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## EARLY SPANISH AND MEXICAN SETTLEMENTS IN ARIZONA

\*By Ray H. Mattison

ARIZONA, like few other states, is largely the product of the fusing of two influences possessing widely divergent backgrounds. When the American pioneers, largely of northern European descent, first came into this region in the middle of the 19th century they found portions of it already settled by people of Spanish origin. This latter group had first established itself in southern Arizona a century and a half earlier, when the English colonists were settling the Atlantic seaboard. Spanish laws, customs, political, religious and economic institutions had already become firmly implanted there. These two ethnological elements, aside from the aboriginal Indian population, have given Arizona, in common with the other neighboring southwestern states, a uniqueness in character.

The story of the westward movement of the English-speaking peoples in the United States is a familiar one. The northward push by the Spanish groups, while much older, is a comparatively new field of research. The work of the early missionaries along the northwestern frontiers of New Spain has been adequately told by Professors Bolton, Wyllys, Father Engelhardt and others. Professor Lockwood, Mr. Farish and others have told the story of the American occupation. Unfortunately for the intervening late Spanish and the Mexican periods, little historical source material

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seems to be available. For a general history of Arizona, Bancroft's works still remain the standard authority.

While the writer was stationed at Tūmacacori, he became interested in some of the old land titles of Arizona. Practically no new fragments of historical evidence could be found by him on the Spanish settlements in Arizona in the 18th century. An examination of the *expedientes*, *titulos* and evidence supporting the claims to the old Spanish and Mexican land grants in the General Land Office, however, did reveal some new material regarding the settlements in Arizona in the late Spanish and Mexican periods. For that reason, the writer has devoted his greatest attention to these grants. To fill in the many gaps in the story, however, it became necessary to borrow heavily from the works of Bancroft, Professors Bolton, Chapman and others.

In collecting material for this paper, the writer is indebted to the Library and Law College of the University of Arizona as well as the General Land Office at Phoenix for their assistance.

#### *The Mission Period*

THE early phases of Spanish penetration into what is now southern Arizona in the late 17th and the 18th centuries followed a pattern similar to that in the rest of that nation's colonial empire. In order to protect the already conquered Mexico, she continued her push toward California. Previous attempts had been made to occupy that region by sea. These failed because of the lack of nearby bases of supply. It was, therefore, necessary for Spain to try the more difficult method of controlling the land route between Mexico and California through Arizona. Complete military occupation would have been too expensive. For these reasons, Spain again resorted to the method which had proved so successful in Mexico and her South American colonies. She employed the mission system to further her colonial schemes.<sup>1</sup>

The missionaries were agents of the state as well as of the church. Hostile Apache and other Indian tribes ravaged

1. Charles Edward Chapman, *Colonial Hispanic America*, (Macmillan, New York, 1933) 99 ff.

the northwestern limits of New Spain. By making friends and allies of the peaceful Pimas and Papagos along this frontier, Spain planned to form an effective buffer state against the hostiles.<sup>2</sup> It was partially with this object in view that the Jesuit father, Eusebio Francisco Kino, made his *entrada* in Pimeria Alta in 1687. And the Spanish government as well as the church generously supported him with both finances and soldiers.

Under the leadership of Father Kino the first Christian missions were established in Arizona. Missions and *visitas* were built along the Santa Cruz Valley at Guebavi, Tuma-cacori, San Xavier del Bac, San Cosme del Tucson, San Agustin de Oir; on the Sonoita a *visita* was established at Sonoidag; farther east along the San Pedro *visitas* were instituted at Huachuca, Quiburi and Santa Cruz.<sup>3</sup>

The influence of Father Kino was not only spiritual in character. He started stock ranches to support his growing missions. Every domestic plant and animal in Europe was introduced. Flourishing ranches were established of cattle, horses, sheep and goats. A wide variety of food plants were cultivated in the fields and gardens.<sup>4</sup> Professor Bolton summarizes the work of Kino as a pioneer in the following words: "The work which Father Kino did as a ranchman would alone stamp him as an unusual business man and make him worthy of remembrance. He was easily the cattle king of his day and region. From a small outfit supplied him from the older missions to the east and south, within fifteen years he established the beginning of ranching in the valleys of San Ignacio, the Altar, the Santa Cruz, the San Pedro and the Sonoita. . . ."<sup>5</sup>

The push of the Spanish to the north, however, was arrested by a formidable obstacle which they were never able to overcome effectively. That was the Apache Indians. While they occasionally conducted vigorous campaigns

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2. H. E. Bolton, "The Mission as a Frontier Institution," *American Historical Review*, October, 1917, 42 ff.

3. H. E. Bolton; *Rim of Christendom*, (Macmillan, N. Y., 1936) From Map of Pima Land.

4. Bolton, "The Mission as a Frontier Institution," 42ff.

5. Bolton, *Rim of Christendom*, 589.

against this tribe with some success, the Apaches continued to remain a potential threat preventing Spanish occupation and settlement of southern Arizona.

After the death of Father Kino in 1711, the missions languished in Pimeria Alta (now southern Arizona and northern Sonora) for about two decades. Then there was a renewal of activity. New missionaries arrived and the northern missions were reoccupied. Journeys to the Colorado and Gila, began by Kino, were continued with the view of establishing missions along these rivers.<sup>6</sup>

Under the normal functioning of the Spanish colonial system, the religious occupation of a locality paved the way for the civilian colonizer—the stock-raiser and the miner. The few records of the activities of these two groups in the 18th and early 19th century are vague, often contradictory and very confusing. The 18th century writers of Pimeria Alta indicate that there were some early attempts to occupy the region by civilian colonists. Venegas implies that in 1720 there were Spanish farms around Guebavi.<sup>7</sup> Father Sedelmayr wrote that in 1736 various mines had been discovered near the missions of San Xavier del Bac, Santa Maria and Guebavi. About eight leagues from the last mentioned place (near Arizonac, Sonora, which is just across the line from Arizona) was the famous *Cerro de las Bolas* mine “ . . . in which were found nuggets of virgin silver, and many arrobas of metal.”<sup>8</sup> The difficulties of the miners were described as follows: “The various inhabitants have left there, partly because they had exhausted the wealth, partly because of the invasions and killings of the enemy Apaches, and doubtless because there was nothing more to collect and work. . . .”<sup>9</sup> Sedelmayr urged the establishment of missions along the Gila and Colorado rivers to hold back the Apaches who “ . . . in growing numbers . . . rob

6. H. E. Bolton and Thomas M. Marshall, *Colonization of North America*, (Macmillan, N. Y., 1936) 104.

7. H. E. Rensch, *Chronology of Tumacacori National Monument*, (Berkeley, California, 1934) 13.

8. Jacobo Sedelmayr, *Relaciones*; translated and edited by Ronald L. Ives, *Anthropological Papers*, No. 9, Bulletin 123, U. S. Bureau of Ethnology, (Washington, D. C., 1939) 114.

9. *Idem*.

and kill in the province of Sonora doing so much damage to its settlements that today, because of their continued invasions, many lands, ranches, *haciendas* and mines of great promise are abandoned."<sup>10</sup> Due to the fear of the French, the Spanish king in 1744 and 1747 approved advancing the frontier to the Gila river.<sup>11</sup> The *Rudo Ensayo* states that during this period there was a gold mine and several silver mines operated near the *visita* Aribaca;<sup>12</sup> there was a *rancheria* at Sopori;<sup>13</sup> along the Sonoita valley was a *visita* at Sonoitac.<sup>14</sup> The anonymous author of this book also mentions that Guebavi had a few Spaniards living there.<sup>15</sup>

Under the protection of the presidios small Spanish settlements sprung up near the garrisons and missions. Mines were also operated. The author of the *Rudo Ensayo* stated that in November, 1762 there were 24 inhabited Spanish towns, including five Spanish forts, mining settlements, farms and ranches and 174 uninhabited ones in the province of Sonora.<sup>16</sup> Professors Bolton and Marshall claimed that in the following year there were eight missions and several Spanish settlements in that province having a total population of 1500 persons.<sup>17</sup>

Within a few years, however, the missionary efforts of the Jesuits were to come to an end. In 1767 the Spanish monarch decreed the expulsion of this order from all of his dominions.<sup>18</sup> The Franciscans took over the old Jesuit missions the following year. To Pimeria Alta were sent priests from the College of Queretaro.<sup>19</sup>

Due to the rapid advance of the Russians eastward into Alaska, the Spanish decided in the late 1760s to occupy Alta California. Cooperating with the Spanish army, the first mission was established at San Diego in 1769. Others were

10. *Ibid.*, 113.

11. Bolton and Marshall, *op. cit.*, 304.

12. *Rudo Ensayo*, translated by Eusebio Guiteras, (American Catholic Society, 1894) 223.

13. *Ibid.*, 254.

14. *Ibid.*, 223.

15. *Ibid.*, 254.

16. *Ibid.*, 257.

17. Bolton and Marshall, *op. cit.*, 306.

18. Chapman, *op. cit.*, 193.

19. Bolton and Marshall, *op. cit.*, 386

built in succession farther northward on the coast. Expeditions were made by Francisco Garces of San Xavier del Bac with the view of establishing a land route from Arizona to California. As a result of Garces' discoveries, Captain Anza of Tubac offered to open a land route to Monterey. In 1774, he was ordered to lead a soldier colony from Sonora to occupy the port of San Francisco. The following year, Anza assembled some 250 persons at Tubac. The expedition descended the Santa Cruz and the Gila to the Colorado. From here he led his party to Monterey where he arrived in March, 1776. In order to safeguard this route it was decided to advance the frontier northward to the Gila-Colorado junction. Two missions were founded near there among the Yuma Indians. Instead of a *presidio*, ten families were settled near each mission to serve as a protection to the missionaries. In 1781, the Yumas rebelled and murdered Father Garces and most of the settlers. Although the Indians were punished, this massacre put an end to the efforts to establish an outpost among the Yumas and closed the Anza route to California.<sup>20</sup>

Due largely to the attacks of the Apaches, the Spanish occupation of Arizona at the end of the 18th century was little beyond where it had been at the beginning. It is true that there were thriving settlements around the walls of the *presidios* of Tubac and Tucson which will be treated later. There were a few scattering Spanish *ranchos* along the Santa Cruz valley extending from the present international boundary to Tucson. As for the missions, San Xavier and Tumacacori were the only ones thriving as monuments to the efforts of the Jesuit and Franciscan fathers.

### *Early Mines*

There are many legendary stories regarding the mines operated in Arizona during the pre-American period by the missions and miners. Some of these mines, alleged to be wealthy, were located at Arivaca and Sopori. Others were in the Santa Rita and Patagonia mountains as well as along

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20. *Ibid.*, 384-394, *passim*.

the present international boundary west of Nogales. The wealth of these has been very much overrated. Bancroft best summarizes these mining activities as follows:

Of mining operations in Arizona during any portion of the Spanish or Mexican period, nothing is practically or definitely known. The records are barely sufficient to show that a few mines were worked, and that the country was believed to be rich in silver and gold. . . . But from 1790 for twenty or thirty years . . . there can be no doubt that many mines were from time to time profitably worked, though we have no particulars, and though there is no reason to believe that there were any extensive or wonderfully rich developments. It is to this period almost exclusively that we must trace the old workings discovered in later years and also all the traditions of lost mines that have anything other than a purely imaginary foundation.<sup>21</sup>

### *The Pueblos*

As did the English along the Atlantic seaboard, the Spanish brought with them into the New World their own type of community organizations. The inhabitants of Spanish America like their forbears in Europe resided mostly in towns and villages. This was partly for protection and partly for social and religious considerations.

The towns or pueblos were laid out in accordance with the laws of the Indies which were passed from time to time for their establishment and government. Under these laws, the sites selected for pueblos were to be in a healthy spot with pleasant climate, good water, "and abounding in wood and pasturage, and in the neighborhood of which are many Indians, who may be taught the doctrine of the holy evangelists." Each organized pueblo was to have at least thirty inhabitants, each one to have ten breeding cows, four oxen, one brood mare, one sow, twenty Castillian ewes, six hens and one cock. House lots and sowing lands were to be distributed among the pueblo settlers.<sup>22</sup>

21. Hubert Howe Bancroft, *History of Arizona and New Mexico*, (San Francisco, 1888) 399-404 *passim*.

22. Sen. Ex. Doc. No. 207, 46 Cong., 2 Sess. by John Wassen, U. S. Surveyor General of Arizona. From *Law of the Indies*, Book IV, Title V.



Four square leagues of land were granted to each pueblo in square or oblong form according to the topographical features of the country. The law required that each village was to be at a distance of at least five leagues from any other Spanish town. As soon as it contained at least thirty settlers, a council was established composed of two *alcaldes*, six *regidores*, one *syndico* or prosecuting attorney, and one superintendent of the municipal property. The common lands containing the woods, pastures, waters, stone quarries, fruit trees, hunting and fishing for common benefit were marked out. The royal or vacant lands outside the limits were used in common with other pueblos. Both building and sowing lots were divided among the inhabitants.<sup>23</sup> The *alcaldes* supervised the granting of these in the name of the king. The Otero and Martinez grants, listed below, were of these types.

Each pueblo had its plaza, church and *juzgado* (court house) around which the dwellings of the inhabitants were located. At a short distance from the village were the "milpas" or planting and sowing grounds of the villagers. Remote from these, generally, were the stock *haciendas*, which were under the charge of the *mayordomos* or foremen. The owners resided with their families in the village or town. Both Tucson and Tubac seem to have had at one time a community organization of this pattern.

When the Spanish priests moved into the Indian villages to establish their missions, they found many of them well organized and worthy of self-government. The Spanish authorities, therefore, gave many of them the same status as their own towns.<sup>24</sup> Each mission pueblo was entitled to a grant of four square leagues. The civil officers were usually a governor, captain, the *alcaldes*, and *alguacil*, who by law constituted a *cabildo* or council. They, in addition, had a military organization as well. The Indians administered their own mission pueblos under the direction of the padres who in turn might use the restraining force of nearby presidios to hold their wards in check if necessary.<sup>25</sup>

23. *Idem*.

24. Leslie Byrd Simpson, *Many Mexicos*, (New York, 1941) 88 ff.

25. H. E. Bolton, *Wider Horizons of American History*, (New York) 145-146.

Tumacacori in the early 19th century appears to have had this type of organization.

### *The Presidios*

The *presidios* played as important a role in the Spanish colonial system as did the mission. Without these garrisons the missionaries and civilians could not proceed with the occupation of a region. Since the soldiers with their superior fighting equipment were more than a match for an equal number of Indians, it was not necessary to maintain a very large number of soldiers at the *presidios*. Usually a guard of one to five or six soldiers was stationed at each of the missions. These served to keep in check hundreds of mission Indians. Without these guards, the missions could not have survived.<sup>26</sup>

As a result of the Pima revolt in 1751, a *presidio* was established at Tubac the following year. This was the first permanent white settlement in Arizona. It served as a link in the chain of frontier garrisons of New Spain which eventually stretched from San Agustin to San Francisco.<sup>27</sup> From 1764 to 1767 and some years later it was under the command of Juan B. Anza and had a population of nearly 500.<sup>28</sup> As a result of the reglamento and instructions of 1772 the *presidio* was transferred, probably under the order Inspector Hugo Oconer, in 1776 to Tucson.<sup>29</sup> This left the few settlers of the region exposed to the attacks of the Apaches. They were prevented from abandoning the country by orders from the government. After sending in many petitions for more troops, a company of Pima allies was organized and stationed there before 1784. Spanish soldiers were added to the garrison.<sup>30</sup>

The government of Spain encouraged the permanent settlement of the region about the *presidios*. In order to stimulate this by soldiers with families, inducement was offered for them to marry native women. Under an order

26. Chapman, *op. cit.*, 97.

27. Bolton, "The Mission as a Frontier Institution", *op. cit.*, 42.

28. Bancroft, *op. cit.*, 382.

29. *Ibid.*, 381.

30. *Ibid.*, 382-383.

of Pedro de Nava in 1791, the *intendentes* were authorized to grant house lots for settlers who might desire them for residence. A grant of four square leagues was given each *presidio*. The captains of the garrisons were permitted to make grants within these limits. This gave to the presidial establishments the character of an incipient pueblo, making it a nucleus around which a pueblo might and frequently did, as in the case of both Tubac and Tucson, grow up.<sup>31</sup>

In 1881 the Otero Ranch claimed some 400 acres of land on both sides of the Santa Cruz river about a mile north of Tubac. The original grant was made in 1789 by Don Nicolas de la Erran, Lieutenant Commandant of the Company of Pimas at Tubac, to Torbio de Otero for a house lot, a tract of about one-eighth of a league, and four *suertes* (farming lots) of a circumference of 3400 varas. Under the terms of the grant, Otero was required to keep arms and horses to defend the country against enemies whenever he was called upon to do so. The grant also specified that until a term of four years had passed, the grantee could not sell, alienate or mortgage the lands nor impose one upon the house or lands even though it might be for pious purposes. He was required to build his house on the land within two years and reside upon it for four years before he could acquire possession. To prevent the land from passing into the hands of the church, it was specified that Otero should "never be permitted to sell the same to the church or to any monastery, ecclesiastical persons or community nor convey them in mortmain." Fruit trees or other kinds of trees of some utility were required to be planted on the granted lands.<sup>32</sup> This grant appears to be the oldest one recorded in the General Land office Records at Phoenix.

The historical source material for Tubac during the Mexican period is very fragmentary so no adequate story of that place can be given. The law of 1826 provided for a presidial company at Tubac as well as Tucson, though in later years the company seems to have been one of infan-

31. John Wassen, *op. cit.*, 39-40; Matthew G. Reynolds, *Spanish and Mexican Land Laws*, (Santa Fe, 1895) 25 ff.

32. *Journal of Private Land Grants*. In five volumes in manuscript form. General Land Office, Phoenix, Arizona. Afterward abbreviated JPLG, 3:27 ff.

try.<sup>33</sup> The Land Office records indicate that by 1838 Tubac had assumed the status of a pueblo under the Mexican laws. It was governed by municipal rather than military authorities. Its land grant, in the meantime, had been enlarged to nine square leagues.<sup>34</sup>

A part of the land included in the Otero Ranch, mentioned above, was that which had been given to Jose Maria Martinez. In a petition addressed to the Justice of Peace of Tubac, Don Trinidad Yrigoyen, Martinez in 1838 stated that he had purchased a lot of ground from the justice. He asked, therefore, that measurements be made for his security. Official measurers were appointed and a rectangular lot 700 *varas* long and 175 *varas* wide, was surveyed. The conditions of this grant were substantially the same as those made Otero almost fifty years before. One of the terms which reflected upon the state of affairs at that time was that Martinez was to be always ready to march against the enemy when called upon to do so and to give such military services as was required of him on account of the scarcity of regular soldiers.<sup>35</sup>

The lands given to Martinez and Otero were occupied continuously by the grantees and their descendants down to 1880 except at times when they were driven away by hostile Indians.

At the time the *presidio* was transferred from Tubac to Tucson in 1776, the Indians were quartered in a little pueblo adjoining it called San Agustin de Tucson. The *presidio* at this time was called San Agustin. According to the historian Bancroft, "Annals of this place are blank for years, and practically so down to 1846, since we know only by occasional mention that the *presidio* maintained its existence; that the garrison numbered in officers and men, about 106 men, though the ranks were often not full; and that there were frequent complaints of inadequate arms, ammunition and other supplies."<sup>36</sup> The population of Tucson and the adjoining districts for this period is estimated to have

33. Bancroft, *op. cit.*, 382-382.

34. JPLG, 3:35.

35. JPLG, 3:38 ff.

36. Bancroft, *op. cit.*, 381.

been about 2,000 including the families of soldiers.<sup>37</sup> On account of the frequent Apache raids the few remaining ranches in the Santa Cruz valley were abandoned in the last decade of the Mexican regime. Often livestock was driven off under the very walls of the *presidios*. A census report of September 1848 reveals that the population of Tucson at that time was 760 while Tubac had 249 inhabitants.<sup>38</sup> In December of that year after an attack, Tubac and Tumacacori were abandoned. The people transferred to Tucson.<sup>39</sup>

One of the interesting cases arising out of the exodus from Tubac to Tucson was the Martinez grant. Jose Maria Martinez was a Mexican soldier who had been garrisoned at Tubac. As a result of the destruction of that *presidio*, Martinez and others fled to the pueblo of San Xavier. By virtue of the laws of Sonora of February 4, 1851, the state declared that each of the immigrants should be given a plot of sowing grounds in the vacant and uncultivated lands of the missions of San Xavier and Tucson for their subsistence. Martinez, in the same year, petitioned for land under this law and asked for a title. Ignacio Saens, Justice of the Presidio of Tucson, then called a meeting of all the Indians of San Xavier Pueblo. Here Martinez' petition for a grant of land and for the right to pasture his stock on the common lands of the mission was approved. The Indians agreed to a grant of land of 400 by 500 *varas*. The tract was accordingly measured and a title issued Martinez by the Justice on the terms similar to those of Otero and Martinez at Tubac listed above.<sup>40</sup>

After the Americans acquired this land under the Gadsden Treaty of 1853 and 1854, the Martinez claim became the test case for the San Xavier Indians. The Indians were recognized as Mexican citizens under the Treaty, and were living within the pueblo communities. They were without formal titles to their lands.<sup>41</sup>

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37. *Idem*.

38. Bancroft, *op. cit.*, 474, 475.

39. *Idem*.

40. JPLG, 4:82 ff.

41. *Idem*.

*The Spanish and Mexican Land Grants*

The two chief industries in Arizona in the Spanish and Mexican periods, as in the American era, were stock-raising and mining. As has been stated earlier, little is definitely known regarding the extent of the mining operations prior to the 18th century.

Indian attacks had caused most of the *rancherías* around the missions and the *visitas*, established by Father Kino and his successors in the 18th century, to be abandoned. Little is known of the Spanish *ranchos* other than a few vague references since they did not have titles from the Spanish government. It may be concluded that these 18th century *rancheros* too were forced to withdraw southward out of present Arizona on account of the Indian incursions.

The period from 1790 to 1820, however, was one of comparative peace and prosperity for the remaining missions and the ranchos of Pimeria Alta. This may be accounted for in part to the effective work of the Spanish garrisons in policing the region. In addition the Apaches were, on the whole, at peace under treaties by which the government bribed them by food and gifts. As a result, the missions and the frontier *rancheros* counted their possessions by the thousand.<sup>1</sup> So great became their herds that they found it necessary to push northward. This was a part of a great movement in that direction all along the northern frontier of New Spain. They pushed into Texas, New Mexico, Arizona and California and gave the foundation to the great cattle industry of the United States which was to play such an important part in the history of the West.

During the latter part of the Spanish regime, these stock-raisers began to seek grants of land from the government. They continued to petition for additional lands until the late 1830s and early 1840s from the Mexican authorities. Through these *expedientes* and *titulos* one is able to get some clue to who they were and the extent of their operations. In the 1830s these *rancheros* carried on very extensive stock-raising activities all along the present interna-

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1. Hubert Howe Bancroft, *North Mexican States and Texas, 1801-1889*, (San Francisco, 1889) 750-751.

tional boundary as far north as Tucson. Along the Santa Cruz valley were the Ortiz brothers at Canoa and Aribaca; farther south at Buenavista was the ranch of the Tiveras; at San Rafael de la Sanja the herds of the Romeros ranged. On the Sonoita was the *hacienda* of the Herreras family. Still farther east along the San Pedro valley and its tributaries were the vast holdings of the Elias (Gonzales) family. In the extreme southeastern part of present Arizona and extending well into modern Sonora was the famous San Bernardino ranch of the Perez family. These *rancheros* not only held the land granted them by the Spanish and Mexican governments, but their numerous herds of stock grazed over large tracts of "overplus"<sup>2</sup> lands which they controlled.

Mexico became independent from Spain in 1821. The laws regarding the granting of land, nevertheless, remained fundamentally the same under the Mexican regime as under the earlier Spanish rule. Under the Law of the State of the West (comprised until 1830 the present states of Sinaloa, Sonora and southern Arizona) of May 20, 1825,<sup>3</sup> the amount of land granted to one stock-raiser was limited to four square leagues<sup>4</sup> unless he could prove that due to the abundance of his stock he needed more.<sup>5</sup> The land was graduated Fees for surveyors and appraisers were fixed by law.

The procedure for making grants also remained substantially the same under the two regimes. Under the provisional law of the State of the West, the lands were to be according to its quality and a minimum price placed on it.<sup>6</sup>

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2. While most of the grants in Arizona specified a certain amount of lands, the descriptions of their boundaries were by natural boundaries or between certain limits. Actually, the grantees usually occupied lands far in excess of that stipulated in the terms of the grants. These were known as "overplus." Under the Mexican laws, title could be acquired for the overplus by having it surveyed and paying into the treasury the price which prevailed when the original grant was appraised. Later American purchasers of them claimed a right to the overplus also by paying over to the government the appraised prices of the original grants.

3. Reynolds, *op. cit.*, 129-131.

4. A *sitio* or square league contains 4,338.464 acres.

5. The applicant was required to submit proof that he was a stock-breeder before he was entitled to a grant.

6. Reynolds, *op. cit.*, 163. Under this law: (1) for each dry sitio that can serve only for the pasturing of stock, \$10; (2) for those where water can be obtained, \$30; (3) for those which have a spring or river, \$60. This price was increased under the decree of July 11, 1834, of the state of Sonora.

surveyed, valued and published for thirty days by the public crier in solicitation for bidders; at the end of that time at public auctions which were held for three consecutive days, they were finally sold to the highest bidder. Under this law the treasurer general occupied the same position under the state government in granting lands, as did the *intendente* under the Spanish government. All titles were issued by him. The grants, however, did not require the approval of the Supreme Government.<sup>7</sup> The Constitution and laws of 1824 gave the states the power to appropriate lands to individuals. Later under the Constitution of 1836 the states lost this power as it was reserved to the Supreme Government of Mexico.<sup>8</sup>

Most of the *titulos* issued by the Spanish and Mexican governments contained essentially the same provisions. All of them required the grantees to erect monuments on the boundaries of mortar and stone. To prevent the abandonment of the granted land, with few exceptions, all provided that if the land was abandoned for a period of three years or longer, it should revert to the public domain; exception was made in case the invasion of enemies or as sometimes stated "Apache" or "hostile Indians" were the cause of the abandonment. These grants conveyed in addition to the ownership and possession of the soil itself, "all its rights, uses, customs, servitudes, timbers, woods, pastures, springs and watering places and other things thereunto belonging."<sup>9</sup> In no cases were mineral rights given.

Grants made by the various Mexican states or departments were of three types. First, there were grants by specific boundaries in which the donee was entitled to all of the land described; second, grants by quantity wherein the grantee was entitled to a specific amount of land, e. g., four *sitios* within a larger tract as described by outboundaries; third, where the recipient was entitled to a tract according to the limits, as shown by its settlements and possession or other competent evidence.<sup>10</sup> As it will be seen,

7. JPLG, 1:113-114.

8. *Corpus Juris*; (New York, 1930) 50:1203-1206.

9. Copy of *titulo* to San Rafael de la Sanja Grant, JPLG, 1:415 ff.

10. *Hornsby vs. United States*, 77 U. S., 224.



a large number of grants in what is now southern Arizona were of the last two classes. These ambiguities in description were to cause a great deal of controversy and litigation later.

It is significant that the Spanish and Mexican *rancheros* of the early 19th century who pushed into the San Pedro, Sonoita and Santa Cruz valleys reoccupied many of the lands and sites where the missionaries the century before had established *visitas* and *rancherías*. Their predecessors had been forced to abandon them on account of the hostile Apaches. These *rancheros* were to suffer the same fate. Had it not been for the hostile Indians along the northwestern frontier, it is quite possible that the cattlemen would have continued their push northward and changed the course of Arizona's early history.

Most writers maintain that after Mexico had secured its independence there was a sudden abandonment of southern Arizona due to Indian attacks. It is true that with the degeneration of the presidial system under the Mexicans the raids of the Apaches increased in intensity.

Along the Santa Cruz valley, most of the petitions for land grants were filed during the period from 1820 to 1833, although the Los Nogales de Elias grant was filed as late as 1841. Tubac, according to Bancroft, maintained a weak *presidio*.<sup>11</sup> This garrison and town were abandoned in 1848 on account of Indian attacks.<sup>12</sup> These facts would indicate, in the opinion of the writer, that during the 1820s the ravages of the Apaches were not so severe as generally believed as *rancheros* would not have sought to move into a region where their herds of stock would have met certain dissolution and destruction. The deterioration of the presidial system increased in the 1830s and 1840s on account of the civil wars in Sonora. The culmination was reached in 1848 and in the following years when Tubac and all of Arizona was abandoned by the Mexicans with the exception of Tucson. This may be attributed in part to the withdrawal of soldiers to fight in the war against the United States and the exodus

11. *Arizona and New Mexico*, 381-382 Footnotes.

12. *Ibid.*, 474-475.

of settlers to the California gold fields. Before 1852, a small detachment of Mexican soldiers reoccupied Tubac.<sup>13</sup> What available records exist indicate that in 1854, when the American government acquired title to southern Arizona by the Gadsden Treaty, all the white settlements in Arizona had been abandoned except those at Tucson and Tubac.<sup>14</sup>

The history of the 19th century settlements along the San Pedro valley is different in many respects from those along the Santa Cruz. With one exception, the petitions for these grants were filed in the period from 1820 to 1831 inclusive. This too would indicate the Apache raids were perhaps not so serious in the 1820s. The petition for one huge projected grant, the *Tres Alamos*, for 58 *sitios* was filed in 1831 with the Sonoran government by nine promoters. The proceedings for this grant were stopped by the Apache raids.<sup>15</sup> Since no more petitions were filed after this date it might be inferred that after this time the Indian raids discouraged further settlements. While no records exist other than the descriptions of the ruined buildings on these grants by travelers through this valley in the late 1840s and early 1850s, these accounts indicate the operations of these San Pedro *rancheros* were very large. Two families, the Elias (Gonzales) and Perez, appear to have had very extensive holdings. The latter family's *ranch* extended for the most part into Sonora. These early writers relate seeing large herds of wild horses, cattle and mules, descendants of those left by the early *rancheros* in their haste in fleeing before the Apaches. The abandonment of this valley seems to have been complete. No attempt was made to reoccupy it until in the 1870s and 1880s.

The Spanish and Mexican land grants were to offer some very complicated problems and it was not until after the end of the 19th century that they were solved. By the Treaty of Guadalupe Hidalgo of 1848 and the Gadsden Purchase several years later, Arizona became American Territory. Only the latter treaty affected that part of Arizona

13. *Ibid.*, 474-475.

14. Peter Kitchen, Sen. Ex. Doc. No. 93, 48 Cong., 1 Sess., 47-48. Land Office Reports (1887), 26-27. These will hereafter be abbreviated LOR.

15. JPLG, 4:389.

where the grants were located. It stipulated that before they should be approved by the American government, evidence of the titles should be found in the Mexican archives.<sup>16</sup> Under the machinery set up by Congress,<sup>17</sup> it became the duty of the surveyor general of the territory to investigate these claims and report upon their validity to the secretary of interior. The secretary in turn was to submit these reports to Congress for final action. By 1888, 13 of these grants had been examined and reported upon favorably by the surveyor general and two unfavorably.<sup>18</sup> Congress, however, had not passed upon any of them.

During the period immediately following the acquisition of this region by the United States, the Apache attacks were so severe that there was little thought of reoccupying any of these lands. Little or no value was attached to them by the original grantees or their heirs. After the Apaches were brought under control in the 1870s and 1880s, settlers again poured into the San Pedro, Sonoita and Santa Cruz valleys. They discovered to their disappointment that many of the choicest tracts were held by absentee owners and withheld from settlement by virtue of these old grants. Speculators, largely from California, had sought out these Mexican grantees and their heirs and had bought up their rights for a mere song. These claims amounted to over 5,000,000 acres and the owners were waiting for an opportune moment to present them to Congress for approval.<sup>19</sup>

Congress, after many years of continued pressure, in 1891 established the Court of Private Land Claims to pass upon the validity of these grants in the territories of Arizona and New Mexico that it had not already acted upon under the provisions of the former law. The examination and untangling of these claims and rendering equitable decisions upon them was a tremendous task for the court. Under the original act, the court was to terminate in 1895. Actually, it continued in existence until June 30, 1904.<sup>20</sup>

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16. *United States Statutes at Large*, 10:922, 929.

17. *Ibid.*, 10:308; 16:304.

18. LOR (1888) 394-395.

19. LOR (1887) 524-525.

20. *Corpus Juris*, 50:1240; *United States Statutes at Large*, 26:854.

Many of its decisions were appealed to the Supreme Court. Perhaps the most famous one passed upon was the Peralta-Reavis claim for almost 13,000,000 acres which the Attorney General of the United States characterized as "... probably the greatest fraud ever attempted against a government in its own courts. . . ." <sup>21</sup>

When the Court of Private Land Claims completed its work in 1904, of the 282 cases decided, it confirmed titles to 1,934,986 acres of a total of 34,653,341 acres claimed in New Mexico and Arizona or about six percent. Of that amount, titles in Arizona to 116,540 acres of land were confirmed out of a total of 837,680 acres claimed.<sup>22</sup> So after fifty years, the problem of the settlement of the Spanish and Mexican land claims was brought to a close.

#### *The Tumacacori and Calabasas Grants*

The Tumacacori grant is probably the oldest large grant made in Arizona. During most of the 18th century Tumacacori was a *visita* of Guebavi. In 1784, it became the main mission while Calabasas and Guebavi were made *visitas*. The two latter places were finally abandoned about the close of the century due to the attacks of the Apaches.

The *expediente* sets forth that the lands belonged to the mission by right of "legal, public and financial purchase from their primitive owners." The documents relating to the purchase of them had been in the possession of Don Leon Carrera, political judge of that jurisdiction. They had, however, been lost or destroyed. Juan Legarra, the governor of the Indians, and other principal natives of the pueblo of Tumacacori, therefore, in 1806 petitioned the governor, *intendente* and judge *privativo*, Don Alexo Garcia Conde, to take the necessary steps to issue them a new grant. The Indians asked for four *sitios* for sowing purposes (*fundo legal*) and in addition land for stock-raising (*estancia*), which was to include that of the old mission of Gue-

21. Report of the Attorney General, (1895) 17-18.

22. Report of the Attorney General, (1904) 100 ff. Final Report of Private Land Claims, June 30, 1904. This does not include the Peralta-Reavis claims which was submitted to the New Mexico district for examination.

bavi.<sup>23</sup> The boundaries on the south were described as the Rancho of Buenavista<sup>24</sup> which was owned by the Romeros and the Yerbabuena.<sup>25</sup> The commandant of the presidio of Tubac, Don Manuel de Leon, appointed other officers and completed a part of the measurement of these lands.<sup>26</sup> The Indians of the pueblo, however, considered the lands measured them were inadequate. Stating that "The stock cattle and horses of Tumacacori are increasing each day through the industry of the natives under the direction of its present minister, Rev. Fray Narciso Guitierrez," they asked that the lands of the abandoned pueblo of Calabasas be given them for a stock farm.<sup>27</sup> A title was accordingly issued them for all the lands petitioned for in 1807. It contained a provision that if the grant should become totally abandoned for a period of three years, it should be given to anyone who might claim the lands.<sup>28</sup>

The last three decades of Spanish rule in Pimeria Alta was the golden age for the remaining missions. After independence was achieved in 1821, most of them were abandoned, perhaps in the late 1820s, the 1830s and early 1840s.

The general abandonment of the missions along the northwestern frontier of Mexico may be attributed to several causes. During the three decades following independence, Sonora was in a state of chaos. It was torn asunder by civil wars between first the Gandara-Úrrea and later by the Gandara-Pesquiera factions. A part of the time the state was in rebellion against the national government. It appears that the mission lands and property were appropriated in one way or another by the Mexican political leaders. Coupled with the civil wars was the constant raids of the Apaches which increased in the 1830s and 1840s.

While the frontier missions were encouraged by the Spanish, the legislation of the Mexican government became

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23. Sen. Ex. Doc. No. 207, *op. cit.*, 18-24.

24. This may have been the abandoned ranch described in the Buena Vista grant. *Infra*, 56.

25. Sen. Ex. Doc. No. 207, *op. cit.*, 18-24.

26. *Ibid.*, 21, 22.

27. *Ibid.*, 24.

28. *Ibid.*, 25-26.

increasingly oppressive. In 1833, the Mexican congress declared education should be free, lay and obligatory. Church officers were to be appointed by the national government. The collection of church tithes was suppressed and the civil obligation of monastic oaths annulled.<sup>29</sup> In the following year the missions of the Republic were declared secularized and were ordered to be converted into curacies.<sup>30</sup> Finally, on February 10, 1842, Santa Anna, the Mexican dictator, decreed the sale of temporal lands.<sup>31</sup>

The fate of the Tumacacori mission seems to have been much the same as many of the frontier missions in Pimeria Alta in that period. The time of its abandonment remains a matter for conjecture. The *expediente* of the Los Nogales de Elias grant indicates that Tumacacori was a functioning pueblo having a governor and a priest, Antonio Gonzales, as late as November, 1841.<sup>32</sup> On April 19, 1844, the mission lands were sold at public auction under the law of February 10, 1842, to Don Francisco Aguilar, a brother-in-law of Governor Gandara, for \$500.<sup>33</sup> Coutts, a traveler, described the mission in October, 1848, as standing in a group of conical Indian huts. The images, pictures and fixtures still remained.<sup>34</sup> Bancroft states that Tumacacori and Tubac were abandoned in December of that year as the result of an Indian attack.<sup>35</sup> Cox in September and Hayes in December of 1849 speak of the mission as being deserted.<sup>36</sup> Bartlett, in 1852, wrote that Tumacacori "... had lately been abandoned in consequence of the incursions of the Apaches."<sup>37</sup> All of these statements indicate that someone was probably living at Tumacacori until late in 1848 although it had been some time since it had been actively functioning as a mission.

Aguilar, evidently, purchased the mission lands in behalf of his brother-in-law, Governor Manuel Gandara, who

29. H. I. Priestly, *The Mexican Nation*, (Macmillan, N. Y., 1923) 270.

30. Reynolds, *op. cit.*, 185.

31. *Ibid.*, 239. Decree of February 10, 1842.

32. JPLG, 2:381 ff.

33. Sen. Ex. Doc. No. 207, *op. cit.*, 27.

34. Rensch, *op. cit.*, 40-41.

35. *Arizona and New Mexico*, 474-475.

36. Rensch, *op. cit.*, 42.

37. John Russell Bartlett, *Narrative of Explorations and Experiences in Texas, New Mexico, Sonora and Chihuahua*, (New York, 1854) 2:302 ff.

was very active in politics in Sonora in 1844. Gandara occupied the ranch in the 1850s. He had thousands of head of sheep, erected substantial buildings and carried on very extensive operations.<sup>38</sup> In 1865 and formally in 1869, Aguilar deeded the lands to Gandara for \$499.<sup>39</sup> In 1878, the latter sold his claims to C. P. Sykes of San Francisco for \$12,500.<sup>40</sup> In the same year Sykes sold three-sixteenths ( $\frac{3}{16}$ ) interest in the grant to John Curry for \$9,000.<sup>41</sup> Sykes and Curry then proceeded to secure congressional sanction for their rights. The matter was presented before the surveyor general of Arizona in 1879. The following year that officer approved their claims for 52,007 acres.<sup>42</sup> Since Congress took no action, the owners presented their petition before the Court of Private Land Claims seeking confirmation of 81,350 acres.<sup>43</sup> This court refused to recognize their right to a title. The owners then appealed to the Supreme Court. Here, the decision of the lower court was sustained. The proceedings of the Mexican government in selling the lands in 1844 was declared illegal; also, the treasurer of the department of Sonora had no right to sell the mission lands to Aguilar.<sup>44</sup>

#### *The Canoa Grant*

"La Canoa" was perhaps first described in the diary of Padre Pedro Font in 1775 as being located five leagues north-northwest of the Presidio of Tubac. It is the place that the Anza expedition stopped at the end of its first day's journey to what is now San Francisco.<sup>45</sup>

In September, 1820, Tomas and Ignacio Ortiz, residents of the military post of Tubac, petitioned the governor and *intendente*, Antonio Cordero, of the provinces of Sinaloa and Sonora asking for a grant of land called "la Canoa." This place is described as being located about five leagues north of Tubac. They requested a grant of four *sitios* on which

38. Sen. Ex. Doc. No. 207, *op. cit.*, 34.

39. *Ibid.*, 29.

40. *Ibid.*, 31.

41. *Ibid.*, 32.

42. *Ibid.*

43. Report of the Attorney General, (1904) 95.

44. William Faxon *et al.* vs. United States, 171 U. S., 242 ff.

45. H. E. Bolton, *Font's Complete Diary* (Berkeley, California, 1931) 26.

they proposed to stock with cattle and horses. These brothers asked, further, that the commanding officer at Tubac be authorized to proceed with the measurement, appraisal and other proceedings preliminary to securing a title.<sup>46</sup>

The governor and *intendente*, accordingly, authorized Commandante Gonzales of the garrison to proceed with the measurements of the lands. In July, 1821, Gonzales appointed officers and ordered them to make the measurements and survey. His account describes Canoa as "containing a vast tract of ground in which the Santa Cruz runs. During the rainy seasons when from its sides, little streams carry water to it. On account of the rains it has water, otherwise not. Its vast extent is covered by shrubs, as mesquites, china trees, tamarisks, palo verdes, giant cactus and very few cottonwoods and willows." The land measured followed along the highway toward Tucson. On the north the boundaries reached a place called "Saguarita where there exists a plant of this tree"; on the west for about five leagues was the Mission of San Xavier del Bac; the southern boundaries was the military post of Tubac.<sup>47</sup>

The local authorities, after making the measurements, proceeded to take all the other necessary proceedings to alienate the land. The appraisers valued the land at \$30 per *sitio* or \$120 since it did not contain running water but "such could be obtained by digging a well." By order, the 30 days publications of the sale began July 12, 1821, at Tubac. On the last day of these Reverend F. Juan Bano, curate of the mission of San Xavier appeared in behalf of Ygnacio Sanches and Maria Francisco Flores of that place and the bid on the land was raised to \$210. The proceedings were sent to the governor *intendente* at the capitol at Arispe for approval. After he and the attorney general of the treasury passed upon them, Governor *Intendente* Bustamante authorized the three final auctions of the land be held at the capitol December 13, 14, and 15, 1821.

At the final auction, no bidders appeared at the first and

46. JPLG, 1:339, ff.

47. *Ibid.*



second auctions. At the third, however, competitors appeared and the land was finally struck off to the Ortiz brothers for \$250. This amount plus the other costs and taxes were paid into the royal treasury. The records of the proceedings were forwarded to the supreme office of public lands for its approval. At this time Mexico was undergoing its separation from Spain. No *testimonio* of title was ever issued the brothers from the Spanish government. In 1849 they presented themselves in Ures and asked that the Sonoran government issue them a title for their protection.<sup>48</sup>

Canoa had a gory history during the outbreak of the Chiricahuas in the 1860s. Professor Lockwood relates that in 1861 two Americans and a Papago Indian were killed at the Canoa Inn.<sup>50</sup> Farish tells the story of the murder of ten lumbermen there about that time. These men had been employed in whipsawing lumber in the Santa Ritas for the Heintzelman mines. On this raid the Apaches carried off 280 head of animals from the Canoa and adjoining ranches.<sup>51</sup> Pete Kitchen, famous Indian fighter, had a ranch on the Canoa from 1855 to 1862.<sup>52</sup>

Half interest in this grant was acquired by Frederick Maish and Thomas Driscoll, purchasers of the Buena Vista claims, from the Ortiz heirs. Confirmation of the title was recommended by the surveyor general of Arizona under the laws of 1854 and 1875. Congress took no action on the recommendation. The matter was brought before the Court of Private Land Claims in 1893.<sup>53</sup> The amount claimed by the petitioners was 46,696.2 acres which was considerably more than the four *sitios* originally granted. This amount was confirmed to the owners.<sup>54</sup> The case was appealed to the Supreme Court by the government in 1898. Here the decision of the lower tribunal was reversed and the title of the

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48. *Ibid.*

50. Frank Lockwood, *The Apache Indians*, (New York, 1939) 109.

51. Thomas E. Farish, *History of Arizona*, (Phoenix, 1915) 2:54-56.

52. Kitchen's testimony, Sen. Ex. Doc. No. 93, *op. cit.*, 47 ff.

53. Clearance Docket, Court of Private Land Claims, (General Land Office, Phoenix) 12.

54. Report of the Attorney General, (1896) 27.

claimants was confirmed to only 17,203 acres or slightly less than the four square leagues originally granted.<sup>55</sup>

*Buena Vista Grant*

*(Rancho De Maria Santissima Del Carmen)*

Jose Tuvera, a citizen of Arispe, on September 30, 1826, petitioned the treasurer general of the State of the West in behalf of his father-in-law, Don Josefa Morales, for four square leagues of land for stock-raising. The land requested was for the "ancient abandoned place of Maria Santissima Carmen," a part of which is now in Arizona and a part in Sonora. On the north boundaries of the land sought was the old mission grant of Calabasas; on the south was Rancho Santa Barbara.

In November of the same year the second *alcalde* of Arispe was authorized to take the necessary steps preliminary to holding public auctions for the land. In October, 1827, measurements were made. The lands were valued by the appraisers at \$190, or \$60 for three of the *sitios* with water and \$10 for the fourth. In the following month, from November 1 to 30 inclusive, they were publicly offered for sale each day.<sup>56</sup>

The proceedings were then referred to the treasurer general for approval October 21, 1830. When they were in turn examined by the attorney general as to their legality, the measurements were declared to be in error and the survey not made in accordance to the law. That officer, therefore, ordered the defects corrected. A resurvey was made and subsequently approved by him.<sup>57</sup>

Three public offers of sale were made early in September, 1831, and the land was sold on the last date to Don Josefa Morales. A title was accordingly issued September 9 of the same year by Treasurer General Jose Mendoza

55. United States vs. Frederick Maish and Thomas Driscoll, *et al.*, 171 U. S. 242.

56. JPLC, 4:21 ff.

57. *Idem.*

under the act of May 20, 1825,<sup>58</sup> and under the usual terms of the grants of that period.<sup>59</sup>

The land was occupied by Tavera and his heirs until 1851 when they were sold to Hilario Gablando. In 1872 Jose Maria Quiroga purchased the tract for \$500. It was finally bought by Frederick Maish and Thomas Driscoll, who owned half interest in the Canoa claims, in 1881 for \$4,000. These owners pressed for a confirmation of their title by the American government. The matter was referred to the general land office and in 1882 the surveyor general, John Wassen, recommended that their claims be confirmed. They later appealed to the Court of Private Land Claims. Here title was confirmed to 5,733 of the 17,354 acres claimed.<sup>60</sup> A motion to appeal the case to the Supreme Court was dismissed.

#### *The San Jose De Sonoita Grant*

Sonoita, earlier called Sonoitag and Sonoitac, was one of the early *visitas* established by Padre Kino in Arizona along the river of the same name,<sup>61</sup> although there is very little mention of this place in later accounts. It was mentioned by the author of the *Rudo Ensayo* in 1762 as being a *visita* of Guebavi and Reyes' report in 1772.<sup>62</sup> According to Bancroft it was abandoned before 1784 but the name was still retained.<sup>63</sup>

Don Leon Herreras, a *ranchero* and resident of Tubac, in 1821 found his herds of cattle were increasing so fast that he had no adequate place to pasture them. He, in May of that year, therefore, addressed a petition to Juan Miguel Riesgo, commissary general of the treasury, etc., of the State of the West for two *sitios* of land at a place known as Sonoita. This place is described in the petition as being located about eight leagues distant from Tubac "which had been anciently an Indian town and was abandoned by reason

58. *Vide Supra*, 3.

59. JPLG, 4:21 ff.

60. Report of Attorney General, (1904) 109; Buena Vista files, GLO, Phoenix.

61. Bolton, *Rim of Christendom*, Map of Pima Land, 594.

62. *Rudo Ensayo*, 223. Robert H. Rose, *Southwestern Monuments Monthly Reports*, December, 1936, 427.

63. *History of Arizona and New Mexico*, 384-385.

of the incursions of the Apache Indians, being stationed very near their customary hiding places." He asked that the commissary general institute the necessary proceeding to obtain a title. This petition was then transmitted to the governor *intendente*.<sup>64</sup>

An order was accordingly issued to Ygnacio Elias Gonzales, Lieutenant Commander and Subdelegate of the Military Post at Tubac to appoint the necessary officials to measure and appraise the two *sitios*. The center of the survey was the old San Jose de Sonoita mission. The survey was completed in June, 1821, for  $1\frac{3}{4}$  *sitios*. Appraisers were appointed and the lands were valued at \$60 per square league, since they had running water and were fit for cultivation. They were then published for 30 days as the law required. The *expediente* was then examined and approved by the promoter fiscal; three public offers were made in November, 1821, and the lands were sold to Herreras. The sale was then approved by the *intendente pro tem* of Sonora and Sinaloa, Ignacio Bustamente; as valid. Herreras paid the \$105 plus the customary 18% tax for land fee, plus 2% for the general fund and \$3.00 general fee as the Spanish law required into the royal treasury. These proceedings were then reported to the Spanish "junta superior de hacienda."<sup>65</sup>

A title was issued in May, 1825, to Herreras by Juan Miguel Riesgo, Commissary General of Mexico for the State of the West. It contained the usual provisions that the grantee was to erect monuments of stone and mortar on the outboundaries. One provision is unusual in this title. It contained a proviso that if the owners should abandon the lands for a period of one year or more, they should revert to the public domain.<sup>66</sup> Another unusual feature of this grant was that it was under the Spanish Act of 1754 but in the name of the Sovereign State of Mexico. At the date of this grant the system of granting lands under the Act of the

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64. JPLG, 1: 297 ff.

65. *Ibid.*

66. In most grants the period was for three years.

Mexican Congress and the Provisional Regulations of 1825 had not been organized.<sup>67</sup>

The Apaches, who had for the previous three or four decades been comparatively peaceful in this region, began to make raids after 1821. These attacks increased up to about 1835 when the settlers became discouraged and abandoned their homes. The Herreras family were driven from the grant by them in 1833 and again in 1836. In 1857, the heirs sold their interest in the lands.<sup>68</sup> After several transfers, they were finally acquired by Matias Alsna, who submitted his claim to the land office for approval. The surveyor general of Arizona, after examination, recommended the title be confirmed but Congress took no action on it. After the claims were examined by the Court of Private Land Claims in 1892, they were rejected. The matter was then appealed to the Supreme Court in 1898. In the higher tribunal the decision of the lower court was reversed and the case was remanded with directions to determine the true boundaries.<sup>69</sup> The amount of land finally confirmed to the Sonoita claimants was 5,123 acres.<sup>70</sup>

### *El Sopori Grant*

El Sopori is another of the old and famous place names in Arizona. It is mentioned in 1762 by the author of *Rudo Ensayo* in 1762. He described it as a depopulated ranch located more than two leagues north of the *presidio* of Tubac.<sup>71</sup> This place had been abandoned in 1751 on account of the revolt of the Pima Indians.<sup>72</sup>

The ranch in the 1860s was a strip of some 140,000 acres located south of the San Xavier mission. According to the alleged documents issued by the Mexican government and submitted by the claimants to the American government, the original grant to this land was made by the Sonoran government to Joaquin Astiazaran, a wealthy *ranchero*

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67. JPLG, 1: 297 ff.

68. *Ibid.*

69. Ely's Administrator vs. United States., 171 U. S., 220.

70. Report of the Attorney General, (1904) 109.

71. *Rudo Ensayo*, 254.

72. *Ibid.*, 231.

who lived at Horcasitas.<sup>73</sup> Astiazaran, in March, 1838, requested the second *alcalde* of that city to appoint commissioners to inquire as to his ability to stock the unoccupied lands between Tubac and San Xavier. Upon verifying this, that officer ordered the lands to be surveyed, measured and appraised which comprised  $31\frac{7}{8}$  *sitios* and a *caballeria* to the southern boundaries of San Xavier. The appraisalment was for the sum of \$919 as follows: for 8 *sitios* with permanent water, \$480; 10 *sitios* susceptible to irrigation, \$300; the remaining for \$139. The measurements were returned in May, 1838, and publications were made immediately for the thirty days, which the law required. After three public auctions were held, the land was struck off to Astiazaran on June 30 of the same year. No title to the lands, however, was ever submitted to the American government to verify the grant.<sup>74</sup>

There is little evidence to indicate the grantee or his heirs ever occupied the grant with stock. During the late 1840s to the time of its cession to the United States, this region was abandoned on account of the attacks of the Apache Indians.<sup>75</sup> James W. Douglas and his executor, C. C. Dodson, occupied the ranch in 1854 or 1855 and erected buildings there.<sup>76</sup> They later sold the cattle and fixtures to the Sopori Land and Mining Company.<sup>77</sup> In 1858, Sylvester Mowry<sup>78</sup> of the Sopori Land and Mining Company, a cor-

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73. Sen. Ex. Doc. No. 93, *op. cit.* Testimony of Fernando D. Astiazaran. The original grantee, according to his son, Fernando D. Astiazaran, was one of the wealthiest men in Sonora. He owned flour mills, several ranches and thousands of cattle and horses. He took no active part in Mexican politics and held no offices. He died in 1845. His son, Fernando, on the other hand, held many offices under the Mexican government. He married the daughter of Governor Manuel Gandara, several times governor of Sonora during the period from 1830 to 1860.

74. JPLG, 3:68 ff.

75. Testimony of Peter Kitchen, Sen. Ex. Doc. No. 93, *op. cit.* Kitchen was a well known *ranchero* of southern Arizona. He stated in 1880 that when he came to the country in 1854 the country from Tucson to Sonora was entirely depopulated on account of the ravages of the Apaches.

76. Charles D. Poston's testimony, *Ibid.*, 71. According to Poston, William H. Rhodes also occupied the ranch in conjunction with Douglas and Dodson. See also Will C. Barnes, *Arizona Place Names*, (Tucson, 1935) 362. According to Barnes, J. Ross Browne stated that Rhodes later owned a ranch 18 miles from Tubac on the road to Tucson.

77. Kitchen's testimony, *op. cit.*, 71.

78. Frank C. Lockwood, *Life in Old Tucson*, (Los Angeles, 1943) Chapter X.

poration organized under the laws of Rhode Island, purchased a part of the claims of the Astiazaran heirs.<sup>79</sup> Two years later, Mowry and the heirs sold their interests to the Arizona Land and Mining Company, another Rhode Island corporation.<sup>81</sup> During the period from 1859 to 1861, the operations of the company were carried on under the direction of Richmond Jones, Jr., the superintendent of the Sopori Land and Mining Company. Pete Kitchen, who assisted in the survey of the claim, described the boundaries of the Sopori ranch as the arroyo on the edge of the Santa Rita mountains on the east; on the south the Revanton and the foothills of the Santa Ritas near the hot springs; on the north to the Sahuarito.<sup>82</sup> In 1861, a party of some 600 Apaches raided the Santa Cruz valley and killed Jones, raided the Sopori ranch and drove off and killed all of the stock on it amounting to about 300 head.<sup>83</sup> This put an end to the company's operations for some time.<sup>84</sup>

79. Copies of conveyances, power of attorney, and contracts of sale. Sen. Ex. Doc. No. 93, *op. cit.* "The mine of Sopori opened many years ago, had in Mexico an extensive reputation. The ores extracted were exceedingly rich in gold and silver, but the works were so badly carried on that the vein is lost, and not even any exterior traces of its position is left. A few arastras in bad condition are all that are left of the operations there. The mine forms a part of the Sopori Rancho, of an area of 21,000 acres, situated west of the Mal Pais Sierra and south of the Canoa Rancho, which are both considered as the best ranches of Arizona. The Sopori Company is incorporated in Providence, Rhode Island with a capital of \$1,000,000. Governor Jackson is the president; Lieutenant Mowry, one of the principal share holders, is, at the same time, one of the trustees." F. Biertu (1861) in *Sylvester Mowry, Arizona and Sonora: The Geography, History, and Resources of the Silver Region of North America* (New York, 1864), 81.

81. *Idem.* "This company owns a large tract of land of 32 leagues square, on which is situated the old silver mine of San Xavier, which was worked during the time of the Jesuits, and which appears exceedingly rich; other veins equally rich are to be found in the center of the property, on the Sierra Tinaja. The company was incorporated in Providence, Rhode Island, with a capital of \$2,000,000. The Hon. S. G. Arnold is the president. The Treasurer is Mr. Alfred Anthony, President of the Jackson Bank of Providence. Col. Colt, Lieut. Mowry, and other rich capitalists in the East, are the actual owners. Mr. Mowry is the holder of more than one half of the stock of the company. N. Richmond Jones, Jr. is the engineer-in-chief of this mine, as also of the Sopori Mine."

82. Kitchen's testimony, *op. cit.*, 71

83. *Ibid.* This statement is substantiated in general by the testimony of Charles W. Poston.

84. Mowry, *op. cit.*, written in 1863. "The Sopori and Arizona Land and Mining Companies, who own a vast tract of mineral, grazing and arable lands in the Santa Cruz Valley, have also suspended operations. Their stock is in good hands, and will be good property. They intend, I am informed, to recommence operations at an early day. Some of the heaviest eastern capitalists are the principal owners of these stocks."

J. Ross Browne, several years later, described the Sopori ranch as he saw it in his customary style:<sup>85</sup>

A delightful ride of five or six miles through a broad, rich valley of grass, pleasantly diversified with groves of mesquit and palo-verde, brought us to a narrow pass, on the right elevation of which stand the remains of the buildings of the Sopori Land and Mining Company. Little is now left saved ruined adobe walls and tumbled in roofs. As usual not a living thing was to be seen. Silence and desolation remained supreme. At the time Col. James W. Douglass lived here the Sopori was one of the most flourishing ranches in the country. He had herds of fat cattle ranging over the pastures; fields of grain and vegetables in the rich bottom that lies just in front of the dwelling house; domestic animals and fowls of various kinds and could always afford the traveller a generous reception. . . .

The Sopori Ranch, although at the present uninhabited, possesses advantages as a mining and grazing region which have long since given it a reputation in Sonora. . . .

In 1866, the Sopori Land and Mining Company, which had several years previously suspended operations, repurchased the grant for \$30,000.<sup>86</sup> Due to repeated Apache raids, which continued from 1861 to 1872, the ranch was not reoccupied until the 1870s.

The claims of the Sopori Land and Mining Company were presented to John Wassen, surveyor-general of Arizona, for his approval. In his recommendations to the Secretary of the Interior in 1881, he advised their rejection "on the grounds that the original title papers are forged, ante-dated and otherwise invalid."<sup>87</sup> His report was submitted to the committee on private land claims in the Senate in 1882 and ordered to be printed.<sup>88</sup> Congress, however, took no action on the matter. After the Court of Private Land Claims had been established, the grants were sub-

85. J. Ross Browne, *Adventures in the Apache Country*, (New York, 1866) 260 ff.

86. Sen. Ex. Doc. 93, *op. cit.*

87. *Ibid.*, 158.

88. *Ibid.*, 1.



mitted before that body in 1893.<sup>89</sup> The court rejected the mining company's claim *in toto* for 141,722 acres.<sup>90</sup>

*San Rafael De La Sanja (Zanga) Grant*

Don Manuel Bustillo, a citizen of the *presidio* of Santa Cruz, on July 19, 1821, petitioned Governor *Intendente* Don Antonio Cordero, for a grant of land of four *sitios* for the raising of stock. The land sought was at a place named "de la Sanja." Three of these *sitios* requested were within the boundaries of the *presidio* while the other was outside and was for a stock farm. Bustillo asked that the necessary legal steps be taken preliminary to securing a title. He also asked that appraisers take "into consideration that the lands asked for borders upon the country of the Apaches who are constantly hostile."

An order was subsequently issued by the governor *intendente* to the commandant of the *presidio* of Santa Cruz, Captain Simon Elias Gonzales, to proceed with the measurements of the land petitioned for, to appoint appraisers, and make the publications for sale of the lands. A counter, a noter and measurers were appointed. On October 5 and 6, 1821, they made the measurements, starting from the center and using natural landmarks. The lands were valued by "intelligent experts" for \$210; three of the *sitios* were appraised at \$60 each as they contained running water and the fourth at \$30 since it contained no water other than what was furnished by running wells.

The commandant then authorized that publications be made for a period of 30 consecutive days for the sale of the four square leagues. The sworn testimony of three witnesses was taken that Bustillo had sufficient livestock to stock the land. The *expediente* was transmitted to the *intendente* who, by decree, referred it to the attorney general. The latter approved the legality of the transactions. The public sales were held January 8, 9, and 10, 1822. On the first day of the sale Don Ramon Romero, for himself and the residents of Santa Cruz, bid \$10 higher than the ap-

89. Clearance Docket No. 19, Court of Private Land Claims, Phoenix.

90. Report of the Attorney General, (1904) 95.

praised value. The bidding went up to \$1,200 and the land was struck off to Romero. No higher bid was made the next two days on which the land was offered for sale so it remained sold to Romero and the citizens of Santa Cruz. The *expediente* was transmitted to Romero who replied that he was satisfied and would pay into the national treasury the sum required. He then paid the \$1,200 to the royal government plus the \$97 taxes connected with the sale.

Before the proceedings were entirely completed Mexico became independent from Spain. A title was accordingly issued Romero May 15, 1825, by Juan Miguel Riesgo, commissary general of the State of the West and Jose Maria Mendoza, provisional secretary. An interesting feature of this title is that it, as the Sonoita grant, was given by a Mexican state in accordance with the Spanish law of 1754.

The grant contained about the same provisions as the others of that period. One exception is that in case the land was abandoned for one year, instead of the usual three years, except by reason of the invasion of the Apaches, it should revert to the public domain.<sup>91</sup>

Ramon Romero died in 1873. His descendants pressed their claims before the land office for approval. The original title papers stipulated that the grant was for *cuatro sitios para cria de ganado mayor*. According to the interpretation of the claimants it was for "four leagues square" or sixteen *sitios* and that the grant was one by metes and bounds and not one of specific quantity. John Wassen, surveyor general for Arizona, maintained that the literal interpretation of this clause was "four square leagues" and that the grant was for a specific amount of land. He, therefore, recommended confirmation for four *sitios* only.<sup>92</sup> Since Congress never acted upon the matter the grant was submitted before the Court of Private Land Claims for its decision. The claimants paid into the treasury \$1,359 for the "overplus"<sup>93</sup> and \$200 for the expenses at the same time claiming that the grant was 152,890 acres.<sup>94</sup> The Court

91. JPLC, 1:415 ff.

92. *Ibid.*

93. *Vide Supra*, 2.

94. *United States vs. Green et al.; Christie vs. United States*, 185 U. S., 638.

of Private Land Claims confirmed their rights for only four square leagues.<sup>95</sup> The matter was then appealed to the Supreme Court in 1902. Here the opinion of the lower court was sustained.<sup>96</sup>

*The Aribaca (Arivaca) Grant*

Aribaca is another of the abandoned 18th century settlements of Arizona which was reoccupied by the stockmen in the early 19th century. The author of the *Rudo Ensayo* in 1762 speaks of it as having been a *visita* of Guebavi. The Spanish operated several mines near it. His description of the place is as follows:<sup>97</sup>

There was a fourth (visita) called Ari (Arivaca) where the rebels camped in 1751, and it was 10 leagues Northwest (of Guebavi). There used to be near this place one gold mine and several silver mines which are now, I believe abandoned.

This writer again mentions the place as having been depopulated on account of the rebellion of the Pima Indians in 1751.<sup>98</sup> In 1764, Reyes speaks of the place as:<sup>99</sup>

... about one league from the Presidio (Tubac) (is) the fourth (visita) which it (Guebavi) has, and it was called "Arivaca"; together with its locality the Pimas devastated it in the year 751 (1751), and it used to be about twelve leagues from the headquarters. There is a gold mine and several silver mines, and they are worked at the present time.

Bancroft mentions that, during the period from 1790 to 1820, mines were operated at Aribaca.<sup>100</sup> From the statements above, it appears there were considerable mining activities there prior to 1830.

On June 20, 1833, Tomas and Ignacio Ortiz, citizens of Tubac who had some years earlier secured the Canoa grant,

95. Report of the Attorney General, (1900) 64.

96. U. S. vs. Green, *op. cit.*

97. *Rudo Ensayo*, 223.

98. *Ibid.*,

99. Rose, *op. cit.*, 419.

100. *Arizona and New Mexico*, 407.

presented a petition to the constitutional *alcalde* at Tubac. They requested that proceedings be instituted for the possession, measurements and appraisement of two square leagues of land. In this petition the two brothers presented a statement from the treasurer at Arispe showing that on October 10, 1812, their father, Agustin Ortiz, a citizen of the *presidio* of Tucson, deposited \$747 and 3 *reals* as the highest bid for two *sitios* for stock-raising which were sold to him by action by the Spanish government. This land comprised the old and depopulated settlement called Arivac in the jurisdiction of Pimeria Alta. The *expediente* containing the measurements, appraisements and bids of 1812 were lost or filed away, it was claimed, and could not be found. The monuments on the boundaries still existed the Ortiz brothers asserted. They, therefore, asked that a title be issued them.

Steps were then taken to substantiate the claims. Atanacio Otero, the *alcalde*, received the testimony that the applicants had occupied the lands since 1812 and that the landmarks had existed since that date.

The matter was finally presented to the Sonoran officials. Both the treasurer general, Jose M. Mendoza, and the governor approved the petition in 1833. A title was ordered then to be issued. The sum of \$30 was paid for this service and a title was subsequently given the brothers by the treasurer general under the date of July 2, 1833, for the two *sitios*. The terms were the same as that given to other recipients of land grants of that time.<sup>101</sup>

After the United States had acquired this territory by treaty, the lands changed hands several times. Samuel P. Heintzelman, president of the Sonora Exploring and Mining Company acquired title to them in 1856.<sup>102</sup> Mines were operated on the Aribaca and reduction works were carried on there.<sup>103</sup> During the Apache outbreaks of the 1860s, these

101. JPLC, 2:83 ff.

102. *Idem*.

103. Sylvester Mowry, *op. cit.*, 73. Mowry described the operations of the Aribaca mines as follows by the Sonora Exploring and Mining Company. "This mine, situated at about 30 miles from Tubac in the Cerro Colorado, is one of the principal mines, if not the richest in the territory. The company is working the vein known as the Heintzelman mine, rich in argentiferous coppers and also several other veins on the

mines as the others, were abandoned. In 1863, the grant was transferred to the Arizona Land and Mining Company.<sup>104</sup>

J. Ross Browne leaves us with a description of the ranch as it appeared to him on his journey in 1864:<sup>105</sup>

Seven miles from the Cerro Colorado we reached the Arivaca Ranch, long celebrated for its rich mines and fine pastures. The ranch called by the Mexicans La Aribac, comprises within its boundaries 17,000 acres of agricultural lands, 25 silver mines formerly worked by Mexicans and numerous gold, copper and lead mines, as yet undeveloped. It contains a large amount of rich meadow land bordering on a never-failing stream; it is well wooded with oak, walnut, ash, cottonwood and mesquit, and is capable of sustaining a population of 5 to 6,000 souls. The range for cattle and sheep is almost without limit extending over a belt of grazing country as far south as the Arizona Mountains. . . . The title is held by the Arizona Mining Company and is derived from Tomas and Ignacio Ortiz who perfected it as early as 1802 (sic). . . . Up to the abandonment of the Territory in 1861 it was a progressive state of improvement under the Company's agent. The reduction works of the Heinzelman mine were situated on the ranch for the convenience of wood, water and pasturage, and were projected on a costly and extensive scale. Little now remains of them save the ruins of the mill and furnaces, the adobe store houses and offices and a dilapidated corral.

After Charles D. Poston<sup>106</sup> had acquired possession of the grant in 1870 the claim was submitted before the surveyor general of Arizona for his examination. In his rec-

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Rancho Arivaco. The actual and imperfect system of reduction is by means of amalgamating barrels. Steam engines of 40 horsepower with a new process of amalgamating and refining will soon be introduced. One of the principal shareholders, Mr. Charles D. Poston, is the director, and at the same time lessee of the mine for the term of ten years. The company was incorporated in Cincinnati, Ohio with a capital of \$2,000,000 divided into 20,000 shares. The sum already expended for the working of the mine is estimated at \$230,000 either in ready cash or from the proceeds of the mine."

104. JPLC, 2:83 ff.

105. Browne, *op. cit.*, 271.

106. *Life in Old Tucson*, 57 ff.

ommendation the latter advised that Poston's title be confirmed in spite of the fact that no trace of the transactions of 1812 nor 1833 could be found in the Mexican archives. A *testimonio* of proceedings of 1833 by the Mexican government which recognized the right of the Ortiz brothers to the grant in accordance with the petition was all that could be found.<sup>107</sup> The matter was later submitted to the Court of Private Land Claims in 1893 by the Arivaca Land and Cattle Company who had acquired the title.<sup>108</sup> Here the claims of the company were rejected. The case was appealed to the Supreme Court in 1902. Here again the claimants met defeat. The court refused to confirm title to the grant because its location could not be identified with any certainty.<sup>109</sup>

#### *Los Nogales De Elias Grant*

In May, 1741, Don Jose Elias and his parents, Don Francisco Gonzales and Dona Babanera Redondo, owners of the Rancho La Casita<sup>110</sup> and residents of the town of Ymuris, petitioned Ygnacio Lopez, treasurer of Sonora, for a grant of land. The land requested was  $7\frac{1}{2}$  *sitios* and two *caballerias* for the raising of cattle and horses. This vacant tract was located north of the La Casita and on the western side of the Tumacacori and Calabasas grant. The petitioners asked that steps be taken so that its measurements, valuation, publications and sale might be made.

With the permission of the governor and president of the superior board of the treasury, it was agreed to re-measure, in addition, the lands already occupied by La Casita. The law required separate proceedings for the measurements of both the old and new tracts. Three witnesses testified that the petitioners had sufficient stock to settle the  $7\frac{1}{2}$  *sitios*. One of them claimed Don Francisco and his wife possessed 4,000 head of cattle. To prevent encroaching on the property of others, notifications were made to contiguous ranches according to law. The  $7\frac{1}{2}$

107. JPLG, 2:83 ff.

108. Clearance Docket, 13. Court of Private Land Claims, Phoenix.

109. Arivaca Land and Cattle Company vs. United States, *et al.*, 184 U. S., 649 ff.

110. La Casita was a *rancho* located below the international boundary of what is now Nogales. It was surveyed by the Spanish government in 1741 and 1742.

square leagues were appraised for \$15 each since they were without water. Publications were begun November 11, 1841, and were continued for thirty days. A summary of the proceedings were placed before the treasury of the department. The fiscal attorney authorized the three public auctions be held beginning January 5, 1843, under the supervision of the commission of public sales and the office of the treasury. The sales were accordingly concluded with the lands being sold to Elias for \$113.50.

A title was given the grantee at Arispe on January 7, 1843, by Ygnacio Lopez, president of the treasury department. The grant was made under terms similar to others of that period.<sup>111</sup>

The claims to this grant were finally transferred to the Camou brothers who submitted them to the surveyor general for his examination. Since a part of this grant was in Mexico, that official recognized their claims as valid for 10,638 acres although the *expediente* was lacking in the Mexican archives.<sup>112</sup> Congress took no action on the surveyor general's report. A petition asking the confirmation of their rights to 32,763 acres was submitted to the court of Private Land Claims by the owners in 1892. This tribunal refused to recognize the grant as valid. The case was appealed to the Supreme Court. Here the claimants met defeat again. The proceedings of the Sonoran government in 1841 in sanctioning the resurvey of the lands of La Casita were declared illegal.<sup>113</sup>

#### *The San Bernardino Grant*

The San Bernardino was one of the most famous of the ranches in what is now southern Arizona and northern Sonora in the early 19th century from accounts of that region. The *expediente* of the original grant refers to it as having been abandoned earlier on account of the incursions of the Apaches. A part of it lies in what is now Cochise

111. JPLG, 2:381-493, 3:1-18.

112. *Ibid.* List of Unconfirmed Land Claims in Arizona, LOR, (1888) 495.

113. Ainsa, *et al.* vs. U. S., 161 U. S., 208 ff.

county but the larger portion of it is in Mexcio. The original grant was for 29,644 *hectares* or 73,240 *acres*.<sup>114</sup>

On December 16, 1820, Lieutenant Ignacio Perez, in a petition addressed to the governor *intendente*, Antonio Cordero, requested a tract of land known as the San Bernardino which extended from the sites of Batefito and the Sierra del Cubullon, owned by Nazario Gomez, to the sources of the San Pedro. He stated that he proposed to establish a buffer state against the Apaches by covering "... that central frontier post thereby having access to frontier posts of Tucson, Tubac, Santa Cruz, Fronteras and Babispe, thus favoring and aiding my own enterprise." His needs for the lands, he stated, were to hold the hereditary rights of his wife. The petition further outlined the great benefit the nation would derive by making this grant to him because he might induce the Apache barbarians to till the lands and lead a peaceful life. For the above reasons, he asked that the lands be surveyed, appraised and published for thirty days according to the law.

The governor *intendente* then ordered proceedings be taken to alienate the land in Perez' favor. He authorized Constitutional Judge D. Nazario Gomez to proceed with the inspection, survey and valuation. At Fronteras, on March 29, 1821, the judge proceeded to survey the four *sitios*. The lands were valued as follows: for one *sitio* containing springs without much water, \$30; for the three remaining ones which were dry, \$10 each. Three witnesses were called to testify as to Perez' ability to stock the land. Two of them claimed that he had more than enough to stock it. The other stated that the petitioner had over 4,000 head of cattle. In February, 1822, the lands were authorized to be cried out at Fronteras for thirty days. In Arispe on May 21, 22, and 23, 1822, the *intendente* as president and the board of public sales supervised the auctioning of the land to Perez for \$90. Perez paid the above amount plus the fees into the treasury. No *titulo*, however, was ever issued the grantee by the Spanish government.<sup>115</sup>

114. Walter Noble Burns, *Tombstone*, (New York, 1928) 258.

115. *Copy of expediente*, San Bernardino Files, General Land Office, Phoenix.



The operations of the San Bernardino Hacienda were very large. According to Haskett, "At the height of its existence it is said to have had 100,000 cattle, 10,000 horses and 5,000 mules."<sup>116</sup> The ranch was apparently abandoned in the 1830s. In their haste in leaving the ranch, the owners left a large amount of stock which reverted to their wild state. Colonel Cooke relates encountering this stock in his expedition in 1846 in the Mexican War. He found bands of wild horses and herds of cattle. He also tells of the engagement his command had with wild bulls in this region on December 11.<sup>117</sup>

Several years later, in 1851, Commissioner Bartlett gave a very good description of this magnificent old *hacienda*.<sup>118</sup>

San Bernardino is a collection of adobe buildings in a ruined state of which nothing but walls remains. One of the buildings was about 100 feet square with a court in the centre, and adjoining it were others with small apartments. The latter were doubtless the dwellings of peons and herdsmen. The whole extending over a space of about two acres, was inclosed with a high wall of adobe, with regular bastions of defense. Being elevated some 20 or 30 feet above the valley, this hacienda commands a fine view of the country around. Vast herds of cattle were formerly raised here, but the frequent attacks of the Apaches led to the abandonment of the place. Some cattle which had strayed away and were not recovered at the time have greatly multiplied since and now roam over the plains as wild and more fierce than buffalo. . . . This establishment was abandoned about twenty years ago; since which time no attempt was made to reoccupy it.

The claimants to this grant submitted their title to the surveyor general of Arizona for his examination. He recommended confirmation of 2,360 acres.<sup>119</sup> Congress took

116. Bert Haskett, "Early History of the Cattle Industry in Arizona", *Arizona Historical Review*, October, 1935, 8 ff.

117. Farish, *op. cit.*, 1:138-139.

118. Bartlett, *op. cit.*, 1:255-256.

119. San Bernardino files. General Land Office, Phoenix.

no action on it. In 1884, John Slaughter, famous and celebrated sheriff of Cochise County from 1887 to 1890,<sup>120</sup> purchased the grant in 1884. He submitted his petition before the Court of Private Land Claims in 1893 for 13,746 acres. The court, however, confirmed his rights to only 2,383 acres.<sup>121</sup>

*The San Ignacio Del Babocomari Grant*

The Babocomari is another of the sites of the early 18th century which was reoccupied by the later *rancheros*. According to Professor Bolton, the *visita* of Huachuca, established by Father Kino, was located on the Babocomari ranch.<sup>122</sup> This grant was located in what is now Santa Cruz and Cochise Counties along the valley of the same name, which is a tributary of the San Pedro river.

Ignacio and Dona Eulalia Elias, the first a citizen of Rayon and the second of Arispe, on July 1, 1827, addressed a petition to Treasurer General Mendoza, asking for a tract of land known as San Ignacio del Babocomari for stock raising. This tract joined Tres Alamos and was situated in the jurisdiction of the presidio of Santa Cruz.

The necessary proceedings were then taken to alienate the land. The treasurer general authorized the *alcalde* of Santa Cruz to proceed with the measurement and publishing of them for thirty consecutive days. On October 3, 1828, the *alcalde* authorized the surveyors to proceed to the San Pedro for measuring the eight *sitios*. The lands were valued by the appraisers for \$380: six square leagues contained running water and were placed at \$60 each; the other two were valued at \$10 each because of their dryness. Offers of sale were then made of them to purchasers by the *alcalde* for thirty days beginning October 30. No buyers appeared so the *expediente* was concluded on November 30 and was sent to the treasurer general's office. It was finally submitted to the attorney general who notified the former official that the proceedings were legal and the lands might be sold.

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120. Burns, *op. cit.*, Chapters XVIII, XIX, XX.

121. Final Report of the Court of Private Land Claims, Report of the Attorney General, (1904) 99 ff.

122. *Rim of Christendom*, 594.

Auctions were held December 22, 23 and 24, 1828, in the city of Cocospera and the eight *sitios* sold to Ignacio and Eulalia Elias for \$380. At a meeting of the *junta de almonedas* the sale was confirmed. The money for the lands was deposited in behalf of the Elias'.

The title given the grantees December 25, 1832, at Arispe was similar to the others made by Treasurer General Mendoza in that period. It contained the three year abandonment clause and required the purchasers to erect monuments, etc.<sup>123</sup>

There seems to be only one account of the Babocomari *ranchó* and that was written long after it was abandoned. Commissioner Bartlett gave a very good description of the place in 1851:<sup>124</sup>

... This hacienda, as I afterwards learned, was one of the largest establishments in Sonora. The cattle roamed along the entire length of the valley; and at the time it was abandoned, there was not less than 40,000 head of them, besides a large number of horses and mules. The same cause which led to the abandonment of so many other ranchos, haciendas and villages in the State had been the ruin of this. The Apaches encroached upon them, drove off their animals and murdered the herdsmen; when the owners to save the rest, drove them further into the interior and left the place. Many of the cattle, however, remained and spread themselves over the hills and valleys near; from these numerous herds have sprung, which now range along the entire length of the San Pedro and its tributaries.

No attempts appear to have been made to reoccupy the grant until long after that region became American territory. In 1877, E. B. Perrin of California purchased the rights of the heirs. The claims were submitted to the surveyor general of Arizona. This official in 1879 recommended the title be confirmed.<sup>125</sup> Congress took no action on the grant. After the Court of Private Land Claims had

123. JPLG, 1:129 ff.

124. Bartlett, *op. cit.*, 1:396-397.

125. JPLC, 1:129 ff.

been created, the claimants submitted their cause before that body for 128,000 acres claiming overplus lands. The court denied confirmation of any of the grant on the ground that there was not sufficient location of any of it. The owners then appealed to the Supreme Court. Here the case was remanded to the lower court for re-examination.<sup>126</sup> On the subsequent review of the case, the Court of Private Land Claims confirmed their claims for 33,792 acres or for approximately eight *sitios*.<sup>127</sup>

### *The Tres Alamos Grant*

The Tres Alamos was the only *empresario* (promoter) type of grant in Arizona. It is interesting in that two vain attempts were made to occupy the same lands. Both failed for practically the same reason—the Apache Indians.

In a petition addressed to the treasurer general at Arispe on June 9, 1831, Leonardo Escalente, in the name of eight different *empresarios*, requested a grant of land in the jurisdiction of the *presidio* of Tucson. The limits of the tracts desired were described as: the Pinal mountains on the north; on the south, the lands taken up on the San Pedro, on the east the Cobre Grande; and the common lands of the *presidio* of Tucson on the west. The petitioners offered to people the tract with colonists.

The congress of Sonora on December 6, 1831, accordingly, authorized the grant and exempted the recipients from municipal taxation. Petitions were filed by the eight *empresarios* for 58 *sitios* as follows: Leonardo Escalente, 8 *sitios*; Dona Maria Perz Ortiz, 8; Dona Maria Guadalupe Escalente Narbona, 8; Manuel Narbona, 8; Antonio Pascual Narbona, 6; Miguel Bustamente, 4; Jose Desiderio Veldasola, 8; Jose Escalente, 4; Rafael Escalente, 4. The proceedings for securing these grants were stopped by an uprising of the Apaches so no further steps were taken to occupy them.<sup>128</sup>

126. Perrin vs. United States, Crittenden Land and Cattle Company, *et al.*, 171 U. S., 290.

127. Final Report of the Court of Private Land Claims, *op. cit.*, 95 ff.

128. JPLG, 4:239 ff.

After the war between the United States and Mexico, the latter nation attempted to colonize its unoccupied lands along the frontier. This was no doubt due to fear that Americans and other foreign groups might settle upon and eventually seize them. The congress of the state of Sonora, therefore, on January 29, 1852, passed an act to encourage and promote the settlement of the vacant and abandoned frontier lands. It authorized the governor to make grants in order to oppose by means of a barrier the incursions of the marauding bands of Indians.<sup>129</sup>

In compliance with the above legislation, Jose Antonio Crespe, a Spaniard who was a resident of Guaymas, on September 10, 1852, petitioned the government for a grant of land ten square leagues for the purpose of stock-raising and agriculture at a place known as "Tres Alamos." Crespe stated in his petition to the governor of Sonora that since the land had been abandoned on account of the Indians, he should be permitted to take possession of it. He stated that he intended to settle one hundred or more Catholic families on it which he would bring from South America or Spain. The tract desired was north of the *presidio* of Tubac and San Ignacio which lay along the San Pedro river. He further said that it would take from five to ten years to carry out his plans.<sup>130</sup>

A grant was accordingly made by Governor Fernando Cuadrillas to the petitioner for ten *sitios*, one league wide and ten leagues long, on the San Pedro river. It stipulated that a maximum period of eight years would be given the grantee to segregate, take possession of and have the lands occupied by stock and cultivation.<sup>131</sup>

Before Crespe had an opportunity to survey and establish a settlement on his domains the Gadsden Treaty was signed and ratified which transferred the region to the United States. The hostilities of the Apaches continued. Crespe found it impossible to occupy the tract. Several years later, his heirs transferred their interests to George

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129. House Report No. 187, 49 Cong., 1 Sess.

130. JPLG, 4:213 ff.

131. *Ibid.*, House Report No. 187, *op. cit.*

Hill Howard, who bought up several other Mexican grants in Arizona in the 1870s and 1880s.

The claims were submitted before the surveyor general of Arizona who, in 1883, recommended the approval of ten square leagues to the owners. As the result of an investigation several years later, however, the land office recommended the rejection of the grant on the ground that the description was "too indefinite and vague to permit an intelligent survey."<sup>132</sup> As Congress took no action on the recommendations, the owners submitted their cause before the Court of Private Land Claims in 1893.<sup>133</sup> Here again their grant was held invalid. The Supreme Court, upon appeal, refused to review the case.<sup>134</sup>

### *The San Rafael Del Valle Grant*

The San Rafael del Valle grant was located along both sides of the San Pedro river north of what is now Hereford, Arizona. It was south of the San Juan de las Boquillas grant.

On March 12, 1827, at Arispe, Joaquin Elias, in behalf of his brother Rafael Elias, addressed a petition to Treasurer General Mendoza as follows: "Needing lands for my stock, I denounce the vacant land tract that adjoins the Ranch of San Pedro in the jurisdiction of Santa Cruz, as far as the place three Alamos, obligating myself to pay the nation the corresponding taxes and do all other things that may be justly required in order to acquire a title to said lands and a confirmation thereof; therefore Your Honor will be pleased to consider said land as registered and vacant."

The *alcalde* of Santa Cruz was authorized to proceed with the alienation of the land in Elias' favor. After it had been surveyed and measured by officers appointed by the *alcalde* commissioner, the four *sitios* were appraised at \$240 or at \$60 each since they contained running water. He then made publications for thirty days beginning August 30 and

132. LOR, (1888) 495; LOR (1886) 22.

133. Clearance Docket, *op. cit.*, 14.

134. Final Report of the Court of Private Land Claims, *op. cit.*

ending September 28, 1827. Since no purchasers appeared, the *expediente* was concluded September 30. This was forwarded for sale and public auction to the treasurer general. After the proceedings had been approved as legal by the attorney general, the lands were auctioned at three public sales held at Arispe April 16, 17 and 18, 1828, and sold to Don Rafael Elias for \$240. This transaction was supervised by the board of sales.<sup>135</sup>

On September 25, 1832, a title was issued the grantee by Treasurer General Mendoza. The terms are similar to the other ones granted by that officer during that period.<sup>136</sup>

The claims to this grant were purchased in 1869 by the Camou brothers who also bought the rights to the Los Nogales de Elias<sup>137</sup> and the Agua Prieta grants.<sup>138</sup> After examination, the surveyor general of Arizona recommended the approval of four *sitios* of the grant.<sup>139</sup> Since Congress took no action, the claimants submitted their case before the Court of Private Land Claims in 1891 asking confirmation of their rights to 20,034 acres.<sup>140</sup> Here their cause was rejected.<sup>141</sup> The owners then appealed to the Supreme Court who reversed the decision of the lower court and remanded the case back to it for further review.<sup>142</sup> In the subsequent examination, the Court of Private Land Claims approved the grant for 17,475 acres. The government then appealed the case to the Supreme Court. Again the cause of the owners was upheld for the four *sitios*.<sup>143</sup>

### *The Agua Prieta Grant*

Several years after the request for the San Rafael del Valle grant was filed, Rafael,<sup>144</sup> Juan, and Ignacio Elias

(Gonzales) petitioned for several tracts of land known as Agua Prieta, Naidenibacachi and Santa Barbara. They

135. JPLC, 1:47 ff.

136. *Idem*.

137. *Vide Supra*, 112.

138. *Vide Infra*, 146.

139. LOR, (1888) 495.

140. Report of the Attorney General (1894), 5.

141. *Idem*.

142. Camou vs. United States, 171 U. S., 277 ff.

143. United States vs. Camou, 184 U. S. 572 ff.

stated in their petition, which bore the date of July 21, 1831, that they had large numbers of cattle and sheep whose numbers they could not feed on the *sitios* belonging to them. For that reason, their stock wandered to the four points of the compass, more particularly towards the waters of the Santa Barbara, Naidenibacachi, Agua Prieta and Coaguyona by which they suffered incalculable damage. They, therefore, made formal denouncement of the above territory that might be "found to be public lands within the points and waters aforesaid, which are bounded on the north by the Chiricahua Mountains, on the south by the lands of the Sinaloas, on the east by the mountains of Coaguyona and on the west the lands of the Sans." The petitioners, furthermore, asked that orders be issued for their survey, appraisement, publication and sale.

After making an investigation of the case and taking testimony in October, 1831, the treasurer general at Hermosillo ordered Vincente Elias, a resident of San Ignacio, to proceed with the survey, appraisement and publications under the then existing laws. In August, 1835, Elias proceeded to execute the commission. He, in September, appointed assistants, measurers and recorders and proceeded with the survey of the  $6\frac{1}{2}$  *sitios* of the Agua Prieta lands. Then the Santa Barbara and Naidenibacachi tracts were measured, which contained an area of  $11\frac{1}{2}$  *sitios* and  $12\frac{1}{2}$  *caballerias*, making a total of 18 square leagues and  $12\frac{1}{2}$  *caballerias*. The  $6\frac{1}{2}$  *sitios* were appraised as follows: one at \$60 which contained a limited water course; the others were valued at \$15 each as they were absolutely dry. The remaining  $11\frac{1}{2}$  *sitios* and  $12\frac{1}{2}$  *caballerias* were valued: one at \$80; another at \$60; and the remainder at \$15 each—making a grand total of \$432.50. Publications were made for 30 consecutive days from June 4 to July 3, 1836. The three auctions were held the same year on September 15, 16 and 17 and the grants were sold to the petitioners for the amount of the appraisement. A title was issued them on December 28, 1836, on the usual terms.<sup>145</sup>

145. Estate of Frank Ely and Edward Camou vs. United States, 184 U. S., 638 ff.



The Camou brothers acquired 32 square leagues of the Elias' lands, in addition to the San Rafael del Valle grant, in 1869 for \$14,000.<sup>146</sup> The claimants in 1893 filed a petition with the Court of Private Land Claims arguing for confirmation of rights to 68,530 acres. They maintained that the original grant to the Agua Prieta tract was one based on natural boundaries by metes and bounds and not one of a specific amount. For that reason, they claimed rights to overplus lands totalling approximately 40,000 acres. In compliance to the Mexican laws which existed at the time the original grant was made, they paid into the treasury \$600 and asked for a title to the overplus as well as to the  $6\frac{1}{2}$  *sitios*.<sup>147</sup> The court refused to confirm their rights to both the Agua Prieta tract as well as the overplus. The owners then appealed to the Supreme Court. Here the decision of the lower court was sustained and the confirmation of the grant denied.<sup>148</sup>

*San Juan De Las Boquillas and Nogales Grant*

This grant was located along both sides of the San Pedro River in what is now Cochise County. It was  $5\frac{1}{2}$  leagues long and  $\frac{3}{4}$  of a league in width. The town of Fairbanks, Arizona is almost in the center of this old grant.

On May 12, 1827, Captain Ignacio Elias Gonzales and Nepomucino Felix made formal denouncement of four *sitios* for stock raising. In their petition to Treasurer General Mendoza, they asked for a tract known as San Juan de las Boquillas. This request was admitted July 1 of that year. The land was accordingly surveyed and appraised at \$240 or at \$60 for each *sitio*. After the 30 days of publications and the three public auctions, the land was sold for \$240 to Gonzales and Felix. On May 8, 1833, a title was issued the grantees to the tract by Mendoza under the customary conditions of that period.<sup>149</sup>

George Hill Howard purchased the grant from the descendants of Elias (Gonzales) and Felix in 1879 and 1880.

146. House Report No. 192, 49 Cong., 1 Sess., 3.

147. Ely's Adm. vs. U. S., *op. cit.*

148. Ely's Adm. vs. U. S., *op. cit.*

149. JPLG, 2:210 ff; 3:64-67.

In the latter year, Howard transferred half of his claim to his wife, Janet G. Howard, and the other to the Hearst interests.<sup>150</sup> The rights of the claimants to four square leagues was approved by the surveyor general of Arizona in 1881.<sup>151</sup> The owners petitioned the Court of Private Land Claims in 1893 for confirmation of their rights to 30,728. Of this amount, only 17,354 acres or four *sitios* were approved.<sup>152</sup>

### *The San Pedro Grant*

In 1821, Don Jose de Jesus Perez presented a petition to the governor *intendente*. He stated that he had some property "acquired in the military service and by my own industry and without owning a place upon which to locate and bring them together." The petitioner, therefore, requested that the depopulated place known as the San Pedro be granted him pursuant to the national laws and the term of the royal *cedula* of February 14, 1805. He asked that he be allowed to pay the cost of the purchase and that a commission be ordered for the necessary proceedings, oracular examination, reconnaissance of the ground, survey, publication and final sale of the four *sitios*.

This petition was referred by the governor *intendente* for survey, appraisement and other customary proceedings and notices were sent to the owners of adjoining lands. On May 3, a *promotor fiscal*, appraisers, and recorder of courses were appointed by the constitutional *alcalde* of the district and the judge surveyor of that registry. These officers accepted their positions, took oaths and were properly commissioned.

The survey was proceeded with from the place called San Pedro. On May 21, 1821, the *alcalde* directed the appraisement of the lands. These *sitios* were valued at \$60 each; the remaining one at \$10. Testimony was taken as to whether Perez could stock the land which was satisfactory. The *alcalde* then directed the publications be made

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150. *Ibid.*

151. LOR, (1888) 495.

152. Report of Attorney General (1899), 68; Decree of Court of Private Land Claims, San Juan de las Boquillas files, General Land Office, Phoenix.

for 30 consecutive days. These proclamations took place for the stipulated period. As no one appeared to outbid the petitioner, the *alcalde* and judge surveyor submitted the proceedings to the governor *intendente*, Antonio Cordero. After finding the *expediente* satisfactory, the sale was ordered to be held at Arispe on July 3, 4, and 5, 1822. The land was sold to Perez for \$190.

Some time elapsed before a title was issued. Following the sale, the \$190 plus \$18 and 1 grain for taxes and expenses were paid into the royal treasury. The board of the imperial treasury approved the sale in favor of Perez. Mexico at this time was undergoing separation from Spain. No action was taken until October 25, 1832, when Ignacio Perez (perhaps the grantee of San Bernardino), in behalf of his brother, presented a petition to the treasurer general of Sonora for the land. In the meantime, the petitioner had sold his rights to Rafael Elias.<sup>153</sup> Mendoza, on May 8, 1833, issued the title to Elias.<sup>154</sup>

In 1888, the investigation by the surveyor general of Arizona was pending for the approval of the four *sitios*.<sup>155</sup> The claimants, the Reloj Cattle Company, in 1897 presented their petition before the Court of Private Land Claims maintaining the original grant with the overplus contained 57,000 acres, 38,000 of which was in the United States and 19,000 in Mexico. The petition also claimed that the grant was one of natural objects by metes and bounds and not one of specific quantity. This court refused to confirm the grant. The cattle company then appealed their case to the Supreme Court in 1901. Here the opinion of the lower court, in refusing to confirm the title of the owners, was sustained.<sup>156</sup>

### *The El Paso De Los Algodones Grant*

This grant is very unusual in several respects. It was far removed from other Mexican settlements at that time. There were no prospects of the grantee being able to settle

153. Probably the Rafael Elias of the Agua Prieta grant.

154. Reloj Cattle Company vs. United States, 184 U. S., 624 ff.

155. LOR, (1888) 495.

156. Reloj Cattle Co. vs. U. S., *op. cit.*

it at a very early date. It was not the policy of the Mexican government to grant lands which could not be occupied immediately. This grant was at a place known as the El Paso de Los Algodones on the northern frontier of the state of Sonora.

The petition set forth that the applicant, Fernando Rodriquez of Hermosillo, had sufficient means to settle and cultivate this tract. It was described as being "entirely on the northern frontier of the State, situated between the Colorado and Gila Rivers; said land including a tract . . . on the south side of the Gila in front of the junction of the same with the Colorado River; as far as the crossing (pass) of the Algodones; and from said point following the eastern margin of the Colorado River, as far as the junction of the same with the Gila, a distance of about five leagues." The petitioner made a formal registry of the five *sitios* and requested that steps be taken for the measurements, valuation, and publications as the law required. He stated that he would settle upon and occupy the tract "when the notorious condition and circumstances of the region . . . permit . . . since the said vacant lands are situated in a country desert and uninhabitable, on account of the hostility of the savages, it being well known that a settlement made by Spanish government in the desert country of the Colorado, was entirely destroyed in a short time by the Yuma Indians and other savages." The date of this petition was January 4, 1838, a time when Sonora was in rebellion against the Mexican government.

Steps were then taken preliminary to selling the land and issuing a title. Notifications were sent to others claiming this land that they might protest. The treasurer then authorized the acting commissioner to proceed with the measurement, valuation and offering the tract for sale. The five *sitios* were measured in February. On March 18, 1838, the appraisers valued the land at \$400 or at \$80 per square league "since the same is susceptible for irrigation by waters of the Gila river, and because the lands are suitable for irrigation in the large part if not the whole." Orders for 30 public offers of sale (*pregones*) were ordered to be pro-

ceeded with beginning March 7 and concluding April 7, 1838. After notification had been made to the treasurer general of the state that publications had been completed by the commissioner, the *promotor fiscal* of the treasury authorized the three public offers be made. The offers of the sale were held in the city of Arispe May 8, 9, and 10, 1838, under the supervision of the *junta de almonedas* (board of sale). The sale is described as follows:

At the sound of a bell many individuals assembled at the office of the Treasurer General, when the auctioneer, Florecio Baldizan, said in a loud and clear voice, 'There will be sold on account of the Public Treasury of the State, five square leagues of vacant lands, a little more or less, surveyed in favor of the Register of the same, Don Fernando Rodriquez, a resident of Hermisillo; said lands, etc. . . .'

The tract was sold to the petitioner for \$400.

The proprietary auditor of the general treasury of the state issued Rodriquez a title on April 12, 1838. It contained one unusual provision that the grantee was to settle upon the lands "as soon as the circumstances surrounding that distant and desert portion of the state may permit him to do so in view of the eminent danger there on account of the savages."<sup>157</sup>

There is no evidence that Rodriquez ever occupied the grant. It was sold in 1845 to Juan A. Robinson of Guaymas who in turn transferred his rights to the Colorado Commercial and Land Company of California in 1873. This firm presented their claims before the surveyor general of Arizona. In 1880 this official recommended the rejection of the grant on the ground that title papers were antedated and forged.<sup>158</sup> The land office repeatedly urged that Congress give the grant special attention by rejecting it so that the lands could be opened for settlement.<sup>159</sup> Earl B. Coe, as owner, in 1892 filed a petition with the Court of Private Land Claims asking confirmation of 21,700 acres. In the

157. JPLG, 1:473 ff.

158. *Ibid.*

159. House Report No. 1585, 51 Cong., 1 Sess.; LOR, (1888) 32; LOR (1892) 223.

following year, this tribunal ordered that the grant be confirmed for the above amount.<sup>160</sup> The government then appealed the case to the Supreme Court. Here the decision of the land court was reversed. The case was remanded for further proceedings on the ground that the state of Sonora had no authority to make the grant as the vacant public lands became the property of the nation in 1836.<sup>161</sup> The claimants in 1898 asked for a rehearing of the case. Their request was denied.<sup>162</sup>

### *The Alleged Peralta-Reavis Grant*

Without doubt, the most sensational case brought before the Court of Private Land Claims was the alleged Peralta-Reavis grant. Since the foundation of these claims were found to be spurious, the writer made no attempt to give it any more than the most superficial attention.

James Addison Peralta-Reavis and Sofia Loreto Micaela de Peralta-Reavis, nee Maso y Silva de Peralta de Cordova, maintained they were owners of a large grant of land covering 12,740,000 acres in Arizona and New Mexico. This included the land on which are situated Phoenix, the capital of Arizona, the towns of Florence, Tempe, Silver King, Pinal and Solomonsville and a portion of White King of San Carlos Indian Reservation. The claimants averred that this grant was made to Miguel Peralta, "Baron of Arizonac, Knight of the Colorados, Grandee of Spain, etc."

In support of their claims, the Peraltas asserted that the original grant had been recommended by Philip V of Spain in 1744 and by his successor, Ferdinand VI in 1748. It had actually been made by the viceroy of New Spain in 1748 and had been subsequently ratified and enlarged by Carlos III. Possession had been given the grantee in 1758. The female claimant, Mrs. Peralta-Reavis, it was maintained, became vested with the title to the property as the grantee's only descendant and heir.<sup>163</sup>

The title to the grant had been examined by eminent

160. Report of the Attorney General, (1894) 5.

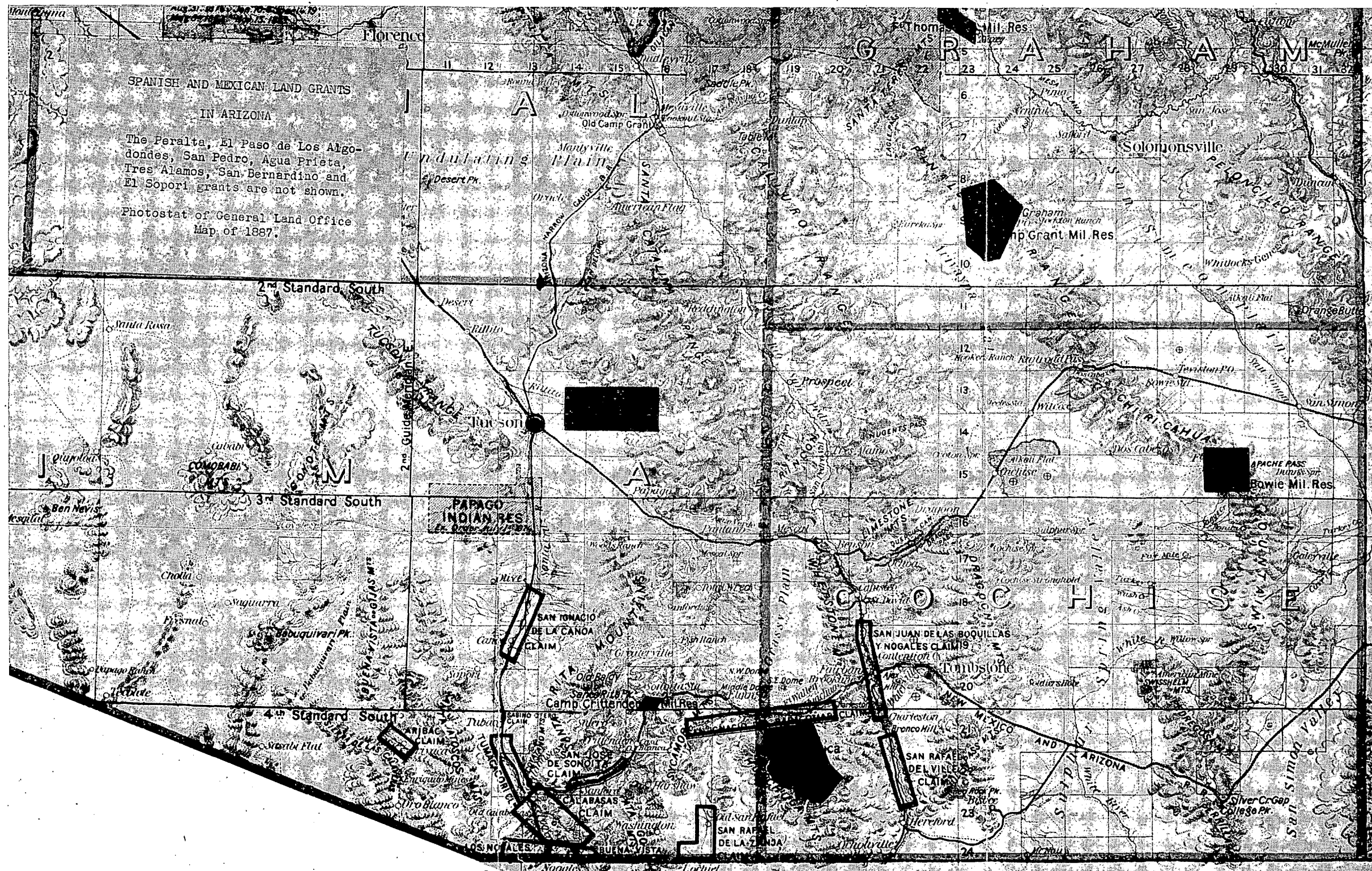
161. United States vs. Earl B. Coe, 170 U. S., 681 ff.

162. United States vs. Earl B. Coe, 174 U. S., 578 ff.

163. Report of the Attorney General (1895) 17-18.

The Peralta, El Paso de Los Algodones, San Pedro, Agua Prieta, Tres Alamos, San Bernardino and El Sopor grants are not shown.

Photostat of General Land Office  
Map of 1887.



forged and surreptitiously placed in the archives of Spain and Mexico. This removed the clouds from thousands of titles held by settlers in New Mexico and Arizona.<sup>166</sup>

Reavis was subsequently ordered to be arrested by the attorney general of the United States. He was indicted for fraud and forgery and finally convicted of conspiracy to defraud the government of its public lands by means of a false claim. As a result, he was sentenced to a maximum term of imprisonment and to pay a fine of \$5,000. The attorney general characterized this case in the following words: "In the magnitude of the claim made and the fertility of criminal resource displayed in its support, this case has rarely, if ever, been equaled in judicial annals".<sup>167</sup>

## SPANISH TERMS USED

*Alcalde.* A judicial officer whose duties are similar to those of a justice of peace in the United States.

*Caballeria.* 105.75 acres.

*Cabildo.* Council.

*Cedula.* Order or decree.

*Empresarios.* Undertakers or promoters of extensive enterprises, aided by concessions or monopolistic grants from government; particularly, persons receiving extensive land grants in consideration of their bringing into the country emigrants and settling them on the lands, with the view of increasing the population and developing the resources of the country.

*Entrada.* entrance or entry.

*Expediente.* A complete statement of every step taken in the proceedings in making a grant.

*Hectare.* 2.471 acres.

*Intendente.* The immediate agent of the minister of finance or chief and principal director of the different branches of the revenues, appointed in the various departments in each of the provinces into which the Spanish monarchy is divided.

*Presidio.* Garrison of soldiers.

*Promotor fiscal.* Secular or ecclesiastical attorney general.

*Rancho.* As used in Mexico, it signifies a ranch or large tract of land suitable for grazing purposes where horses or cattle are raised, and is distinguished from *hacienda*, a cultivated farm or plantation.

*Rancheria.* A hamlet.

*Regidor.* Alderman or magistrate of the city.

*Reglamento.* Regulation or order.

*Sitio.* A square league containing 4,338.464 acres.

*Testimonio.* The first copy of the *expediente*.

*Título.* Title or legal title to property.

*Vara.* Contains 32.9927 inches.

166. Report of Attorney General, (1895) 17-18.

167. *Ibid.*; Report of Attorney General, (1896) xxii.