesaid.

SEC. 2. *And be it further enacted*, That the said board of commissioners may appoint one or more, not exceeding three, competent persons to act as commissioners in the taking of testimony to be used before said board, who shall receive a compensation to be fixed by said board, but not to exceed ten dollars per diem.

Approved January 18, 1854.

(U. S. Stat. L., vol. 10, p. 268)

Chapter XIV

AN ACT Supplemental to an act entitled "An act to ascertain and settle the private land claims in the State of California," approved March third, one thousand eight hundred and fifty-one

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-named persons, viz: Henry C. Boggs, Levi W. Hardman, Wiley Sneed, Stephen Broadhurst, Smith and Kristeen, George H. Woodman, Berthald and Lorrin, Fisher and Guildfildt, and William Clarke, or either of them, or their representatives, may, within six months after the passage of this act, present their claims to the commissioners who were appointed under the provisions of the act to which this is a supplement; and the said commissioners are hereby empowered to hear and dispose of the same as effectually as though the said claims had been presented in due time, under the thirteenth section of the aforesaid act.

SEC. 2. *And be it further enacted*, That the persons named in this act shall be limited and confined, in their claims, to purchases made of Don Salvador Valligo, a Mexican grantee, for a part of the place known as "Entre Napa," and situate in Napa County, State of California. And the said commissioners shall be satisfied that the said persons named derived title to their respective claims previous to the third day of March, one thousand eight hundred and fifty-three.

SEC. 3. *And be it further enacted*, That the said persons named shall be entitled to no privilege not conferred on claimants under the original act, but as to an extension of time in which their claims may be respectively made to the said commissioners.

Approved, February 23, 1854.

(U. S. Stat. L., vol. 10, p. 603)

Chapter XXV

AN ACT To continue in force, for a limited time, the provisions of the act of Congress of March third, eighteen hundred and fifty-one, and the second section of its supplement of January eighteenth, eighteen hundred and fifty-four, so as to enable the board of land commissioners in California to close their adjudications of private-land titles in that State, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the act of Congress approved March third, eighteen hundred and fifty-one, "to ascertain and settle the private-land claims in the State of California," and of the second section of the act of January eighteenth, eighteen hundred and fifty-four, continuing the same in force, be further continued in force for the term of one year, and no longer, from March third, eighteen hundred and fifty-five.

SEC. 2. *And be it further enacted*, That the United States district attorney for the northern district of California be, and he is hereby, authorized to employ assistant counsel to aid him in defending the interests of the United States in the land suits for the adjudication of such claims before the district court, at a salary not exceeding three thousand six hundred dollars per annum, and also to employ such clerical force, not exceeding two persons, at a compensation of one hundred and fifty dollars per month each; the services of said assistant counsel, and the clerical force aforesaid, not to continue beyond the exigencies of the service, nor longer than the term of one year from the period of their several appointments.

SEC. 3. *And be it further enacted*, That the said commissioners, or either of them, may issue the writ of subpœna requiring the attendance of witnesses

before the said board, and that for any contempt in refusing obedience to such writ, the board shall have the same power to inflict punishment now possessed by the district court of the United States.

Approved January 10, 1855.

(U. S. Stat. L., vol. 10, p. 631)

Chapter CXLII

AN ACT To establish a circuit court of the United States in and for the State of California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a judicial circuit shall be, and the same is hereby, constituted in and for the State of California, to be known as the Circuit Court of the United States for the Districts of California, a term of which court shall be held annually, in the city of San Francisco, on the first Monday of July in each and every year; and for this purpose a judge shall be appointed, and the court hereby organized shall, in all things, have and exercise the same original jurisdiction as is vested in the several circuit courts of the United States, as organized under existing laws; and shall also have and exercise the same appellate jurisdiction over the district courts of the United States for the northern and southern districts of California as by existing laws is vested in the several circuit courts of the United States over the district courts of the United States in their respective circuits; and the said judge shall appoint a clerk, who shall have the power to appoint a deputy, which clerk shall reside, and keep the records of the court, in the said city of San Francisco, and shall receive for the services he may perform double the fees allowed to the clerk of the southern district of New York.

SEC. 2. *And be it further enacted*, That said judge shall have power to order and hold such special or extra terms of said court as he may deem expedient, and at such time or times as he shall, by his order, under his hand and seal, direct, addressed to the marshal and clerk of said court, at least thirty days previous to the commencement of such special or extra term or terms, which order shall be published intermediately in two or more of the gazettes of the State of California; and at any or all of such special terms the business of said court shall have reference to the immediately preceding regular or special term, and be proceeded with in the same manner; and such proceedings shall be, to all intents and purposes, as valid as if the same had taken place at a regular term of said court; all which terms shall be held at such place, in the said city of San Francisco, as the marshal of the United States for the northern district of California, whose duty it shall be to act as the marshal of said court, shall procure for the purpose, under the directions of said judge; and appeals from the proceedings of the court organized under this act shall be taken to the Supreme Court of the United States, in the same manner, and on the same conditions, as appeals are taken under existing laws from the other circuit courts of the United States.

SEC. 3. *And be it further enacted*, That the judge of said court shall have the same power to issue writs of habeas corpus and other writs as is vested by law in the other judges of the United States.

SEC. 4. *And be it further enacted*, That in case the judge of said court shall fail to attend at the time and place of holding any regular or special term of said court, before the close of the fourth day after the commencement of such terms, the business pending before said court shall stand adjourned until the next regular term of said court, or until the next special term of the court, should one be ordered under the authority of this act previous to such regular term.

SEC. 5. *And be it further enacted*, That the district courts of the United States for the northern and southern districts of California, shall hereafter exercise only the ordinary duties and powers of the district courts of the United States, except the special jurisdiction vested in the said district courts of California over the decisions of the board of commissioners for the settlement of private land claims in California under existing laws; and that appeals from the judgments, orders, and decrees of either of said district courts of California, in the exercise of its ordinary jurisdiction, shall be taken to the circuit court organized by this act, in the same manner and upon the same conditions as appeals may be taken from the judgments, orders, or decrees of the district courts to the circuit courts of the United States.

SEC. 6. *And be it further enacted*, That the judge appointed under this act shall from time to time, or at any time when in his opinion the business of his own court will permit, and that of the courts of the northern and southern district of California shall require, form part of, and preside over, the said district courts when either of them is engaged in the discharge of the appellate jurisdiction vested in it over the decisions of the board of commissioners for the settlement of private land claims in the State of California, under the act of Congress entitled "An act to ascertain and settle the private land claims in the State of California," passed March third, eighteen hundred and fifty-one, and by another act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending thirtieth of June, eighteen hundred and fifty-three, and for other purposes," passed thirty-first of August, eighteen hundred and fifty-two; and it shall be the duty of the clerks of the respective district courts of California to give thirty days' written notice to the judge of the court organized under this act, of the time and place of the sitting of such district court for the discharge of such appellate jurisdiction; and in case the judge of such district court shall fail, from sickness or other casualty to attend at such time and place, the judge of the court organized under this act, is hereby authorized to hold said court, and proceed with the business of the court, in accordance with the provisions prescribed for the regulation of said district court in the Act of Congress hereinbefore referred to; and all appeals to the Supreme Court of the United States from the decisions of said district court, whether held by the last-mentioned judge, or by him in conjunction with the district judge, or by the district judge alone, shall be taken in the manner prescribed by the Act of Congress passed on the third of March, eighteen hundred and fifty-one, entitled "An act to ascertain and settle the private land claims in the State of California."

SEC. 7. *And be it further enacted*, That the salary of the judge appointed under this act shall be four thousand five hundred dollars per annum, to commence from the date of his appointment.

SEC. 8. *And be it further enacted*, That all laws and parts of laws militating against this act be, and the same are hereby, repealed.

Approved, March 2, 1855.

(U. S. Stat. L. vol. 11, p. 287)

Chapter XXXV

AN ACT To amend the act entitled "An act to ascertain and settle the private land claims in the State of California," passed March third, eighteen hundred and fifty-one

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in cases pending in the district courts of the United States in California, on appeal from the decree of the commissioners to ascertain and settle the private lands claim in the State of California, under the act of Congress passed March third, eighteen hundred and fifty-one, if either party shall desire to examine any witness residing in any other district within said State, or shall require the production of any paper, written instrument, book, or document, supposed to be in the possession or power of a witness residing in another district, the court wherein the case is pending, or any judge thereof, being satisfied, by affidavit or otherwise, of the materiality of such witness, or of the production of such paper, written instrument, book, or document, as evidence of the case, may order the clerk of said court to issue a subpœna, or a subpœna duces tecum for such witness and for such paper, written instrument, book, or document; which subpœna or subpœna duces tecum shall run into any other district in said State, and be served by the marshal of either district, as the court or judge may direct: And the court or judge ordering said writ shall have power to enforce obedience to said process, and punish disobedience by attachment, and in like manner as if said witness resided within the district where the cause may be pending; and all attachments and process necessary to enforce obedience or punish disobedience to the aforesaid writs of subpœna and subpœna duces tecum may be served and executed by the marshal of either district, as the court or judge may direct: *Provided*, That a witness attending the court under a subpœna issued under the provisions of this act, in a district in which he does not reside, shall be entitled to the same fees for attendance as are allowed by the laws of the State of California to witnesses in similar cases.

Approved, May 11, 1858.

(U. S. Stat. L., vol. 11, p. 290)

Chapter XL

AN ACT For the prevention and punishment of frauds in land titles in California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any person shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited; or willingly aid and assist in the false making, altering, forging, or counterfeiting any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, espediente, or part of an espediente, or any title paper, or evidence of right, title, or claim to lands, mines, or minerals in California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California; for the purpose of setting up or establishing against the United States any claim, right, or title to lands, mines, or minerals within the State of California, or for the purpose of enabling any person to set up or establish any such claim; or if any person, for the purposes aforesaid, or either of them, shall utter or publish as true and genuine, any such false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, espediente or part of an espediente, title paper, evidence of right, title, or claim to lands or mines or minerals in the State of California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, the person so offending shall be deemed and adjudged guilty of a misdemeanor; and, being thereof duly convicted, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years, and not more than ten years, and shall be fined not exceeding ten thousand dollars.

SEC. 2. *And be it further enacted*, That if any person shall make, or cause or procure to be made, or shall willingly aid and assist in making any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, espediente or part of an espediente, or any title paper, or written evidence of right, title, or claim, under Mexican authority, to any lands, mines, or minerals in the State of California, or any instrument of writing in relation to lands or mines or minerals in the State of California, having a false date, or falsely purporting to be made by any Mexican officer or authority prior to the seventh day of July, A. D. eighteen hundred and forty-six, for the purpose of setting up or establishing any claim against the United States to lands or mines or minerals within the State of California, or of enabling any person to set up or establish any such claim; or if any person shall sign his name as governor, secretary, or other public officer acting under Mexican authority, to any instrument of writing falsely purporting to be a grant, concession, or denouncement under Mexican authority, and during its existence in California, of lands, mines, or minerals, or falsely purporting to be an informe, report, record, confirmation, or other proceeding on an application for a grant, concession, or denouncement under Mexican authority, during its existence in California, of lands, mines, or minerals, the person so offending shall be deemed and adjudged guilty of a misdemeanor; and, being thereof duly convicted, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years, nor more than ten years, and shall be fined not exceeding ten thousand dollars.

SEC. 3. *And be it further enacted*, That if any person, for the purpose of setting up or establishing any claim against the United States to lands, mines, or minerals within the State of California, shall present, or cause or procure to be presented, before any court, judge, commission, or commissioner, or other officer of the United States, any false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, diseño, map, espediente or part of an espediente, title paper, or written evidence of right, title, or claim to lands, minerals, or mines in the State of California, knowing the same to be false, forged, altered, or counterfeited, or any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, espediente or part of an espediente, title paper, or written evidence of right, title, or claim to lands, mines, or minerals in California knowing the same to be falsely dated; or if any person shall prosecute in any court of the United States, by appeal or otherwise, any claim against the United States for lands, mines, or minerals in

California, or shall, after the passage of this act, continue to prosecute any claim now pending in said courts against the United States for lands, mines, or minerals in California, which claim is founded upon, or evidenced by, any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, espediente or part of an espediente, title paper, or written evidence of right, title, or claim, which has been forged, altered, counterfeited, or falsely dated, knowing the same to be forged, altered, or counterfeited, or falsely dated, the person so offending shall be deemed and adjudged guilty of a misdemeanor; and, on conviction thereof, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years, nor more than ten years, and shall be fined not exceeding ten thousand dollars.

Approved, May 18, 1858.

(U. S. Stat. L., vol. 12, p. 33)

Chapter CXXVIII

AN ACT To amend an act entitled "An act to define and regulate the jurisdiction of the district courts of the United States in California in regard to the survey and location of confirmed private land claims"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the surveyor general of California shall, in compliance with the thirteenth section of an act entitled "An act to ascertain and settle [the] private land claims in the State of California," approved March three, eighteen hundred and fifty-one, have caused any private land claim to be surveyed, and a plat to be made thereof, he shall give notice that the same has been done, and the survey and plat approved by him, by a publication once a week for four weeks in two newspapers, one published in the city of San Francisco, and one of which the place of publication is nearest the land, if the land is situated in the northern district of California; and once a week for four weeks in two newspapers, one published in Los Angeles, and one of which the place of publication is nearest the land, if the land is situated in the southern district of California; and until the expiration of such time, the survey and plat shall be retained in his office, subject to inspection.

SEC. 2. *And be it further enacted*, That the district courts of the United States for the northern and southern districts of California are hereby authorized, upon the application of any party interested, to make an order requiring any survey of a private-land claim within their respective districts to be returned into the district court for examination and adjudication, and on the receipt of said order, duly certified by the clerk of either of said courts, it shall be the duty of the surveyor general to transmit said survey and plat forthwith to the said court.

SEC. 3. *And be it further enacted*, That said order shall be granted by said courts on the application of any party whom the district courts, or the judge thereof, in vacation, shall deem to have such an interest in the survey and location of a land claim, as to make it just and proper, that he should be allowed to take testimony and to intervene for his interest therein; and if objections to the survey and location shall be made on the part of the United States, the order to return the survey into court shall be made on the motion of the district attorney founded on sufficient affidavits; and if the application for such order is made by other parties claiming to be interested in, or that their rights are affected by, such survey and location, the court, or the judge in vacation, shall proceed summarily, on affidavits or otherwise, to inquire into the fact of such interest, and shall, in its discretion, determine whether the applicant has such an interest therein, as under the circumstances of the case, to make it proper that he should be heard in opposition to the survey, and shall grant or refuse the order to return the survey and location, as shall be just: *Provided, however*, That all parties claiming interest under preemption, settlement, or other right or title derived from the United States, shall not be permitted to intervene separately; but the rights and interests of said parties shall be represented by the district attorney of the United States, intervening in the name of the United States, aided by counsel acting for said parties jointly if they think proper to employ such counsel: *And provided further*, That before proceeding to take the testimony, or to determine

on the validity of any objection so made to the survey and location as aforesaid, the said courts shall cause notice to be given, by public advertisement, or in some other form to be prescribed by their rules, to all parties in interest, that objection has been made to such survey and location, and admonishing all parties in interest to intervene for the protection of such interest; and the said courts shall adopt rules providing for the prompt and summary decision of all controversies on surveys and locations that may arise under the provisions of this act.

SEC. 4. *And be it further enacted*, That when on the application of the party or parties interested as aforesaid, in said survey and location, the same shall be returned into court, the said parties may proceed to take testimony as to any matters necessary to show the true and proper location of the claim; such testimony to be taken in such manner, by deposition or otherwise, or by commission, as the court may direct, and, on hearing the allegations and proofs, the court shall render judgment thereon; and if, in its opinion, the location and survey are erroneous, it is hereby authorized to set aside and annul the same, or correct and modify it; and it is hereby made the duty of the surveyor general, on being served with a certified copy of the decree of said court, forthwith to cause a new survey and location to be made, or to correct and reform the survey and location already made, so as to conform to the decree of the district court, to whom it shall be returned for confirmation and approval.

SEC. 5. *And be it further enacted*, That when, after publication as aforesaid, no application shall be made to the said court for the said order, or when said order has been refused, or when an order shall have been obtained as aforesaid, and when the district court by its decree shall have finally approved said survey and location, or shall have reformed or modified the same, and determined the true location of the claim, it shall be the duty of the surveyor general to transmit, without delay, the plat or survey of the said claim to the General Land Office, and the patent for the land as surveyed shall forthwith be issued therefor, and no appeal shall be allowed from the order or decree as aforesaid of the said district court, unless applied for within six months from the date of the decree of said district courts, but not afterwards; and the said plat and survey so finally determined by publication, order, or decree, as the case may be, shall have the same effect and validity in law as if a patent for the land so surveyed had been issued by the United States.

SEC. 6. *And be it further enacted*, That all surveys and locations heretofore made and approved by the surveyor general of California, which have been returned into the said district courts, or either of them, or in which proceedings are now pending for the purpose of contesting or reforming the same, are hereby made subject to the provisions of this act, except that in the cases so returned or pending no publication shall be necessary on the part of the surveyor general.

SEC. 7. *And be it further enacted*, That, for the performance of the duties imposed by this act, and the act entitled "An act to ascertain and settle [the] private land claims in the State of California, passed March third, eighteen hundred and fifty-one," there shall be allowed to the judges of the northern and southern districts of California, as follows: To the judge of the northern district such a sum as will, when added to his fixed and permanent salary allowed by law and received by him, make his compensation amount to the sum of six thousand dollars per annum, and such additional compensation to be computed from the first day of January, eighteen hundred and fifty-two; and to the judge of the southern district such a sum as will, when added to his fixed and permanent salary allowed by law and received by him, make his compensation amount to the sum of thirty-five hundred dollars, such compensation to be computed and allowed from the date of his appointment to said office, and to continue each for and during the performance of the additional services required to be performed by this act, but not exceeding two years from and after the passage of this act.

SEC. 8. *And be it further enacted*, That all costs of surveys and publications, under the provisions of this act, shall be charged to and paid by the United States, and costs of litigation in the district courts shall abide the result thereof, and the court in its discretion may require security therefor.

SEC. 9. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, June 14, 1860.

(U. S. Stat. L. vol. 13, p. 69)

Chapter LXXXII

AN ACT For the relief of the settlers upon certain lands in California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any and all persons claiming, whether as preemptors or settlers, or under any grant or title, any of the lands included within the exterior boundaries of a certain grant for the Rancho San Ramon, situate in the county of Contra Costa, in California, made to Bartolo Pacheco and Marianna Castro by Don José Figueroa, Governor of Upper California, on or about the tenth day of June, eighteen hundred and thirty-three, and which claim, or two leagues thereof, has been confirmed by the district court of the United States in separate moieties, one in the name of Horace W. Carpenter, and the other in the name of Rafael Soto de Pacheco and others, by a decree of said court made and entered on or about the fourth day of June, eighteen hundred and sixty-two, shall have the right in all courts to contest the correctness of the location of the lands so confirmed, within the said exterior boundaries, notwithstanding any official or approved survey thereof now made or hereafter to be made under the said decree of confirmation, and notwithstanding any stipulation or consent given by the district attorney of the United States authorizing such locations.

SEC. 2. *And be it further enacted*, That in case it shall be found that the United States have title to any of said lands within said exterior boundaries, which have been settled upon and improved by any person, in good faith, under a bona fide claim of title, such occupant, and each settler upon said lands so situated, shall be entitled to enter and receive a patent for one hundred and sixty acres of land, including his improvements, upon payment, at the proper land office, of the Government price of one dollar and twenty-five cents per acre, and proving that he was one of the actual and bona fide settlers on said lands, and had made improvements thereon before the passage of this act.

SEC. 3. *And be it further enacted*, That this act shall take effect immediately.

Approved, May 5, 1864.

(U. S. Stat. L. vol. 13, p. 136)

Chapter CXXXIII

AN ACT To grant the right of presumption to certain settlers on the Rancho Bolsa de Tomales, in the State of California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it may and shall be lawful for the Commissioner of the General Land Office to cause the lines of the public surveys to be extended over the tract of country known as the Rancho Bolsa de Tomales, in Marin County, California, the claim to which, by James D. Galbraith, has been adjudged invalid by the Supreme Court of the United States, and to have approved plats thereof duly returned to the proper district land office: *Provided*, That the actual cost of such survey and platting shall first be paid into the surveying fund by settlers, according to the requirements of the tenth section of the act of congress approved thirtieth of May, eighteen hundred and sixty-two, "to reduce the expenses of the survey and sale of the public lands in the United States."

SEC. 2. *And be it further enacted*, That after the return of such approved plats to the district office, it may and shall be lawful for individuals, settlers upon the said Rancho Bolsa de Tomales, to enter, according to the lines of the public surveys, at one dollar and twenty-five cents per acre, the land settled upon by them to the extent to which the same had been reduced to possession at the time of said adjudication of said Supreme Court, joint entries being admissable by coterminous proprietors, in order that their respective boundaries may be adjusted in accordance with their several possessions.

SEC. 3. *And be it further enacted*, That all claims within the purview of this act shall be presented to the register and receiver within twelve months after the return of such surveys to the district land office, accompanied by proof of settlement, and the extent to which the tracts claimed had been reduced into possession at the time of said adjudication; and thereupon each

case shall be adjudged by the register and receiver, under such instructions as shall be given by the Commissioner of the General Land Office, to whom the proof and adjudication shall be returned by the local land office, and no adjudication shall be final until confirmed by the said commissioner: *Provided*, That the confirmation by said commissioner shall be conclusive and final between coterminous proprietors, and the correctness thereof shall not be open to contestation in any action at law or suit in equity between them or between parties claiming under them by title subsequent: *And provided, further*, That any claim not brought before the register and receiver within twelve months, as aforesaid, shall be barred, and the lands covered thereby, with any other tracts within the limits of said rancho, the titles to which are not established under this act, shall be dealt with as other public lands, but subject to the adjudicated boundaries of the claims which are presented within the limit of the time prescribed as aforesaid: *Provided*, That no person under the provisions of this act shall be allowed to enter a greater quantity of land than three hundred and twenty acres.

Approved, June 17, 1864.

(U. S. Stat. L., vol. 13, p. 143)

Chapter CXLIV

AN ACT Concerning lands in the State of California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under the patent of the United States, issued on the 28th day of February, 1861, to Joseph S. Alemany, as the bishop of Monterey, and his successors, for the tract of land or rancho known as Canada de los Pinos, or College Rancho, situate in the county of Santa Barbara, State of California, as described in such patent, to have and to hold the same to him and them "in trust for the religious purposes and uses" therein mentioned, it shall be lawful for the said Joseph S. Alemany and his successors, as the grantees of said patent, to sell the said tract or rancho, or any part thereof, and all proper conveyances in that behalf to make and deliver, and the proceeds thereof to apply, under the direction of the Roman Catholic archbishop of San Francisco, in the State of California, and his successors in office, or other proper authority of the Roman Catholic Church in said State, for the purposes of education anywhere within said State, not inconsistent with the laws thereof; anything in such patent, or in the original grant or concession of said tract or rancho, or other title whereby the same was acquired from and under the authorities of Spain or Mexico, to the contrary notwithstanding; and all trusts, conditions, provisions, or covenants, precedent or subsequent, expressed or implied, in said patent, grant, concession, or title, to the contrary hereof, and all breaches of the same, are hereby wholly waived, abrogated, discharged, dispensed with, and released on the part of the United States, for the purposes of this act; and any conveyance or disposition made in pursuance thereof shall operate to pass all the right and interest of the United States in said lands to the grantee.

Approved, June 20, 1864.

(U. S. Stat. L., vol. 13, p. 332)

Chapter CXCIV

AN ACT To expedite the settlement of titles to lands in the State of California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the surveyor-general of California shall, in compliance with the thirteenth section of an act entitled "An act to ascertain and settle the private land claims in the State of California," approved March third, eighteen hundred and fifty-one, have caused any private land claim to be surveyed and a plat to be made thereof, he shall gave notice that the same has been done by a publication, once a week for four consecutive weeks, in two newspapers, one published in the city of San

Francisco, and one published near the land surveyed; and shall retain in his office, for public inspection, the survey and plat until ninety days from the date of the first publication in San Francisco shall have expired; and if no objections are made to said survey, he shall approve the same, and transmit a copy of the survey and plat thereof to the commissioner of the General Land Office at Washington, for his examination and approval; but if objections are made to said survey within the said ninety days, by any party claiming to have an interest in the tract embraced by the survey, or in any part thereof, such objections shall be reduced to writing, stating distinctly the interest of the objector, and signed by him or his attorney, and filed with the surveyor general, together with such affidavits or other proofs as he may produce in support of the objections. At the expiration of said ninety days the surveyor general shall transmit to the commissioner of the General Land Office at Washington a copy of the survey and plat, and objections, and proofs filed with him in support of the objections, and also of any proofs produced by the claimant and filed with him in support of the survey, together with his opinion thereon; and if the survey and plat are approved by the said commissioner he shall indorse thereon a certificate of his approval. If disapproved by him, or if, in his opinion, the ends of justice would be subserved thereby, he may require a further report from the surveyor general of California, touching the matters indicated by him, or proofs to be taken thereon, or may direct a new survey and plat to be made. Whenever the objections are disposed of, or the survey and plat are corrected or a new survey and plat are made in conformity with his directions, he shall indorse upon the survey and plat adopted his certificate of approval. After the survey and plat have been, as hereinbefore provided, approved by the Commissioner of the General Land Office, it shall be the duty of the said commissioner to cause a patent to issue to the claimant as soon as practicable after such approval.

SEC. 2. *And be it further enacted*, That the provisions of the preceding section shall apply to all surveys and plats by the surveyor general of California heretofore made, which have not already been approved by one of the district courts of the United States for California, or by the Commissioner of the General Land Office: *Provided*, That where proceedings for the correction or confirmation of a survey are pending on the passage of this act in one of the said district courts, it shall be lawful for such district court to proceed and complete its examination and determination of the matter, and its decree thereon shall be subject to appeal to the circuit court of the United States for the district in like manner, and with like effect, as hereafter provided for appeals in other cases to the circuit court; and such appeals may be in like manner disposed of by said circuit court.

SEC. 3. *And be it further enacted*, That where a plat and survey have already been approved or corrected by one of the district courts of the United States for California, and an appeal from the decree of approval or correction has already been taken to the Supreme Court of the United States, the said Supreme Court shall have jurisdiction to hear and determine the appeal. But where from such decree of approval or correction no appeal has been taken to the Supreme Court, no appeal to that court shall be allowed, but an appeal may be taken, within twelve months after this act shall take effect, to the Circuit Court of the United States for California, and said circuit court shall proceed to fully determine the matter. The said circuit court shall have power to affirm or reverse or modify the action of the district court, or order the case back to the surveyor-general for a new survey. When the case is ordered back for a new survey, the subsequent survey of the surveyor general shall be under the supervision of the Commissioner of the General Land Office, and not of the district or circuit court of the United States.

SEC. 4. *And be it further enacted*, That whenever the district judge of any one of the district courts of the United States for California is interested in any land, the claim to which, under the said act of March third, eighteen hundred and fifty-one, is pending before him, on appeal from the board of commissioners created by said act, the said district court shall order the case to be transferred to the Circuit Court of the United States for California, which court shall thereupon take jurisdiction and determine the same. The said district courts may also order a transfer to the said circuit court of any other cases arising under said act, pending before them, affecting the title to lands

within the corporate limits of any city or town, and in such cases both the district and circuit judges may sit.

SEC. 5. *And be it further enacted*, That all the right and title of the United States to the lands within the corporate limits of the city of San Francisco, as defined in the act incorporating said city, passed by the Legislature of the State of California on the fifteenth day of April, one thousand eight hundred and fifty-one, are hereby relinquished and granted to the said city and its successors for the uses and purposes specified in the ordinances of said city, ratified by an act of the legislature of the said State, approved on the eleventh of March, eighteen hundred and fifty-eight, entitled "An act concerning the city of San Francisco, and to ratify and confirm certain ordinances of the common council of said city," there being excepted from this relinquishment and grant all sites or other parcels of lands which have been, or now are, occupied by the United States for military, naval, or other public uses, or such other sites or parcels as may hereafter be designated by the President of the United States, within one year after the rendition to the General Land Office by the surveyor general of an approved plat of the exterior limits of San Francisco, as recognized in this section, in connection with the lines of the public surveys: *And provided*, That the relinquishment and grant by this act shall in no manner interfere with or prejudice any bona fide claims of others, whether asserted adversely under rights derived from Spain, Mexico, or the laws of the United States, nor preclude a judicial examination and adjustment thereof.

SEC. 6. *And be it further enacted*, That it shall be the duty of the surveyor general of California to cause all the private-land claims finally confirmed to be accurately surveyed and plats thereof to be made, whenever requested by the claimants: *Provided*, That each claimant requesting a survey and plat shall first deposit in the district court of the district within which the land is situated a sufficient sum of money to pay the expenses of such survey and plat and of the publication required by the first section of this act. Whenever the survey and plat requested shall have been completed and forwarded to the Commissioner of the General Land Office, as required by this act, the district court may direct the application of the money deposited, or so much thereof as may be necessary, to the payment of the expenses of said survey and publication.

SEC. 7. *And be it further enacted*, That it shall be the duty of the surveyor general of California, in making surveys of the private-land claims finally confirmed, to follow the decree of confirmation as closely as practicable whenever such decree designates the specific boundaries of the claim. But when such decree designates only the out boundaries within which the quantity confirmed is to be taken, the location of such quantity shall be made, as near as practicable, in one tract and in a compact form. And if the character of the land or intervening grants be such as to render the location impracticable in one tract, then each separate location shall be made, as near as practicable, in a compact form. And it shall be the duty of the Commissioner of the General Land Office to require a substantial compliance with the directions of this section before approving any survey and plat forwarded to him.

SEC. 8. *And be it further enacted*, That the act entitled "An act to amend an act entitled 'An act to define and regulate the jurisdiction of the district courts of the United States in California, in regard to the survey and location of confirmed private land claims,'" approved June fourteen, eighteen hundred and sixty, and all provisions of law inconsistent with this act, are hereby repealed.

Approved July 1, 1864.

(U. S. Stat. L., vol. 13, p. 372)

Chapter CCXVIII

AN ACT To quiet the titles to lands within the Rancho Laguna de Callé, in the State of California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it may and shall be lawful for all purchasers from the grantees or their assigns of lands within the Rancho Laguna de Santos Callé, in the State of California, to file, within twelve months from the passage of this act, with the register of the land office at Marysville, applications describing the lands so purchased by them

respectively, with proofs of bona fide purchase from the said grantees or their assigns; and, upon such proofs being found satisfactory, the said purchasers shall be permitted to enter, according to the lines of the public surveys, at one dollar and twenty-five cents per acre, the lands so purchased within the limits of said rancho, as described in the petition presented to the board of commissioners under the act of March 3, 1851, entitled "An act to ascertain and settle the private-land claims in the State of California," to the extent to which the lands so purchased have been reduced to possession and are now held by said purchasers: *Provided*, That any person who shall avail himself of the provisions of this act shall be thereafter debarred any further claim under the grantee in the event of a final confirmation of the grant.

SEC. 2. *And be it further enacted*, That where any additional surveys may be found necessary to give full effect to this act, the Commissioner of the General Land Office shall cause such surveys to be made at the cost of the purchasers, as provided by the 10th section of the act of May 30, 1862, entitled "An act to reduce the expenses of the survey and sale of the public lands of the United States": *Provided*, That no entry of mineral lands or lands reserved for military or other public uses shall be permitted under this act, nor shall any rights acquired under the preemption laws of the United States be affected hereby.

SEC. 3. *And be it further enacted*, That it shall be the duty of the register and receiver of the proper land office to receive all applications in cases presented under this act, pursuant to such instructions as may be prescribed by the Commissioner of the General Land Office, and to adjudge all such cases as preliminary to a final decision in due course of law.

Approved, July 2, 1864.

(U. S. Stat. L., vol. 14, p. 218)

Chapter CCXIX

AN ACT To quiet land titles in California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where the State of California has heretofore made selections of any portion of the public domain in part satisfaction of any grant made to said State by any act of Congress, and has disposed of the same to purchasers in good faith under her laws, the lands so selected shall be, and hereby are, confirmed to said State: *Provided*, That no selection made by said State contrary to existing laws shall be confirmed by this act for lands to which any adverse preemption, homestead, or other right has, at the date of the passage of this act, been acquired by any settler under the laws of the United States, or to any lands which have been reserved for naval, military, or Indian purposes by the United States, or to any mineral land, or to any land held or claimed under any valid Mexican or Spanish grant, or to any land which, at the time of the passage of this act, was included within the limits of any city, town, or village, or within the county of San Francisco: *And provided further*, That the State of California shall not receive under this act a greater quantity of land for school or improvement purposes than she is entitled to by law.

SEC. 2. *And be it further enacted*, That where the selections named in section one of this act have been made upon land which has been surveyed by authority of the United States, it shall be the duty of the proper authorities of the State, where the same has not already been done, to notify the register of the United States land office for the district in which the land is located of such selection, which notice shall be regarded as the date of the State selection, and the Commissioner of the General Land Office shall, immediately after the passage of this act, instruct the several local registers to forward to the General Land Office, after investigation and decision, all such selections, which, if found to be in accordance with section one of this act, the commissioner shall certify over to the State in the usual manner.

SEC. 3. *And be it further enacted*, That where the selections named in section one of this act have been made from lands which have not been surveyed by authority of the United States, but which selections have been surveyed by authority of and under the laws of said State, and the land sold to purchasers

in good faith under the laws of the State, such selections shall, from the date of the passage of this act, when marked off and designated in the field, have the same force and effect as the preemption rights of a settler upon unsurveyed public land; and if, upon survey of such lands by the United States, the lines of the two surveys shall be found not to agree, the selection shall be so changed as to include those legal subdivisions which nearest conform to the identical land included in the State survey and selection. Upon the filing with the register of the proper United States land office of the township plat in which any such selection of unsurveyed land is located, the holder of the State title shall be allowed the same time to present and prove up his purchase and claim under this act as is allowed preemptors under existing laws; and if found in accordance with section one of this act, the land embraced therein shall be certified over to the State by the Commissioner of the General Land Office.

SEC. 4. *And be it further enacted*, That in all cases where township surveys have been, or shall hereafter be, made under authority of the United States, and the plats thereof approved, it shall be the duty of the Commissioner of the General Land Office to certify over to the State of California, as swamp and overflowed, all the lands represented as such, upon such approved plats, within one year from the passage of this act, or within one year from the return and approval of such township plats. The commissioner shall direct the United States Surveyor General for the State of California to examine the segregation maps and surveys of the swamp and overflowed lands made by said State; and where he shall find them to conform to the system of surveys adopted by the United States, he shall construct and approve township plats accordingly, and forward to the General Land Office for approval: *Provided*, That in segregating large bodies of land, notoriously and obviously swamp and overflowed, it shal not be necessary to subdivide the same, but to run the exterior lines of such body of land. In case such State surveys are found not to be in accordance with the system of United States surveys, and in such other townships as no survey has been made by the United States, the commissioner shall direct the surveyor general to make segregation surveys, upon application to said surveyor general by the governor of said State, within one year of such application, of all the swamp and overflowed land in such townships, and to report the same to the General Land Office, representing and describing what land was swamp and overflowed under the grant, according to the best evidence he can obtain. If the authorities of said State shall claim as swamp and overflowed any land not represented as such upon the map or in the returns of the surveyors, the character of such land at the date of the grant, September twenty-eight, eighteen hundred and fifty, and the right to the same shall be determined by testimony, to be taken before the surveyor general, who shall decide the same, subject to the approval of the Commissioner of the General Land Office.

SEC. 5. *And be it further enacted*, That it shall be the duty of the commissioner of the general land office to instruct the officers of the local land offices and the surveyor general, immediately after the passage of this act, to forward lists of all selections made by the State referred to in section one of this act, and lists and maps of all swamp and overflowed lands claimed by said State, or surveyed as provided in this act for final disposition and determination, which final disposition shall be made by the commissioner of the general land office without delay.

SEC. 6. *And be it further enacted*, That an act entitled "An act to provide for the survey of the public lands in California, the granting of pre-emption rights therein, and for other purposes," approved March third, one thousand eight hundred and fifty-three, shall be construed as giving the State of California the right to select for school purposes other lands in lieu of such sixteenth and thirty-sixth sections as were settled upon prior to survey, reserved for public uses, covered by grants made under Spanish or Mexican authority, or by other private claims, or where such sections would be so covered if the lines of the public surveys were extended over such lands, which shall be determined whenever township lines shall have been extended over such land, and in case of Spanish or Mexican grants, when the final survey of such grants shall have been made. The surveyor general for the State of California shall furnish the State authorities with lists of all such sections so covered, as a basis of selection, such selections to be made from surveyed lands, and within the same land district as the section for which the selection is made.

SEC. 7. *And be it further enacted*, That where persons in good faith, and for a valuable consideration, have purchased lands of Mexican grantees or assigns, which grants have subsequently been rejected, or where the lands so purchased have geen excluded from the final survey of any Mexican grant, and have used, improved, and continued in the actual possession of the same as according to the lines of their original purchase, and where no valid adverse right or title (except of the United States) exists, such purchasers may purchase the same, after having such lands surveyed under existing laws, at the minimum price established by law, upon first making proof of the facts as required in this section, under regulations to be provided by the commissioner of the general land office, joint entries being admissible by coterminous proprietors to such an extent as will enable them to adjust their respective boundaries: *Provided*, That the provisions of this section shall not be applicable to the city and county of San Francisco: *Provided*, That the right to purchase herein given shall not extend to lands containing mines of gold, silver, copper, or cinnabar: *Provided*, That whenever it shall be made to appear by petition from the occupants of such land that injury to permanent improvements would result from running the lines of the public surveys through such permanent improvements, the Commissioner of the General Land Office may recognize existing lines of subdivisions.

SEC. 8. *And be it further enacted*, That in all cases where a claim to land by virtue of a right or title derived from the Spanish or Mexican authorities has been finally confirmed, and a survey and plat thereof shall not have been requested within ten months from the passage of this act, as provided by sections six and seven of the act of July first, eighteen hundred and sixty-four, "To expedite the settlement of titles to lands in the State of California," and in all cases where a like claim shall hereafter be finally confirmed, and a survey and plat thereof shall not be requested, as provided by said sections within ten months after the passage of this act, or any final confirmation hereafter made, it shall be the duty of the surveyor general of the United States for California, as soon as practicable after the expiration of ten months from the passage of this act, or such final confirmation hereafter made, to cause the lines of the public surveys to be extended over such land, and he shall set off, in full satisfaction of such grant, and according to the lines of the public surveys, the quantity of land confirmed in such final decree, and as nearly as can be done in accordance with such decree; and all the land not included in such grant as so set off shall be subject to the general land laws of the United States: *Provided*, That nothing in this act shall be construed so as in any manner to interfere with the right of bona fide preemption claimants.

SEC. 9. *And be it further enacted*, That from the decrees of the district courts of the United States for the district of California, approving or correcting the surveys of private land claims under Spanish or Mexican grants, rendered after the first day of July, one thousand eight hundred and sixty-five, an appeal shall be allowed for the period of one year after the entry of such decrees to the circuit court of the United States for California, as provided by section three of the act of July first, one thousand eight hundred and sixty-four, to expedite the settlement of titles to land in the Stae of California, and the decision of the circuit court shall be final: *Provided, however*, That from decrees of the district courts, as aforesaid, made after July one, eighteen hundred and sixty-five, and prior to the passage of this act, an appeal may be taken to the United States circuit court for the State of California within one year from the approval of this act.

Approved, July 23, 1866.

(U. S. Stat. L., vol. 20, p. 172)

Chapter 320

AN ACT To authorize the claimants to certain lands in Santa Barbara County, California, to submit their claims to the United States district court for that State for adjudication

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the claimants to lands situated in Santa Barbara County, California, known as the Rancho Las Cruces, who reraign title through the original Mexican grantee of said rancho, are hereby permitted

and authorized to present their claim to said lands to the district court of the United States for the district of California for examination; and if, upon the hearing of said case, it shall appear to said court that the claim of the original grantee was good and valid under Mexican laws relating to such cases, the said court shall by decree confirm said claim: *Provided*, That no lands shall be confirmed to said claimants by said decree exceeding in area eight thousand eight hundred and eighty-eight acres, nor any lands to which there are any valid claims existing under the pre-emption or homestead laws of the United States at the date of the passage of this act; nor shall any decree of confirmation affect any valid adverse right of any other person or persons, or give to the confirmees, or any of them, any claim upon the United States for compensation for any land such confirmees may lose by reason of pre-emption or homestead claims or adverse rights as aforesaid: *Provided further*, That said claimants, before filing their claim shall execute releases to any persons who may be in possession of any portion of said lands under valid claims under the pre-emption, homestead, or other laws of the United States at the date of the passage of this act, to the portions of said lands so held respectively; and before rendering a decree of confirmation, the said court shall ascertain that said releases have been duly executed.

SEC. 2. That in case said claim is rejected by said court, then said claimants are hereby granted the right of appeal to the Supreme Court of the United States, within the time and in the manner now provided by law in like cases. The said courts in the examination of the claims presented by any person under this act, shall be governed, so far as applicable, by the provisions of the act passed March third, anno Domini eighteen hundred and fifty-one, entitled "An act to ascertain and settle private land claims in the State of California."

SEC. 3. That the United States surveyor general for California is hereby directed, upon the filing in his office by said claimants of a certified copy of a final decree of confirmation, under the provisions of this act, to cause said claim to be surveyed as other claims of like nature are now surveyed under existing laws; and upon the approval of said survey by the Commissioner of the General Land Office a patent shall issue to said claimants in the usual form.

Approved, June 19, 1878.

(U. S. Stat. L., vol. 20, p. 593)

Chapter 32

AN ACT For the adjudication of title to lands claimed by Jose Apis and Pablo Apis in the State of California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the legal representatives successors, or assignees of Jose Apis and Pablo Apis, or either of them, be, and they are hereby, permitted to file their claim and title to a certain tract of land in California known as La Iolla Rancho, in and before the United States district court of California; and that said court shall have the same jurisdiction in all things, to be exercised originally to hear and determine upon the said claim and title, and to confirm or reject the same, as the several district courts had under the act of Congress of March third, eighteen hundred and fifty-one, and acts amendatory thereunto. And the Supreme Court of the United States shall have jurisdiction to hear and determine said cause, upon appeal, as decided in said acts: *Provided*, That no lands shall be confirmed to said claimants by said decree to which there are valid claims existing under the preemption, homestead, or other laws of the United States at the date of the passage of this act; nor shall any decree of confirmation affect any valid adverse right of any other person or persons, or give to the confirmees, or any of them, any claim upon the United States for compensation for any land such confirmees may lose by reason of preemption or homestead claims or adverse rights as aforesaid; and that no decree shall be rendered for more than two square leagues: *Provided further*, That said claimants before filing their claim and title shall execute releases to any persons who may be in possession of any portion of said lands under valid claims under the preemption, homestead, or other laws of the United States at the date of the passage of this act, to the portions of said lands so held respectively, and before rendering a decree

in confirmation the said court shall ascertain that said releases have been duly executed.

Approved, January 28, 1879.

(U. S. Stat. L., vol. 39, p. 995)

Chapter 150

AN ACT To amend section six of an act to expedite the settlement of title to lands in the State of California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section six of the act of Congress approved July first, eighteen hundred and sixty-four, being an act entitled "An act to expedite the settlement of titles to lands in the State of California," being chapter one hundred and ninety-four of volume thirteen of the Statutes at Large, page three hundred and thirty-four, is hereby amended to read as follows:

"SEC. 6. That it shall be the duty of the surveyor general of California to cause all the private-land claims finally confirmed to be accurately surveyed and plats thereof to be made whenever requested by the claimants: *Provided*, That each claimant requesting a survey and plat shall first deposit with the Secretary of the Interior a sufficient sum of money to pay the expenses of such survey and plat, and of the publication required by the first section of this act, and the money so deposited shall be available for expenditure by the surveyor general in payment of the expenses of such survey and plat, including all the expenses incident thereto, and of the required publication. Whenever the survey and plat requested shall have been completed and forwarded to the Commissioner of the General Land Office, as required by this act, the surveyor general shall state an account showing the exact cost of the survey, plat, and publication, and any excess deposited over such cost shall be returned to the claimant."

Approved, March 2, 1917.

(Whereupon, at 1 o'clock p. m., Thursday, February 6, 1930, the subcommittee adjourned to meet subject to the call of the chairman.)

MEXICAN LAND GRANTS IN CALIFORNIA

TUESDAY, MAY 27, 1930

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE
ON PUBLIC LANDS AND SURVEYS,
Washington, D. C.

The subcommittee met, pursuant to call, at 2.30 o'clock p. m., in the hearing room of the Committee on Public Lands and Surveys, Capitol, Hon. Gerald P. Nye (chairman) presiding.

Present: Senators Nye (chairman), Dale, and Bratton.

The CHAIRMAN. Let the subcommittee be in order.

We have still before this subcommittee Senate Resolution 291, and Judge Connaughton, who is here to-day, has asked that before final action be taken on this resolution in the way of a report to the Senate, he have opportunity to be heard. I am sure every member of the committee is anxious to have this resolution disposed of before we recess. I know the Chair hopes that we can make such a report to the Senate. But let us now hear the judge and know just what he might want to direct the attention of the committee to.

STATEMENT OF JOHN H. CONNAUGHTON, ATTORNEY, WASHINGTON, D. C.

Mr. CONNAUGHTON. Mr. Chairman and gentlemen of the committee, realizing that you are extremely busy and interested in other matters that are of vast importance, I am going to be as brief as I can and submit first a request and then what I have to say in connection with it, requesting the committee that you have a further hearing in Los Angeles for the purpose of placing in evidence the chain of title, or the evidence thereof, that exists at that place, and thus comply with the direction of the resolution.

The resolution directs—

That the Committee on Public Lands and Surveys, or any subcommittee it may designate for the purpose, be, and it hereby is, authorized and directed to make a thorough investigation of and report to the Senate its findings and recommendations regarding charges that have frequently been made and continue to persist, and reports that have long been current and now prevail, that vast tracts of lands within the area of the lands ceded to the United States by the Government of Mexico were corruptly and fraudulently turned over to and delivered into the possession of private interests, and have been held and are now held by said interests without color of title; that qualified citizens seeking to exercise constitutional rights relative to said lands, and parts thereof, have been maliciously threatened, intimidated, slandered, libeled, and arrested, and have been corruptly indicted and held under outrageous bonds for long periods of time, and then released without a hearing or a trial; that private interests continue in the unlawful possession of the public lands by reason of their exerted influence over those whose duty it is to enforce the law.

That said committee is hereby authorized to sit and perform its duties at such times and places as it deems necessary or proper, and to require the attendance of witnesses by subpoena or otherwise; to require the production of books, papers, surveys, maps, grants, patents, and any and all other documents pertaining thereto.

I will close right there, because the portion that I have read contains the entire direction to the committee by the Senate of the United States.

In this connection I want to say that the duty devolves upon the committee of making certain investigations and reports, and the dereliction or failure of any particular individual that might have assumed or presumed to have an interest therein, can not be an excuse for a failure to completely perform this duty. I may say right here that in going into that question no doubt there will be considerable difference of opinion as to the law applicable to the facts that may be found in the case, but the first duty, as I see it, of the committee, would be to completely find the facts.

Now, then, you were directed to ascertain whether these lands are held by private interests without color of title. The second was relative to some difficulties between some private individuals that would depend largely upon gossip and parol testimony, and so forth. Third, that the private interests continue in the unlawful possession of the public lands by reason of exerted influence, and so forth.

In order to make a complete report, it is necessary for the committee to find where the legal title to these lands lies, and a court, in making an investigation of that kind, would go back to the beginning, introduce in evidence every muniment of title and every court proceeding or special proceeding or anything else that might enter into the chain of title, and then determine from that where the title finally rested.

Now, then, the question of dispute that has drawn this matter before the committee is the validity or the effect or the extent of certain grants made by the Government of Mexico. Those grants, original grants, some of them, according to a statement of title of the title company, rest in the possession of the Land Title & Guaranty Co. of Los Angeles. These have never been introduced in evidence and are not before the committee now, and I can not see how the committee can make an intelligent report without getting these original land grants, wherever they may be, and taking such time as is necessary to get them before the committee, and then determine the legal effect of them, and from that decide where the legal title to these lands lies.

I do not take it that the committee is concerned with disputes between private individuals about who knows this or that or something else, or charges that have been made by one private individual against another set of private individuals, or by one lawyer against another one. I think they are entirely beside the question. But you are concerned with finding where the legal title to these lands lays. It was considered of sufficient importance by some one to introduce a resolution before the Senate of the United States directing the committee to do that, and I feel that that thing ought to be done before this is closed. In fact, I think that unless you do that you will be compelled to make a report based largely on hearsay, unless you examine those things. It can not be said that you have general

knowledge by reading of certain decided cases which may or may not touch facts and circumstances the same as all of these grants or any particular one of the grants, and whether or not these grants have been cured by confirmatory measures of some kind or other, or what the result of those confirmatory measures may be, whether they be special proceedings before a commission that was established by the act of 1851 or not—that you can not tell until these things are produced in evidence before the committee.

That is the thing that we are asking the committee to do, to subpœna here or go to Los Angeles where some of these original grants are in the possession of this title company, because several of them are located in Los Angeles County, and have them introduced in evidence, and then determine, and upon that you will make your report. It will be like findings of fact and conclusions of law, probably, of a commission or a court. But how in the world are you going to make an intelligent finding of fact or a conclusion of law, even, to submit to the United States Senate as a report of the condition of these several Mexican grants that are involved in southern California?

I have made an examination of this record that was made out there, the stenographic record, and I do not find that even one of those Mexican grants was ever introduced or referred to except by referring to the name of a rancho, and you can not tell from that whether it involves 10 acres or 10,000 acres or 50,000 acres.

The charges that have been made or that are current around that part of the country are that not only some of these grants are invalid because they were made after the declaration of war with Mexico but that if they were valid they have been illegally extended by surveys. The only way to find the extent of those grants is to produce the original grant and then produce maps and papers and surveys, and so forth, to determine whether or not the survey conforms to the grant.

Senator DALE. Judge, is it the contention that these grants were extended beyond any lands that Mexico claimed title to?

Mr. CONNAUGHTON. No; no; not beyond lands that she claimed title to, but that in surveying them they have gone outside of the original grant.

Senator DALE. Yes. That is what I had in mind.

Mr. CONNAUGHTON. And the original grant, of course, is all that Mexico conveyed. The rest of it became public lands of the United States when the treaty of Guadalupe, Hidalgo, or whatever they call it—whatever that Mexican name happens to be—was made and signed.

Now, then, I think with respect to practically every one of these grants the contention of the interested parties is that they have been extended beyond the bounds of the original grant. How is the committee to know whether that is the fact or not, and, if it is a fact, whether or not the confirmatory measures that were taken before this special committee have confirmed that illegal action? Now, that may be true. I am not undertaking to express an opinion, and it gets into a very debatable section of law to determine what is the effect of the action of that commission, and in all probability the thing that the committee would do would be to find the facts and submit those facts as a report to the United States Senate.

I have informally discussed this with Senator Bratton at one time, and he and I differ as to what the law is, as lawyers very frequently do. We always find two lawyers on opposite sides of a case, both disagreeing with each other very materially as to what the law may be. But that is not the question that is up for investigation primarily by this committee. The first thing you have to do is to find your facts and then determine their legal effect afterwards by an application of the law to them. There will come a time, probably, when the committee will have to determine, as a matter of law, what you say those facts determine, where they indicate that the title rests.

Now, then, how, Senators, are you going to do that unless you have first the grant? You start in to prove a chain of title in court, and it does not make any difference if you get down to the last few years, and find a quiet-title proceeding has eliminated a lot of defects; the first thing you have to do is to start back here at the beginning with your chain of title, every step in it, and then you introduce in evidence your quiet-title proceeding, and you will find that eliminates John Jones and Smith and somebody else, all up through your chain of title, from the record, by your confirmatory proceedings, whatever they may have been, quiet title and special boards of some other kind that we find in some States, and the United States Government sometimes delegates authority to work out titles—apply that to it as a measuring rule, and from that you determine where the title is. How are you going to do any differently here? You have been delegated a very difficult problem, probably, one which is hard to solve, but there is no way to do it unless you do it the right way. I am not concerned as to what the final result primarily will be. I hope that it will be in the interest of those whom I represent. But I am concerned more than anything else with the committee getting the full chain of title before it, and then determining where the title rests, and I say that you can not do it without taking your first step, and that is the beginning of your title, and then your second step, which is the next conveyance, and so on down. It may be that some of them are unimportant, but certainly the first one is very important. It will determine first the legality of the whole thing. It may all be illegal from there on down. It may determine, second, the extent of it, and in that you will certainly have to have those maps and survey proceedings that were had out there, because if everything else is valid and the survey itself is not valid, then anything exceeding the original grant will be domain of the United States still. It might be that those survey proceedings, had under proper conditions, would extend the original grant. It is like survey proceedings that we have in State grants. A fellow gets his line moved over on him, and he is convinced that he has lost 10 feet of ground, but he lost it just the same if the survey proceedings were legal.

Applying that to this situation, how are you going to tell how much is now involved in a particular grant unless you have all of those things before you so that you can reach a just conclusion based upon all the facts?

Now, the thing I am particularly interested in requesting of you men this afternoon is that you go there and get in evidence these original grants and the surveys, and so forth, that bear upon them; then you will be in position to make a full report, putting in evidence all your chain of title that bears on that.

Senator DALE. In your opinion, has there not been any kind of procedure, or any kind of a statute or law of some nature that would make all that immaterial; that is, for instance, if there were a statute under which one becomes possessed of property after a certain term of years, it would make it all immaterial, would it not?

Mr. CONNAUGHTON. If you had a statute of repose, that would eliminate all of that.

Senator DALE. Have you anything out there of that nature?

Mr. CONNAUGHTON. I do not know of anything. There might be statutes of repose in California, and there probably are; but let me call your attention to this, Senator, that that could not run against the United States Government. You see if these parties are not legally holding these lands you are seeking to eliminate the United States Government, and a statute of repose does not run against the United States Government or against the State, so far as that is concerned.

Senator DALE. If they do not hold it the Government must hold it?

Mr. CONNAUGHTON. Yes; the Government must hold it. If these grants are invalid, then this is public domain, and a statute of repose of the State of California would not reach this. I do not call to mind anything that would settle this kind of a situation, whether or not the proceedings of the board of commissioners that was established by the act of 1851 has cured what I am informed are invalid grants.

Here is, getting outside of what I personally know what reference to one particular grant, let me state, what I hear is the situation: That the grant itself is dated July 1 or 3, 1846, which was after the declaration of war against Mexico, and would be invalid. Now there is a claim that that has been cured by the proceedings of this Board of Commissioners, but how is the committee to tell? I do not know. Maybe it was. Under one set of circumstances it could have been cured, as I see the law. I may differ from Senator Bratton on that, but I will admit that if that proceeding became a matter of record in a court of competent jurisdiction, which was the Federal court in which that land was situated, that that would cure that invalid grant. Now, I am not taking the position that I understand counsel have taken, that an invalid grant could not be cured and made valid. I know better than that. I have seen the title quieted to land in the name of a man that did not own it, and I have heard the supreme court in my State say they wished to the Lord they had a way to right that thing, but the fellow had had his day in court and did not appeal, then undertook to attack it in a collateral proceeding and lost his land because he did not appeal in the original proceeding.

Senator BRATTON. Judge, I just want to ask one question, then I will not interrupt you further.

Suppose Congress did provide in the act creating that board that its findings should be final unless an appeal were taken within a specified time. What is the difference between the effect of a decision of the board from which no appeal was taken and a decree of a court in a parallel situation? How does one become final and foreclose further inquiry and the other not do that?

Mr. CONNAUGHTON. The best illustration I can make of that, Senator, is one I suggested to you at one time, and that is the action of

the board of county commissioners where we file a claim with them; it becomes final, but I do not have to stand by that; I can go ahead and sue if I want to. The Supreme Court of the United States, as I understand it, with reference to these proceedings, said that appeal was not a proper word to use in connection with getting the proceedings before the commission into the United States district court, but that filing the proceedings as provided in the act was the beginning of an action against the United States Government—it was the equivalent of beginning an action against the United States Government. Now, if that is true, taking their interpretation of it, which I do not hardly say that I agree with as being my idea of what the law should have been, but, of course, it is the law. They said it was, and it is a good deal like the fellow said to the judge. He said that is not the law, and the fellow said, "It was before your honor spoke," and it is the law now.

But if that is the case, then these proceedings were not res judicata until they got into a court of record, because then was the beginning of an action. Of course, if they got into Federal court, all parties claiming under the United States Government and all who made claim under the grantee of the Mexican grant are forever precluded; but here, if they had never got into the court and if your position is correct (granting for the time being that your position is correct) that if the action of the board was not challenged by going into the Federal court, that it became final, how are you going to determine whether it is final unless you determine that every proceeding of the board was regular and that it had jurisdiction? Now, the judgment of a court is not binding unless it had jurisdiction of the subject matter and of the parties. This committee can not determine what effect the proceedings of that board had under either theory until you have before you the proceedings of the board, so you can determine whether the board, special as it was, against whom the law mut be strictly construed, because a special board has to strictly follow the law—until you have applied that test you are unable to tell whether the proceedings of that commission cleared the title—I think that is the word we can use to convey the meaning we all have in mind—cleared the title in the Mexican grantee or not, and that would depend upon whether the proceedings of the board were strictly according to the terms of the law that created the board.

Now, then, without expressing ny opinion on that, I am asking the committee to get itself in the position to make an intelligent report upon both phases of this proceeding as it present itself, first, whether the grants are legal at all; second, whether it ever was cured by the curative proceedings of this Federal statute creating the Mexican Land Grant Commission; and, third, whether it has been validly extended beyond the terms of the original grant. I use that word there advisedly, too, because the United States Government could have been robbed and absolutely foreclosed of any interests in some of this land beyond the grant if those proceedings are regular and were not challenged by anyone within the time in which they should have been challenged. But you can not determine those things unless you have them all in evidence before you undertake to submit this report.

Senator DALE. I would like to ask a question there that will probably demonstrate my lack of information, but if (which of course

is correct) the statute of limitations or something of that nature can not run against the United States Government, how could some proceeding like hese different ones to which you refer, dispose of the rights of the United States Government?

Mr. CONNAUGHTON. Well, that could occur, Senator, by reason of the fact that the United States Government would be a party to the proceeding before the Commission. If those proceedings all were valid——

Senator DALE (interposing). That is, if the Government appeared there by counsel or otherwise and took part in it?

Mr. CONNAUGHTON. If they did not it was their duty to do so, in all probability, and if the Commission's proceedings were all regular and within its jurisdiction——

Senator DALE. If they issued proper notice?

Mr. CONNAUGHTON. Proper notices and all of those things, and followed out the law carefully—because they have to do it strictly, because laws of this kind are construed strictly because this is a special court—and if that happens, I think it would be the duty of the United States Government to appear, because it was a party. It is really an action, if we are going to call it an action, between the United States Government and the Mexican grantee, and then when it went into the court, if it had a title, I would have entitled it the United States Government *v.* John Jones, and then you would thresh out the right of the claimants to this title, but you can not determine those things. We can see where it would be possible for the United States Government to be divested of title, if it had had title, by being negligent in making its defense. But it is up to you to determine by an examination of these proceedings before you make your final report.

This matter is, I think, of great importance. It has caused considerable stir in those communities, I am told, for years, and it is of sufficient importance, Senators, I think, for you to make a full and complete investigation of this title, and then determine where it rests and settle it once and for all. You can not settle a thing by taking a jump at it and just guessing at the proposition, because it rises like Banquo's ghost to haunt you when you are not looking for it.

I want to leave this with you as a request, and some statement of what I honestly think is the situation, that you can not make a report that is fair to the United States Government and fair to the holders under these Mexican land grants, and set the thing completely at rest unless you have the whole chain of title before you so you can make an intelligent analysis of it and state intelligent conclusions.

Senator DALE. That would take a long time, would it not?

Mr. CONNAUGHTON. If they gave you a big job, I would just say "We haven't time to finish it up now. We want more time." If it is worth doing at all it is worth doing right, is it not? And if it is too big to be done, you had better pass it back to them and say that it is too big, and turn the job over to the courts. For goodness' sake do not make a report drawing conclusions without the facts before you. I hope you will not make a guessing report, a report based upon rumor, a report based upon hearsay, because I know there are men on this committee that are good lawyers, and men whom I admire as good lawyers, because I know of your ability, and I want

you to make a report that will be worth while from the standpoint of men of the ability of the men who sit on this committee, and if you will do that, gathering all of the facts, I think you ought to ask for more time to do that. Take as much time as is necessary and do a first-class, rounded out, completed job when you turn in your report.

I do not know that there is anything further that I have to say. I have only to say that I think the first thing for you to do is to get these grants in evidence, find the extent of them, find the date of them, the execution of them, and so forth, whether they are legal, valid, then get your maps and surveys to see whether they coincide with your grants. There may be some in the center that is all right. Maybe you have a lot added on that belongs to the United States Government. If there is, the Government ought to have it. The Government ought not to be deprived of the public domain by an insufficient report.

I believe that is all I have to suggest, and I am very thankful to the gentlemen of the committee, all of whom I know more or less.

The CHAIRMAN. Are there further questions anyone would like to address to the witness? If not, let the committee take this matter into executive consideration at this time for a few minutes, at least.

Before the hearing is closed, however, I desire that the report of the committee in this matter, when presented to the Senate shall be inserted at the conclusion of these hearings.

(Whereupon, at 4.30 o'clock p. m., the committee proceeded to consider the resolution in executive session, following which it adjourned to meet subject to the call of the chairman.)

72D CONGRESS, 1st Session } SENATE { REPORT No. 426

MEXICAN LAND GRANTS IN CALIFORNIA

MARCH 14, 1932.—Ordered to be printed

Mr. BRATTON, from the Committee on Public Lands and Surveys, submitted the following

REPORT

[Pursuant to S. Res. 291, 70th Congress]

The Committee on Public Lands and Surveys was directed by Senate Resolution 291, such resolution being extended by Senate Resolutions 329 (70th Congress) and 283 (71st Congress), to investigate charges and reports that vast tracts of land, within the area of the lands ceded to the United States by the Government of Mexico, were corruptly and fraudulently turned over to and delivered into the possession of private interests. Resolution 291 (70th Congress) reads as follows:

Resolved, That the Committee on Public Lands and Surveys, or any subcommittee it may designate for the purpose, be, and it hereby is, authorized and directed to make a thorough investigation of and report to the Senate its findings and recommendations regarding charges that have frequently been made and continue to persist, and reports that have long been current and now prevail, that vast tracts of lands within the area of the lands ceded to the United States by the Government of Mexico were corruptly and fraudulently turned over to and delivered into the possession of private interests, and have been held and are now held by said interests without color of title; that qualified citizens seeking to exercise constitutional rights relative to said lands, and parts thereof, have been maliciously threatened, intimidated, slandered, libeled, and arrested, and have been corruptly indicted and held under outrageous bonds for long periods of time, and then released without a hearing or a trial; that private interests continue in the unlawful possession of the public lands by reason of their exerted influence over those whose duty it is to enforce the law.

That said committee is hereby authorized to sit and perform its duties at such times and places as it deems necessary or proper, and to require the attendance of witnesses by subpœna or otherwise; to require the production of books, papers, surveys, maps, grants, patents, and any and all other documents pertaining thereto; and to employ stenographers at a cost not exceeding 25 cents per hundred words. The chairman of the committee or any member thereof may administer oaths to witnesses and sign subpœnas for witnesses and records; and every person duly summoned before said committee, or any subcommittee thereof, who refuses or fails to obey the process of said committee or refuses to answer the questions pertaining to said investigation shall be punished as prescribed by law. The expenses of said investigation shall not exceed $1,500 which shall be paid from the contingent fund of the Senate on vouchers of the committee or subcommittee, signed by the chairman and approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

Pursuant to such direction, the committee conducted extended hearings in Washington, D. C., and in Los Angeles, Calif. Witnesses were examined, documents were submitted, and attorneys presented arguments and briefs relating to the questions involved.

APPLICATIONS FOR HOMESTEAD ENTRY

Charges had been made and repeated with frequency that vast areas of land in southern California were held under fraudulent titles arising from the fact that in some instances no grant was ever made by the Government of Spain or that of Mexico; in some instances forged or fabricated grants had been obtained; in some cases grants, although issued subsequent to the treaty of Guadalupe Hidalgo, had been antedated to precede American sovereignty, and in other instances a grant was made of a fixed quantity of land, but that in surveying and fixing the boundaries of such grant, a vast quantity in excess of the original grant was included in the field notes and the patent subsequently issued, thus passing into private possession such excess land which, in fact, is the property of the United States and constitutes a part of the public domain, and, accordingly, is properly subject to homestead entry. A so-called Homesteaders Association was formed with offices in Los Angeles, Calif. The practice of those in charge of such association was to solicit persons eligible to make homestead entry on the public domain to file on these lands, the association charging a filing fee plus a legal retainer fee for such services, varying from $100 to $1,000.

This practice has extended over a period of several years and has netted officers and agents of the association a stupendous financial reward. According to information furnished the committee, it is still followed in some form. It was the common practice of the officers or agents of the association to take prospective applicants out and show them lands with the statement and representation that they were available for entry. In most instances these lands were highly improved, with bearing orchards, vineyards, productive farms, and modern dwellings thereon. In some instances they included towns of substantial size with brick buildings and other expensive improvements of incalculable value. These applicants were told that through appropriate action of Congress or the courts, title of the present occupants and their predecessors in interest would be held invalid; that thereupon such lands would be subject to homestead entry and that the applications of these persons would take priority, thus vesting them with title and possession of some of the most highly improved and valuable farms and suburban property in southern California, some of which is adjacent to the city of Los Angeles. As stated, the Homesteaders Association in virtually every case charged a filing fee plus a legal retainer fee, usually being from $100 to $1,000, for the alleged service thus rendered and to be rendered in pressing the rights of the applicant either before the Department of the Interior or Congress or in the courts. Pursuant to this system many scores of applications were filed covering large quantities of land.

APPLICATIONS REJECTED

All applications, submitted in the circumstances outlined, were rejected by the Department of the Interior for the reason that the lands embraced therein were not a part of the public domain; that they were not subject to homestead entry because (1) they had not been surveyed by the Government nor had any unofficial survey thereof been recognized as official and (2) no order or proclamation had been issued declaring them subject to entry.

BOARD OF LAND COMMISSIONERS

For the purpose of adjudicating claims of title to lands in California held under grants from Spain or Mexico, prior to the treaty of Guadalupe Hidalgo, executed February 2, 1848, Congress passed the act approved March 3, 1851 (9 Stat. 631), creating a commission of three members, commonly called the Board of Land Commissioners, to be appointed by the President and vesting such commission with jurisdiction to hear, consider, and determine all such claims, confirming or rejecting the same as the facts and law required. The adjudication of such commission became final and constituted res adjudicata unless an appeal was taken therefrom to the United States court as authorized by the act, and if such appeal were taken, the judgment of the court should be final and constitute res adjudicata. The statute authorized an appeal from the United States court to the Supreme Court of the United States. In order to reflect the comprehensive system thus created, sections 6 to 13, both inclusive, of the act are quoted. They read as follows:

SEC. 6. *And be it further enacted*, That the said commissioners, when sitting as a board, and each commissioner at his chambers, shall be, and are, and is hereby, authorized to administer oaths, and to examine witnesses in any case pending before the commissioners, that all such testimony shall be taken in writing, and shall be recorded and preserved in bound books to be provided for that purpose.

SEC. 7. *And be it further enacted*, That the secretary of the board shall be, and he is hereby, authorized and required, on the application of the law agent or district attorney of the United States, or of any claimant or his counsel, or issue writs of subpœna commanding the attendance of a witness or witnesses before the said board or any commissioner.

SEC. 8. *And be it further enacted*, That each and every person claiming lands in California by virtue of any right or title derived from the Spanish or Mexican Government shall present the same to the said commissioners when sitting as a board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claims; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same upon such evidence, and upon the evidence produced in behalf of the United States, and to decide upon the validity of the said claim, and, within thirty days after such decision is rendered, to certify the same, with the reasons on which it is founded, to the district attorney of the United States in and for the district in which such decision shall be rendered.

SEC. 9. *And be it further enacted*, That in all cases of the rejection or confirmation of any claim by the board of commissioners, it shall and may be lawful for the claimant or the district attorney, in behalf of the United States, to present a petition to the district court of the district in which the land claimed is situated, praying the said court to review the decision of the said commissioners, and to decide on the validity of such claim; and such petition, if presented by the claimant, shall set forth fully the nature of the claim and the names of the original and present claimants, and shall contain a deraignment of the claimant's title, together with a transcript of the report of the board of commissioners, and of the documentary evidence and testimony of the witnesses on which it was founded; and such petition, if presented by the district attorney in behalf of the United States, shall be accompanied by a transcript of the report of the board of commissioners, and of the papers and evidence on which it was founded, and shall fully and distinctly set forth the grounds on which the said claim is alleged to be invalid, a copy of which petition, if the same shall be presented by a claimant, shall be served on the district attorney of the United States, and, if presented in behalf of the United States, shall be served on the claimant or his attorney; and the party upon whom such service shall be made shall be bound to answer the same within a time to be prescribed by the judge of the district court; and the answer of the claimant to such petition shall set forth fully the nature of the claim, and the names of the original and present claimants, and shall contain a deraignment of the claimant's title; and the answer of the district attorney in behalf of the United States shall fully and distinctly set forth the grounds on which the said

claim is alleged to be invalid, copies of which answers shall be served upon the adverse party thirty days before the meeting of the court, and thereupon, at the first term of the court thereafter, the said case shall stand for trial, unless, on cause shown, the same shall be continued by the court.

SEC. 10. *And be it further enacted*, That the district court shall proceed to render judgment upon the pleadings and evidence in the case, and upon such further evidence as may be taken by order of the said court, and shall, on application of the party against whom judgment is rendered, grant an appeal to the Supreme Court of the United States, on such security for costs in the district and Supreme Court, in case the judgment of the district court shall be affirmed, as the said court shall prescribe; and if the court shall be satisfied that the party desiring to appeal is unable to give such security, the appeal may be allowed without security.

SEC. 11. *And be it further enacted*, That the commissioners herein provided for, and the district and Supreme Courts, in deciding on the validity of any claim brought before them under the provisions of this act, shall be governed by the treaty of Guadalupe Hidalgo, the law of nations, the laws, usages, and customs of the government from which the claim is derived, the principles of equity, and the decisions of the Supreme Court of the United States, so far as they are applicable.

SEC. 12. *And be it further enacted*, That to entitle either party to a review of the proceedings and decision of the commissioners hereinbefore provided for, notice of the intention of such party to file a petition to the district court shall be entered on the journal or record of proceedings of the commissioners within sixty days after their decision on the claim has been made and notified to the parties, and such petition shall be filed in the district court within six months after such decision has been rendered.

SEC. 13. *And be it further enacted*, That all lands, the claims to which have been finally rejected by the commissioners in manner herein provided, or which shall be finally decided to be invalid by the district or Supreme Court, and all lands the claims to which shall not have been presented to the said commissioners within two years after the date of this act, shall be deemed, held, and considered as part of the public domain of the United States; and for all claims finally confirmed by the said commissioners, or by the said district or Supreme Court, a patent shall issue to the claimant upon his presenting to the general land office an authentic certificate of such confirmation, and a plat or survey of the said land, duly certified and approved by the surveyor general of California, whose duty it shall be to cause all private claims which shall be finally confirmed to be accurately surveyed, and to furnish plats of the same; and in the location of the said claims, the said surveyor general shall have the same power and authority as are conferred on the register of the land office and receiver of the public moneys of Louisiana, by the sixth section of the act "to create the office of surveyor of the public lands for the State of Louisiana," approved third March, one thousand eight hundred and thirty-one: *Provided, always*, That if the title of the claimant to such lands shall be contested by any other person, it shall and may be lawful for such person to present a petition to the district judge of the United States for the district in which the lands are situated, plainly and distinctly setting forth his title thereto, and praying the said judge to hear and determine the same, a copy of which petition shall be served upon the adverse party thirty days before the time appointed for hearing the same: *And provided further*, That it shall and may be lawful for the district judge of the United States, upon the hearing of such petition, to grant an injunction to restrain the party at whose instance the claim to the said lands has been confirmed, from suing out a patent for the same, until the title thereto shall have been finally decided, a copy of which order shall be transmitted to the commissioner of the general land office, and thereupon no patent shall issue until such decision shall be made, or until sufficient time shall, in the opinion of the said judge, have been allowed for obtaining the same; and thereafter the said injunction shall be dissolved.

In each case to which such charges of fraud, as hereinbefore outlined, relate the grant was held valid and confirmed as authorized in such act. Patent subsequently issued.

The act creating such commission, the authority vested in the commission and the binding effect of its action holding a grant to be valid, and, accordingly, confirming it, was reviewed by the Supreme Court of the United States in the case of United States *v.* Flint (4

Sawyer 42). There the United States sought to vacate a patent issued pursuant to confirmation in conformity with the act in question, on the ground that the grant was fraudulent. If such cancellation could be obtained, then in the alternative recovery of excess land included in the patent beyond the quantity granted was prayed. Both contentions were decided against the United States. Mr. Justice Field, himself intimately familiar with conditions in California, including the situation attendant upon passage of the act in question, speaking for the court said:

By the act of March 3, 1851, the legislative department prescribed the mode in which the provisions of the treaty should be carried out, and the obligations of the Government to the former inhabitants discharged, so far as their rights respecting the territory acquired, and thus provided the means of separating their property from the public domain. That act created a commission of three persons, to be appointed by the President, by and with the advice and consent of the Senate, for the express purpose of ascertaining and settling private land claims in the State. It gave a secretary to the commission, skilled in the Spanish and English languages, to act as interpreter and to keep a record of its proceedings. It provided an agent, learned in the law and skilled in those languages, to superintend the interests of the United States, and it was made his duty to attend the meetings of the commissioners, to collect testimony on behalf of the United States, and to be present on all occasions when the claimant, in any case, took depositions. To the commission, every person claiming lands in California, by virtue of any right or title derived from the Spanish or Mexican Governments, was required, on pain of forfeiting his land, to present his claim, together with the documentary evidence and testimony upon which he relied in its support.

As thus seen, the most ample powers were vested in the commissioners and the district court to inquire into the merits of every claim; and they were not restricted in their deliberations by any narrow rules of procedure or technical rules of evidence, but could take into consideration the principles of public law and of equity in their broadest sense. When the claim was finally confirmed, the act provided for its survey and location, and the issue of a patent to the claimant. The decrees and the patents were intended to be final and conclusive of the rights of the parties, as between them and the United States. The act, in declaring that they should only be conclusive between the United States and the claimants, did, in fact, declare that as between them they should have that character.

Here, then, we have a special tribunal, established for the express purpose of ascertaining and passing upon private claims to land derived from Spanish or Mexican authorities, clothed with ample powers to investigate the subject and determine the validity of every claim, and the propriety of its recognition by the Government, capable as any court could possibly be made of detecting frauds connected with the claim, and whose first inquiry in every case was necessarily as to the authenticity and genuineness of the documents upon which the claim was founded.

On principle, such adjudications can not be reviewed or defeated by a court of equity, upon any suggestion that the commissioners and court misapprehended the law, or were mistaken as to the evidence before them, even if that consisted of fabricated papers supported by perjured testimony. The very questions presented by the present bill were necessarily involved in the proceeding before the commissioners and the district court, and the credibility of the testimony offered was a matter considered by them. Whether the grant produced by the claimant was genuine, and the claim resting thereon was entitled to confirmation, were the points at issue. The bill avers that the alleged grant was not genuine because it was antedated. But the genuineness of the document was the matter sub judice, and could not have been established, and the claim based upon it affirmed, except by evidence satisfactory to the commission and court, that it was made at the time stated.

It is to no purpose in such case to invoke the doctrine that fraud vitiates all transactions, even the most solemn, and that a court of equity will set aside or enjoin the enforcement of the most formal judgments when obtained by fraud. The doctrine of equity in this respect is not questioned; it is a doctrine of the highest value in the administration of justice, and its assertion in proper cases is essential to any remedial system adequate to the necessities of society. But it can not be invoked to reopen a case in which the same matter has been once

tried, or so put in issue between the parties that t might have been tried. The judgment rendered in such a case is itself the highest evidence that the alleged fraud did not exist, and estops the parties from asserting the contrary. It is afterward mere assumption to say that the fraud was perpetrated. The judgment has settled the matter otherwise; it is res judicata.

In the later case of Thompson *v.* Los Angeles Farming and Milling Co. (180 U. S. 72), the Supreme Court of the United States, in discussing the effect of an adjudication under such act, said:

The power to consider whatever was necessary to the validity of the claim—propositions of law or propositions of fact—the fact of a grant, or the power to grant, was conferred. If there should be a wrong decision, the remedy was not by a collateral attach on the judgment rendered. The statute provided the remedy. It allowed an appeal to the district court of the United States, and from thence to this court. Legal procedure could not afford any better safeguard against error. Every question which could arise on the title claimed could come to and receive judgment from this court. The scheme of adjudication was made complete, and all the purposes of an act to give repose to titles were accomplished.

The act of March 3, 1851, has been reviewed by the Supreme Court of the United States in numerous other cases. (Beard *v.* Federy, 3 Wall. 478; More *v.* Steinback, 127 U. S. 70; United States *v.* Fossatt, 21 How. 445.) In these several cases it has been held repeatedly that an adjudication of the Board of Land Commissioners, when not appealed from, or the decree of the court, in case of an appeal, is conclusively binding and constitutes res adjudicata so far as the existence and validity of a grant made by the Government of Spain or that of Mexico is concerned. It forecloses inquiry into all such matters thereafter. The strongest case dealing with this exact question is United States *v.* Throckmorton (98 U. S. 61). There the United States sought to vacate and annul the decree confirming the grant on the ground that such decree was obtained through a false and fabricated grant; the facts alleged were, in substance, that after the proceedings for confirmation had been instituted and while they were pending, before the Board of Land Commissioners, the claimant went to Mexico and there obtained a grant antedating American sovereignty, and upon such grant the decree of confirmation was predicated. In determining the binding and conclusive effect of such judgment, even though predicated upon false testimony or fabricated documents, as well as the exception to the general rule, the court said:

If the court has been mistaken in the law, there is a remedy by writ of error. If the jury has been mistaken in the facts, the remedy is by motion for new trial. If there has been evidence discovered since the trial, a motion for a new trial will give appropriate relief. But all these are parts of the same proceeding, relief is given in the same suit, and the party is not vexed by another suit for the same matter. So in a suit in chancery, on proper showing a rehearing is granted. If the injury complained of is an erroneous decision, an appeal to a higher court gives opportunity to correct the error. If new evidence is discovered after the decree has become final, a bill of review on that ground may be filed within the rules prescribed by law on that subject. Here again, these proceedings are all part of the same suit, and the rule framed for the repose of society is not violated.

But there is an admitted exception to this general rule in cases where, by reason of something done by the successful party to a suit, there was in fact no adversary trial or decision of the issue in the case. Where the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise; or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff; or where an attorney fraudulently or without authority assumes to represent a party and connives at

his defeat; or where the attorney regularly employed corruptly sells out his client's interest to the other side—these, and similar cases which show that there has never been a real contest in the trial or hearing of the case, are reasons for which a new suit may be sustained to set aside and annul the former judgment or decree, and open the case for a new and a fair hearing. (See Wells, Res Adjudicata, sec. 499; Pearce *v.* Olney, 20 Conn. 544; Wierich *v.* De Zoya, 7 Ill. 385; Kent *v.* Richards, 3 Md. ch. 392; Smith *v.* Lowry, 1 Johns. (N. Y.) ch. 320; De Louis et al. *v.* Meek et al., 2 Iowa, 55.)

In all these cases, and many others which have been examined, relief has been granted, on the ground that, by some fraud practiced directly upon the party seeking relief against the judgment or decree that party has been prevented from presenting all of his case to the court.

On the other hand, the doctrine is equally well settled that the court will not set aside a judgment because it was founded on a fraudulent instrument, perjured evidence, or for any matter which was actually presented and considered in the judgment assailed.

This case is regarded throughout the country as a leading authority upon the question of the binding effect of a judgment or decree, although founded upon false documents or perjured testimony. It is not suggested that the claimant in any case to which this inquiry relates practiced fraud on the United States by preventing a full submission of its contentions. The naked contention is that the evidence submitted by the claimants was false, fraudulent, and fabricated, or that excess land was included in the survey and subsequently issued patent—the very matters, issues, and things remitted to the commission for its consideration and determination. It would seem perfectly clear, therefore, that the cases cited render such question no longer debatable.

EXCESS LANDS HELD UNDER PATENT

In addition to asserting that some of the grants in question are invalid for the reasons already stated, it is contended by those urging the investigation that, if such grants be valid, vast areas of land in excess of the quantity granted were included in the patent in several instances. In this connection, it will be noted that the act of March 3, 1851, provides for the survey of the grant, in case its validity is established and it is confirmed, and the issuance of a patent predicated upon such grant. By the express language of the statute a patent issued in conformity with its provisions is conclusive as between the United States and all claimants. The homestead applicants seek to acquire a right under the United States, namely, title to the land in question from the United States. Present occupants hold under the grant long ago confirmed, followed by issuance of patent, as hereinbefore outlined. So, in the absence of fraud in the issuance of the patent, such patent is conclusive and can not be canceled, nor lands included therein recovered on the theory that they are in excess of the quantity specified in the grant and confirming decree. The facts fail to show any fraud on the part of any claimant in connection with the issuance of patent.

Although we are convinced that none of the patents in question can now be assailed, nor can the contention that excess lands are recoverable be sustained, if such lands could be recovered by the United States, the applicants for homestead entry thereon, to whom reference has been made, would not be entitled to acquire such lands in that way, because it has long been the policy of the Department of the Interior, in case land is restored to the public domain, to extend

a preference right to acquire the same to the person or persons in possession thereof asserting claim or color of title. That policy rests upon recognized principles of justice and equity. Its application in the cases presented by these homestead claimants would be undeniable.

NO FACTS INDICATING FRAUD

Although, for the reason stated, it is the belief of the committee that the confirmation of the several grants in the manner previously stated with the subsequent issuance of patent, forecloses further inquiry into the antecedent facts, it may be appropriate to say that the committee's inquiry has disclosed nothing substantial indicating that such grants were not in fact made or that they were made with attending fraud. Aside from a meager showing that no record of such grants could be found in the archives of the Mexican Government recently, there is nothing to indicate any facts tending to support, even remotely, the charges to which Senate Resolution 291 refers.

CONCLUSIONS

It is the judgment of the committee that the grants in question are separately and severally valid; that their confirmation in conformity with the provisions of the act of March 3, 1851, constitute res adjudicata and can not be reviewed; that no fraud in connection with its issuance being shown, the patent in each case is conclusively binding with respect to the quantity of land conveyed; that such confirmation of title and issuance of patent present a perfect case of repose of title and foreclose further question; that the attacks being made upon such titles are without substance or foundation and are inspired and furthered by persons seeking to profit financially at the expense of well intentioned but grossly misled applicants for homestead entry.

Your committee is unanimously of the opinion that those now claiming the lands in question, as successors in interest under the original grants, confirmed as hereinbefore stated, are the unqualified owners thereof and have an unquestioned legal title thereto, and that there is no foundation in fact or in law for the charges which Senate Resolution 291, directed this committee to investigate.

Approved by subcommittee:

GERALD P. NYE.
PORTER H. DALE.
SAM G. BRATTON.

Approved by committee:

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INDEX

[1] Exhibit has been placed in files of the committee but not inserted in record.

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