

LAND CLAIMS—NEW MEXICO.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

Transcripts of three land claims in New Mexico.

FEBRUARY 12, 1857.—Ordered to be printed.

DEPARTMENT OF THE INTERIOR,
February 11, 1857.

SIR: I have the honor to transmit herewith, for the action of Congress, contemplated by the 8th section of the act of 22d July, 1854, the transcripts of three land claims in New Mexico, designed for the House of Representatives, as per letter from the Commissioner of the General Land Office of the 10th instant, a copy of which is enclosed.

Similar documents, submitted by the Commissioner in the same letter, for the Senate of the United States, have been appropriately disposed of.

With much respect, your obedient servant,
R. McCLELLAND, *Secretary.*

Hon. N. P. BANKS,
Speaker of the House of Representatives.

GENERAL LAND OFFICE,
February 10, 1857.

SIR: I have the honor to submit to the department the following documents transmitted to this office by the surveyor general of New Mexico, with his letter dated the 31st December, 1856, to wit:

Claim No. 14, of Charles Beaubien.—Transcripts for the House of Representatives, embracing copies of grant, (original;) translation of grant; order of prefect's court; notice of claim; deed of administrator; testimony, and report.

Also, similar documents for the United States Senate, with the exception of another transcript of the original grant, which has not been received from the surveyor general.

Claim No. 29, Casa Colorado.—Transcripts for the House of Representatives, embracing copies of grant, (original;) translation of grant; notice; testimony, and report.

Also, similar documents for the United States Senate, with the exception of another copy of original grant, which has not been received from the surveyor general.

Claim No. 32, of Hugh Stevenson et al.—Transcripts for the House of Representatives, embracing copies of grant, (original;) translation of grant; testimony; map of the Bracito tract of land; deed of Francisco Gracia y San Juan to Hugh Stevenson et al.; deed of Hugh Stevenson et al. to Francisco Gracia y San Juan; notice; brief, and report.

Also, similar documents for the United States Senate, with the exception of other copies of original grant and map of the Bracito tract of land, which have not been received from the surveyor general.

The foregoing three claims have been examined and approved by the surveyor general of New Mexico, who, in transmitting the above mentioned copies of the documents, requested that the same may be submitted to Congress at their present session for their action upon the claims, and they are therefore accordingly herewith submitted for that purpose.

With great respect, your obedient servant,

THOS. A. HENDRICKS,
Commissioner.

Hon. R. McCLELLAND,
Secretary of the Interior.

CLAIM No. 14, OF CHARLES BEAUBIEN.

SEAL FOURTH [SEAL.] TWO RIALS.

For the years one thousand eight hundred and forty-two and forty-three.

Most Excellent Governor Don Manuel Armijo:

Luis Lee, a naturalized citizen and resident of the first demarcation of Taos, and Narciso Beaubien, a citizen and also a resident of the above named place, appear before your excellency in the manner and form best provided by law and most convenient to us and state: That desiring to encourage the agriculture of the country and place it in a flourishing condition, and being restricted in lands wherewith to accomplish said purpose, we have seen and examined with great care, that embraced within the Costilla, Culebra, and Trincheras rivers, including the Rito of the Indians and the Sangre de Cristo, to its junction with the Del Norte river, and finding in it the qualities of fruitfulness, fertile lands for cultivation, and abundance of pasture and water, and all that is required for its settlement and the raising of horned and woolen cattle; being satisfied with it and knowing that it is public land, we have not hesitated to apply to your excel-

lency, praying you, as an act of justice, to grant to us the possession of a tract of land to each one within the aforementioned boundaries, promising to commence the settlement of the same within the time prescribed by law, until the colony shall be established and permanently fixed, provided your excellency be pleased to grant it to us. Such is the offer we make and swear it is not done in malice.

LUIS LEE.

NARCISO BEAUBIEN.

SANTA FÉ, *December 27, 1843.*

SANTA FÉ, *December 30, 1843.*

Referred to the prefect, in order that if the land petitioned for be not otherwise disposed of, he cause the possession referred to by the petitioners to be given.

ARMIJO. [Rubric.]

DONACIANO VIGIL, [Rubric.]

Acting Secretary.

RIO ARRIBA, *January 7, 1844.*

The justice of the peace to whose jurisdiction belongs the land petitioned for, which I believe should be the third demarcation, having before him the superior decree of the most excellent governor of the 30th of December last, will proceed to the land and place the petitioners in possession, provided it is not to the injury of third parties.

ARCHULETA. [Rubric.]

To Don Miguel Sanchez, justice of the peace of the third demarcation:

The undersigned, Mexican citizens and residents of this precinct, in the most approved manner provided by law, appear before you and state that the public land contained in the foregoing statement having been granted to us by the government of the department, as will be seen by the superior decree entered on the margin, and lacking the certificate of possession which will ensure to us our legal title thereto and prevent any one from disturbing us, we pray you to consider us as having presented ourselves, after which we will enlarge this for such ends as our rights may require. Therefore, we pray you to grant our request, justice being what we ask for. We swear that it is not done in malice, and in whatever may be necessary, &c.

LUIS LEE,
NARCISO BEAUBIEN.

TAOS, *January 8, 1844.*

JANUARY 8, 1844.

Considered as presented and received as far as required by law, I, the present justice, proceeding with my attending and instrumental witnesses to the place designated in the foregoing documents, and let the possession selected by the petitioners be given so that they, their heirs and successors may hold the same by a just title. The citizen Miguel Sanchez, justice of the peace of the third demarcation of Taos,

so provided, ordered and signed, with those in his attendance. To which I certify.

JOSÉ MIGUEL SANCHEZ. [Rubric.]

Attending—

JUAN RAMON VALDEZ. [Rubric.]

PEDRO VALDEZ. [Rubric.]

In the pueblo of Taos, on the twelfth day of January, one thousand eight hundred and forty-four, I, the citizen Miguel Sanchez, justice of the peace of this demarcation, by virtue of the direction contained in the foregoing decree, proceeded to the land referred to by Don Luis Lee and Don Narciso Beaubien in the foregoing instrument, and being then there with my attending and instrumental witnesses for that purpose appointed, the land marks of the boundaries were then established according to the manner in which the land is described in the preceding petition, and corresponding with the plat which I rubbricked, and commencing on the east side of the Del Norte river, a mound was erected at one league distance from its junction with the Costilla river, thence following up the Rio Del Norte, on the same eastern bank, to one league above the junction of the Trinchera river, where another mound was erected, and continuing from west to northeast, following up the current of the Trinchera river to the summit of the mountain, where another mound was established, and following the summit of the mountain to the boundary of the lands of Miranda and Beaubien, the fourth mound was established, and continuing on the summit of the Ciera Madre, and following the boundary of the aforementioned lands to opposite the first mound erected on the Del Norte river, where the fifth and last mound was erected, and from thence in a direct line to the first one erected on the north, and being registered, I took them by the hand, walked with them and caused them to throw earth, pull up weeds, and other evidences of possession, whereupon the proceedings were concluded, the boundaries determined, without any conflicting claim of any third party, as I, the aforesaid justice, in the name of the sovereignty of the nation, (may God preserve it,) gave to the aforementioned Don Luis Lee and Don N. Beaubien, the personal and perfect possession which they solicit, serving as a title to them, their children and successors, in which I will protect and defend them, and I order them not to be deprived thereof without being first heard, and sentence given against them according to law and evidence.

In testimony whereof I signed with my attending and instrumental witnesses, who were Messrs. Ceran St. Vrain, Manuel Martin and Juan Ortega, at present residents of this precinct. To which I certify.

JOSÉ MIGUEL SANCHEZ.

Instrumental :

CERAN ST. VRAIN,

MANUEL ANTONIO MARTIN,

JUAN ORTEGA.

Fees \$30.

NOTE.—The words interlined are valid.

[Rubric.]

Attending :

JUAN RAMON VALDEZ.

PEDRO VALDEZ.

SURVEYOR GENERAL'S OFFICE,
Translator's Department, June 18, 1856.

I, David V. Whiting, translator, certify the foregoing to be a correct translation of the original on file in this office.

DAVID V. WHITING, *Translator.*

SURVEYOR GENERAL'S OFFICE,
Santa Fé, December 30, 1856.

The foregoing is a true copy of the original on file in this office.

WM. PELHAM,
Surveyor General of New Mexico.

May Term 1847.

DON FERNANDO DE TAOS,
May 3, 1847.

"This being the regular May term of the prefect's court, it met and was opened according to law." And among other proceedings, the following were held: And the said Joseph Pley, administrator as aforesaid, presented the following petition to the court, in letters and figures as follows, to wit:

To the honorable judge of the prefect court for the county of Taos, Territory of New Mexico:

Your petitioner, Joseph Pley, administrator of the estate of Stephen L. Lee, deceased, respectfully represents that the personal estate of the said Stephen L. Lee, deceased, is insufficient to pay the debts of the estate, as will appear by the account of your petitioner's administration. The list of debts due to, and by the deceased remaining unpaid, and there being no other assets in the hands of your petitioner whereby to enable him to meet the demands against said estate. Your petitioner, therefore, prays that so much of the real estate of the said deceased may be sold, by order of the court, as will be sufficient to pay the debts of the deceased; and that your honor will make an order, ordering your petitioner to proceed to sell all or a part of said real estate, at either private or public sale, and upon such terms as to your petitioner, under the instructions of the court, may seem most beneficial to the interest of all concerned.

JOSEPH PLEY,
Administrator of S. L. Lee, deceased.

DON FERNANDO DE TAOS,
May 3, 1847.

To Joseph Pley, administrator of the estate of Stephen L. Lee, deceased:

Your petitioner to the prefect court within and for the county of Taos, Territory of New Mexico, praying to said court to sell the real

estate of Stephen L. Lee, deceased, or so much thereof as will satisfy such claims as may be presented. The court as aforesaid grants the request contained in said petition, and that you are hereby permitted to sell said real estate at private sale, at not less than the value as appraised.

Witnesses Robert Cary, clerk of the prefect court for said county, at Don Fernando de Taos, this third day of May, A. D. 1847.

Approved :

ROBERT CARY, *Clerk.*

VINCENTE MARTINEZ, *Perfecto.*

I hereby certify that the foregoing is a true copy of the record of the prefect court on file in my office of the May term of said court, held in the town of Don Fernando de Taos, on the first Monday of May, A. D. 1847, at which time Vincente Martinez was prefect, and Robert Cary, clerk.

Witness Pedro Valdez, clerk of the prefect's court of the county of Taos and Territory of New Mexico, and my private seal, there [L. S.] being no seal for said county, August 1, 1855.

PEDRO VALDEZ, *Clerk.*

TERRITORY OF NEW MEXICO, }
County of Taos. }

I, Jose Benito Martinez, judge of the probate or prefect's court within and for the county of Taos, do hereby certify that Pedro Valdez, who signed the foregoing certificate, and whose signature thereto is genuine, was at the time of so doing clerk of said court.

Given under my hand this sixth day of August, A. D. 1855.

JOSE BENITO MARTINEZ,
Judge of Probate.

UNITED STATES OF AMERICA, } ss.
Territory of New Mexico. }

I, W. W. H. Davis, secretary of the Territory of New Mexico, do hereby certify that Jose Benito Martinez, whose certificate is herein annexed, and who has thereto subscribed his name, was at the time of so doing a judge of probate in and for the county of Taos and Territory aforesaid, duly elected and qualified to act as such, and that the signature purporting to be his is genuine.

In testimony whereof, I have hereunto set my hand and affixed my [L. S.] seal of office this eleventh day of August, A. D. 1855.

W. W. H. DAVIS,
Secretary Territory of New Mexico.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, December 30, 1856.

The foregoing is a true copy of the original on file in this office.

WM. PELHAM,
Surveyor General of New Mexico.

This indenture, made this fourth day of May, in the year of our Lord one thousand eight hundred and forty-eight, between Joseph Pley, administrator of Stephen L. Lee, deceased, of the county of Taos, and Territory of New Mexico, of the first part, and Charles Beaubien, of the same county and Territory, of the second part, witnesseth: That whereas an order was entered at the January term of the prefect's court for the county of Taos commanding the said Jose Pley to sell, as administrator of said estate, all the real estate of said deceased for the payment of debts allowed against said estate. Now, therefore, by virtue of said order, the said party of the first part, for and in consideration of the sum of one hundred dollars to him in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, doth hereby give, grant, bargain, sell, convey, transfer, and make over unto the said party of the second part, his heirs and assigns forever, all the right, title, and interest of the said Stephen L. Lee, in and to the following described tract, lot, or parcel of land, all that certain tract of land known as the Sangre Christi claim, and which was granted by the Mexican government to Stephen L. Lee and Narciso Beaubien, and described as follows: Beginning from a point one league below the confluence of the Rio de Castillo and the Rio del Norte, thence up the Rio del Norte on the eastern bank to a point one league above the mouth of the Trinchera; thence north-northeast to a point on the mountain; thence along the mountain southeast-east to an established point on the top of the mountain; thence south along the line of the poniente claim of Miranda and Beaubien; thence to a point about a league south of the Rio Castillo; thence west to the place of beginning, and number of acres not known; to have and to hold the afore granted premises unto the said Charles Beaubien, his heirs and assigns, forever.

In testimony whereof the party of the first part has hereunto set
 [L. S.] his hand and affixed his seal the day and year above
 written.

JOSEPH PLEY,
Administrator of the estate of Stephen L. Lee.

In presence of—

VIDAL TRUGILLO.

TERRITORY OF NEW MEXICO, *County of Taos, ss.*

Be it remember that, on this eleventh day of May, in the year eighteen hundred and forty-eight, Joseph Pley, administrator of the estate of Stephen L. Lee, who is personally known to the undersigned, clerk of the circuit court for said county, to be the same person whose name is subscribed to the forgoing instrument of writing, and acknowledged the same to be his act and deed as administrator as aforesaid, for the purposes therein mentioned.

Taken and certified the day and year above written.

ROBERT CARY, [SEAL.]

Clerk of the Circuit Court.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, December 30, 1856.

The foregoing is a true copy of the original on file in this office.

WM. PELHAM,
Surveyor General of New Mexico.

To General William Pelham, surveyor general of the Territory of New Mexico:

Charles Beaubien, a citizen of the United States, and a resident of the Territory of New Mexico, represents that he is the legal owner in fee of a certain tract of land lying and being situate in the county of Taos, in said Territory of New Mexico, known as the Sangre de Christo grant, described as follows: Beginning from a point one Spanish league below the confluence of the Rio de Costillos and the Rio del Norte; thence up the del Norte, on the eastern bank, to a point one league above the mouth of the Rio Trinchera; thence northeast to a point on the mountain; thence along said mountain southeast to a point established on the top of the said mountain; thence south to the boundary of the lands of Miranda and Beaubien; thence along said boundary to a point about one league south of the Rio Costilla; and thence west to the place of beginning; all of which points and boundaries are well known landmarks, and monuments were placed at the same at the time of giving possession of the same to the original grantees. The said Charles Beaubien, the present claimant and actual owner, claims a perfect title to said lands by virtue of a grant made on thirtieth day of December, A. D. 1843, by Manuel Armijo, governor of the department of New Mexico, and perfected according to law by possession being given by the alcalde, José Miguel Sanchez, on the 12th day of January, A. D. 1844. Said grant was made according to the usages and laws and customs of the republic of Mexico to Luis Lee and Narciso Beaubien, as will appear by reference to said laws and usages at that time in force, and the Spanish laws, so far as recognized by the government of the republic of Mexico.

The said Charles Beaubien further states that he cannot show the quantity of land claimed by him, only so far as set forth by the foregoing description of points and bounds, nor can he furnish a plat of the survey of the same, as no survey has ever been made. The claimant further states that the said Luis Lee and Narciso Beaubien, after having been put in lawful possession of said grant, conformed to all the laws and regulations in regard to the same as required at that time, and held possession thereof until January 19, 1847, when both were slain in the massacre of Taos of that date; that Narciso Beaubien was the son of the claimant and, according to law, all the interest of the said Narciso Beaubien, deceased, descends to the present claimant, and that he claims all the right, title, and interest of the said Luis Lee, deceased, by virtue of a deed made by the administrator of the said Luis Lee, the 4th day of May, 1848. Said original grant is

herewith filed marked (A); deed from Joseph Pley, administrator of Luis Lee, to the claimant, marked (B); also certified copy of the record of the court of probate for said county of Taos, authorizing the administrator to sell said right, title, and interest, marked (C).

Claimant further states that he is prepared to prove that the Luis Lee, whose name appears in the original grant, and the Stephen L. Lee, whose name appears in the administrator's deed to the claimant, are one and the same person.

Claimant is prepared further to prove, if deemed necessary, that since the said grant came into his possession he has had made extensive settlements on the same, and that it is becoming under his ownership rapidly populated. The claimant therefore respectfully asks a speedy acknowledgment of his claim.

SMITH & HOUGHTON,
Attorneys for claimant.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, December 30, 1856.

The foregoing is a true copy of the original on file in this office.

WM. PELHAM,
Surveyor General of New Mexico.

CHARLES BEAUBIEN, *Sangre de Cristo.*

Donaciano Vigil being duly sworn, was interrogated in the following manner:

Question. What office did you hold in the year 1843, under the Mexican government?

Answer. Acting secretary of the department of New Mexico.

Question. What office did Manuel Armijo hold at that time?

Answer. He was political governor and military commander of the department.

Question. Is his signature on the grant made to Narciso Beaubien and Luis Lee to the Sangre de Cristo, and your own signature to said document, genuine?

Answer. They are.

Question. What office did Juan Andres Archuleta hold at that time?

Answer. He was perfect of the northern district, and the land granted was within his district.

Question. Do you know the signature of Archuleta, and is the one attached to said grant genuine?

Answer. I do; and it is genuine.

Question. Have you seen the governor and perfect sign their name?

Answer. I have.

Question. Are Stephen L. Lee and Luis Lee one and the same person, and was he as well known by one name as by the other?

Answer. He was the same person, and was as well known by one name as by the other.

Question. Did you know Narciso Beaubien, the son of the present claimant?

Answer. I did; and he and Lee were both killed at the massacre of Taos, in the year 1847.

Question. Did Narciso Beaubien have any children?

Answer. He did not; he was sixteen years old when he was killed.

Question. Have you any interest in this claim?

Answer. I have not.

Question. Do you know who was the prefect of Taos county in the year 1847, after the massacre?

Answer. I was acting governor and secretary at that time, and Vicente Martinez was appointed by me to fill that office.

Question. Is your signature to the registry of said document genuine, and in what capacity did you sign?

Answer. It is; and signed as secretary and recorder of land titles under the Kearny code.

DONACIANO VIGIL.

Sworn and subscribed before me this 3d day of December, 1856.

WILLIAM PELHAM.

JOAB HOUGHTON sworn:

Question. State if you knew Narciso Beaubien?

Answer. I did.

Question. State if he was the son of Charles Beaubien, the present claimant?

Answer. He was so considered by his father and mother.

Question. Did you know Stephen L. Lee, and how long did you know him?

Answer. I knew him from 1843 up to the time of his death.

Question. State what the L in his name stood for?

Answer. It stood for Louis, and sometimes he signed Stephen Louis Lee, but generally Stephen L. Lee; and he was as often known among the Mexicans by Louis Lee as Stephen L. Lee.

Question. Are Lee and Narciso Beaubien alive now?

Answer. They are both dead.

Question. How did they come to their death?

Answer. They were killed in the massacre of Taos, on the 19th of January, 1847.

Question. Do you know if Narciso Beaubien had any children at the time of his death?

Answer. He had not; he was a minor, and could not have been more than about sixteen years of age at the time of his death.

Question. Do you know the signature of Pedro Valdez, attached to the transcript of the record of the court, and is it genuine?

Answer. I do; he was clerk of the probate court, and saw him sign the transcript referred to.

Question. Do you know the signature of José Benito Martinez, attached to the document mentioned?

Answer. I do; and saw him sign the certificate certifying that Pedro Valdez was clerk of his court.

Question. Do you know the signature of Joseph Pley, administrator of Stephen L. Lee, attached to the conveyance to Charles Beaubien?

Answer. I do, and have been long acquainted with his signature, and have often seen him sign.

Question. Do you know the residence of Vidal Trujillo, subscribing witness to said conveyance?

Answer. I understand he resides at Ruyado, over one hundred miles from this place, (Santa Fé.)

Question. Do you know the signature of Robert Carey, appended to the same document?

Answer. I do; it is his signature, and I know he was clerk of the circuit court at that date.

Question. Were you at that time chief justice of this Territory?

Answer. I was.

J. HOUGHTON.

Sworn to and subscribed before me this 3d day of December, 1856.

WM. PELHAM.

MANUEL MARTINEZ sworn :

Question. Do you know José Miguel Sanchez, the justice of the peace whose signature is affixed to the certificate of possession in this case?

Answer. I have known him since I have had the use of reason.

Question. Do you know his signature, and have you seen him sign?

Answer. I know his signature, and have seen him sign frequently.

Question. Is his signature, appended to the foregoing document, genuine?

Answer. It is

Question. Is José Miguel Sanchez dead, and when did he die.

Answer. He died in the month of June of the present year.

MANUEL MARTINEZ.

Sworn to and subscribed before me this 4th day of December, 1856.

WM. PELHAM, *Surveyor General.*

SURVEYOR GENERAL'S OFFICE,
Santa Fé, December 30, 1856.

The foregoing is a true copy of the original on file in this office.

WM. PELHAM, *Surveyor General.*

CHARLES BEAUBIEN, assignee of STEPHEN L. LEE }
and NARCISO BEAUBIEN, deceased, }
vs. }
THE UNITED STATES. } *Sangre de Cristo grant.*

The above case was set for trial on the 3d day of December, 1856.

On the 27th day of December, 1843, Luis Lee and Narciso Beaubien petitioned Manuel Armijo, civil and military governor of New Mexico, for a grant of land in what is now the county of Taos, "em-

bracing the Costilla, Culebra, and Trinchera rivers, including the Rito of the Indians, and the Sangre de Cristo to its junction with the Del Norte river." This petition was referred, on the 30th day of December, 1843, by Manuel Armijo, the civil and military governor aforementioned, to the prefect, with instructions to give the possession asked for by the petitioners in case there was no impediment.

On the 7th of January, 1844, Juan Andres Archuleta, the prefect, directed the justice of the peace of the demarcation wherein the land was situated to place the parties in possession in accordance with the decree of the civil and military governor; by virtue of which the justice of the peace, José Miguel Sanchez, placed the parties in possession of the land, with the boundaries contained in the petition, vesting in them, their children and successors, a title in fee to said lands.

Narciso Beaubien, one of the grantees, was killed at the massacre of Taos in the year 1847, and, dying without issue, his father, Charles Beaubien, the present claimant, became the heir of one undivided half of the land granted, and purchased the remaining undivided half from Joseph Pley, administrator of the estate of Stephen L. Lee, who was killed at the same time and place as Narciso Beaubien.

The genuineness of the signatures of the granting officers, and the signature of Joseph Pley, administrator of the estate of Stephen L. Lee, are proven by the testimony of competent witnesses; the signature of the clerk of the probate court, attached to a transcript of the record of the court ordering the sale of the property of Stephen L. Lee, deceased, is also proven to be genuine. It is also proven that Stephen L. Lee and Luis Lee, as signed in the original petition, were one and the same individual; and that Narciso Beaubien, the son of Charles Beaubien, the present claimant, died without issue. The testimony also shows that the land has been occupied from the time the grant was made up to the present day.

The supreme authorities of the remote provinces of New Spain, afterwards the republic of Mexico, exercised, from time immemorial, certain prerogatives and powers which, although not positively sanctioned by congressional enactments, were universally conceded by the Spanish and Mexican governments; and, there being no evidence that these prerogatives and powers were revoked or repealed by the supreme authorities, it is to be presumed that the exercise of them was lawful. The subordinate authorities of the provinces implicitly obeyed these orders of the governors, which were continued for so long a period until they became the universal custom or unwritten law of the land, wherein they did not conflict with any subsequent congressional enactment. Such is the principle sanctioned by the Supreme Court of the United States, as expressed in the case of *Fremont vs. the United States*, (17 Howard, page 542,) which decision now governs all cases of a similar nature.

The grant being a positive one, without any subsequent conditions attached, and made by a competent authority, and having been in the possession and occupancy of the grantees and their assigns from the time the grant was made, it is the opinion of this office that the grant is a good and valid one, and that a legal title vests in Charles Beau-

bien to the land embraced within the limits contained in the petition. The grant is therefore approved by this office, and transmitted to the proper department, with the recommendation that it be confirmed by the Congress of the United States.

WM. PELHAM,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, N. M., December 30, 1856.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, N. M., December 31, 1856.

The foregoing is a true copy of the original on file in this office.

WM. PELHAM,
Surveyor General.

SELLO CUARTO—DOS REALES.—AÑOS DE MIL OCHOCIENTOS CUARENTA Y DOS
Y MIL OCHOCIENTOS CUARENTA Y TRES.

Exmo. Señor Gober. Don Manuel Armijo:

El C. naturalizado Luis Lee y vecino de la 10. demarcacion de Taos y Narciso Beaubien c. y vecino de la misma, ante V. E. en la via y forma que mejor haya lugar en derecho y al nuestro conbenga parecemos y decimos que deseando fomentar la agricultura del pais en terminos que se vea en estado floreciente y encontrandnos con terrenos reducidos en que verificardo hemos visto y reconocido con bastante detencion el vue comprendea los rios de la Costilla de la Culebra y Trinchera comprendido el rito de los indios y Sangre de Cristo hasta su confluencia con el Rio del Norte y encontrando en el las coalidades de amenosidad tierras feraces para el cultivo abandantes pastos y aguas y todo lo que se requiere para sa establecimiento y crias de ganodos mayor y lanar satisfechos de todo y de que esta valdio no hemos vacilado para ocurrir á V. E. suplicandole se sirva por un efecto de justicia concedernos en el referido terreno la posesion de un citio de tierras á cada uno protestando que dentro del termino de la ley daremos principio á establecernos en ella hasta quedar radicados y establecida la colonia siempre que V. E. se digne concedernosla. Así lo ofrecemos y juramos no ser de malicia.

Santa Fé, Decembre 27 de 1843. Entre renglones vale.

LUIS LEE,
NARCISCO BEAUBIEN.

SANTA FE, Decembre 30, 1843.

Pase al prefecto para que si el terreno que se solicita no tiene embarraso haga que se dé la posesion á que se refieren los presentantes.

ARMIJO.

DONACIANO VIGIL, *So. Int.*

RIO ARRIBA, Enero 7de, 1844.

El juez de paz á que correspon el terreno que solicitan los presentantes que cres debe ser el de la 3a demarcacion teniendo ala vista el superior decreto del Exmo. Señor Gobor. de Fha, 30 del pasado Dcembre, pasará á dicho terreno y pondrá en posession alos que lo solicitan siempre que no sea con perjuicio detercero.

ARCHULETA.

Señor Juez de Paz de la 3a. Demarcacion, Don Miguel Sanchez:

Los que subscriven ciudadanos Mejicanos residentes en este partido ante V. en la mejor forma que haya lugar en derecho parecemos y decimos que habiendoénos donado por el gobierno del departamento el terreno valido que demarca la adjunta instancia como se ve por el superior decreto sentado al margen y careciendo del titulo de posesion que nos asegure ntra. legal propiedad y ninguna pueda turbarnos en ella suplicamos á V. se sirva havernos por presentados y desde luego ampliarnos esta pa. los usos de nro. dro. Por tanto á V. pedimos se sirva acceder á ntra. solicitud pr. ser justicia que impetramos. Juramos so ser de malicia y lo necesario, &c.

Taos, Enero 8de, 1844.

LUIS LEE,
NARCISO BEAUBIEN.

Enero 8de, 1844.

Por presentado y adonitido en cuanto haya lugar en dro pasese por mi el presente juez con los de asistencia é instrumentales al lugar que citan los documentos adjuntos y dese á los petentes la posesion que solicitan para que por si y por sus herederos y susesores sea habido con derecho. El ciudadano Miguel Sanches, juez de paz de la 3a. demarcacion de Taos asi lo proveyó mandó y firmó con los de assa. doy fé.

JOSÉ MIGUEL SANCHES.

Assa. : JUAN RAMON BALDEZ,
PEDRO VALDEZ.

En el pueblo de Taos á los doce dias del mes de Enero de mil ochocientos cuarenta y cuatro yo el C. Miguel Sanches, juez de paz de esta demarcacion, en virtud de lo mandado en el decreto que antecede pase al terreno que refieren Don Luis Lee y Don Narciso Beaubien en el antecedente decreto y estando en el con los de mi asistencia é instrumentales que al fin se nombraron se procedió á señalar las mohoneras de los limites conforme se describe el terreno en la preinserta peticion y corresponde al mapa que rubrico; y empesando por la banda del est del Rio del Norte á una legua de la confluencia del rio de la Costilla con aquél se puso una mohonera donde signiendo el mismo Rio del Norte por arriva siempre de la banda oriental hasta llegar á una legua arriva de la confluencia del Rio de la Trinchera donde se puso otra mohonera y continuando como de poniente á nordeste por el rumbo de dho. de la Trinchera para arriva hasta la cumbre de la cierra donde se puso otra mohonera y signiendo la cumbre de la cierra hasta encontrar los limites de la posesion de Miranda y Beaubien se

puso la 4a. mohonera y continuando siempre en la sima de la Cierra Madre y siguiendo los limites de la misma posesion hasta llegar en frente de la primera mohonera que se puso en el Rio del Norte se hizo la 5a. y la ultima mohonera, y de hoy sigue una linea recta hasta la primera que se puso en el norte; y registrado los tomé de la mano los pasee é hise tirar tierra, arrancar yerbas y otras demostraciones de propiedad con lo que se concluyó el acto, quedando determinados los linderos, sin que hubiese aparecido reclamo alguno de perjuicio de tercero, porque yo el referido juez, á nombre de la soberania de la nacion (q. D. g.) les di á los mencionados Don L. Lee y Don N. Beaubien la posesion personal y perfecta que solicitan para que les sirva de titulo á ellos, sus hijos y suscesores por la cual les amparo y defiendo, y mando que de ello no sean despojados sin ser primero oidos y por fuera y derecho vencidos; en fe de la cual lo firmé con los de mi asistencia y los instrumentales que lo fueron los C. C. Ceran St. Vrain, Manuel Martin y Juan Ortega, presentes y vecinos de este partido de que doy fe.

JOSÉ MIGUEL SANCHES.

Instrum'l: CERAN ST. VRAIN,
MANUEL ANTO. MARTIN,
JUAN ORTEGA.

NOTA.—Lo que se puso entre renglones es valida.

Assa.: JUAN RAMON BALDEZ,
PEDRO VALDEZ.

Este titulo es registrado en el libro A., paginas 116, 117 y 118 en mi oficina, lo q. certifico firmo y sello para constancia. Santa Fé, Abril 10 de 1848.

[SELLO.]

DONACIANO VIGIL,
Actual Gober.

SURVEYOR GENERAL'S OFFICE, TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, December 28, 1856.

The foregoing is a true copy of the original on file in this office.

DAVID V. WHITING, *Translator.*

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

David V. Whiting, whose signature is attached to the foregoing certificate, is, and was at the time of the signing of the same, the translator of this office.

WM. PELHAM,
Surveyor General.

[*Setlers of Casa Colorada.*—José María Perea, Rafael Perea, Antonio Torres, Dionisio Maldonado, Eugenio Brela, Domingo Lucero, Vincente Torres, Juan Cruz Thuirreta, Julian Sanchez, Aban Sanchez, Miguel Archuleta, Gregorio Cedillo, José de Jesus Maldonado, José Cedillo, Miguel Lucero, Rafael Cedillo, Guadalupe Pesca, (widow,) Matilde Montoya, (widow,) Cristobal Jaramillo, Rafael Torres, Buenaventura Sanchez, Manuel Baca, José Baca, Juan Antonia Serna, Jose Antonia Benavides, Carlos Baca, Juan Augustine Barela, Vincente Moya, Antonio Torres, sr., Julian Sanchez, Mariano Pino, Esteban Baca, Andres Zamoro, José Antonio Cedillo, Juan Castillo, Tomas Sanchez.]

To the most illustrious corporation of Tomé:

The citizen, José María Perea, for himself, and in the name of the settlers of Manzano, who are set forth in the margin, with due respect, represent to your excellencies that the most excellent provincial deputation of this Territory, in compliance with the provisions of article sixteenth of the decree of the 23d of June, 1813, having ordered that the inhabitants who are scattered over the hills and valleys shall be reduced to settlements in conformity with the provisions of the laws; and your excellencies having complied with the requirements of its excellency, and in order that we may hold the lands given to us for cultivation and settlement in fee, we pray your excellencies to place us in the full possession thereof, specifying the boundaries of the land we are occupying at the point called Casa Colorada, fixing our boundaries from north to south, from the boundary of the jurisdiction of Tomé to the ruins of what is known as the old settlement of Las Nutrias, and on the east the commons which may be necessary for pastures and other common purposes, highways, and rights necessary to every settlement established upon the solid principles of common and private property, and actual settlements; praying that any one of those herein subscribed, or any other person, without injury to those who may be admitted to the new settlement of Casa Colorada, may acquire a title in fee, upon the construction of a covered house of adobe, and the removal thereto of all his property, contributing to the common labor, encouraging the increase and progress of the settlement, defending the homes of his townsmen with arms at all hazards and against any enemy from within or from the exterior; and lastly, that any one who does not reside in said town with all his proper family, or residing in any other settlement, he shall forfeit the right he has acquired to said property; in view of all which, we jointly and severally pray your excellencies, through a committee from your body, to direct that the boundaries be established at the points herein referred to, which being done, that we be compelled to establish the land marks required for the guidance of all settlements and towns in the province, granting us said lands in the name of the supreme government of the Mexican nation, to which the individuals herein represented belong. Forwarding the proceedings thereon had to the most excellent provincial deputation, in order that its excellency may issue the proper approval thereof, costs, protests, and whatever may be necessary. Tomé, July 12, 1823, third of the independence and second of liberty.

JOSÉ MARÍA PEREA.

HALL OF THE CORPORATION OF TOMÉ,
July 15, 1823.

As requested by petitioners, this corporation has directed that a committee from its midst shall point out to them the boundaries they ask to their lands which have been given to them in the name of the supreme government of the nation, forwarding the same officially to the most excellent provincial deputation of this Territory for its customary approval.

BARTOLOME BACA.

Office of the secretary of the provincial deputation of New Mexico.

In session of the 30th of July last, this deputation approved the foregoing proceedings relative to the grant of land made by the corporation of Tomé to the residents of Manzana, at the place known as the Casa Colorado. Given at Santa Fé, on the 15th day of the month of September, 1823, 3d and 2d, I certify.

JUAN BAUTISTA VIGIL,
Acting Secretary.

SURVEYOR GENERAL'S OFFICE, TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, November 5, 1856.

The foregoing is a correct translation of the original on file in this office.

DAVID V. WHITING,
Translator.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

The foregoing is a correct copy of the original on file in this office.

WILLIAM PELHAM,
Surveyor General.

UNITED STATES OF AMERICA, }
 Territory of New Mexico. }

To the Surveyor General of New Mexico:

Rafael Gutieres, Mariano Pino, Francisco Baca, Bartolo Garcia, and José Sais, citizens of the United States and residents of the Territory of New Mexico, for themselves, and in behalf of the poblacion of Casa Colorado, its inhabitants and owners, represent, that the people

and their predecessors of the said poblacion of Casa Colorado became possessed of a piece of land by virtue of a grant made to them by the ayuntamiento de Tomé, on the 19th day of July, 1823, which was confirmed on the 19th day of September, 1823, by the provisional deputation of the department of New Mexico, under authority of a decree of the cortez of Spain, bearing date the 23d day of June, 1813. Said grant of land is situated in the county of Valencia, on the east bank of the Rio Grande del Norte, and extends southerly on said river from the south line of the jurisdiction of Tomé to the ruins of what was known as the ancient poblacion of Las Nutrias, and on the east, including the necessary commons for pasture and other common uses. The said Rafael Gutieres, Mariano Pino, Francisco Baca, Bartolo Garcia, and José Sais, claiming in behalf of themselves and the poblacion of Casa Colorado, further state, that they cannot show the quantity of land claimed, except as set forth in the said grant, as contained in the above well known metes and bounds, nor can they furnish a plot or survey of the same, as no survey has ever been executed.

The deed of grant herewith presented is referred to for proof of all particulars relating to said claim; and the claimants further state, that they have been in peaceable and continued possession since the date of said grant, 19th September, 1823, up to this time, and their predecessors and themselves, the inhabitants of the said poblacion, have in all particulars conformed to the stipulations of said grant, and to all the laws and customs of the governments of Spain and Mexico, and therefore pray that said title be confirmed.

J. HOUGHTON,
Attorney for Plaintiffs.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

The above is a true copy of the original on file in this office.

WM. PEIHAM,
Surveyor General.

TOWN OF CASA COLORADO.

FRANCISCO BACA Y ORTEZ sworn :

Question. Did you know Juan Bautista Vigil?

Answer. I did.

Question. What office did Juan Bautista Vigil hold in the department assembly in the year 1823?

Answer. He was the secretary of the assembly.

Question. Do you know his signature, and have you seen him sign?

Answer. I do know his signature, and have seen him sign.

Question. Is his signature appended to the grant confirmed by the departments assembly to the town of Casa Colorado genuine?

Answer. It is.

Question. For how many years have you known the settlement of Casa Colorado?

Answer. I have known the place for many years before it was settled.

Question. Do you know any of the original settlers of said town?

Answer. I know José Pino, who was one of the original settlers, and who still resides there.

Question. Do you know if the town was built before the cession of the country to the United States?

Answer. Yes, many years before, I believe about the year 1822 or 1823.

FRANCISCO BACA Y ORTIZ.

Sworn to and subscribed before me, this 5th day of December, 1856.

WM. PELHAM,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 30, 1856.

The foregoing is a correct copy of the original on file in this office.

WM. PELHAM,
Surveyor General.

TOWN OF CASA COLORADO }
vs. } *Grant.*
THE UNITED STATES.

The above case was set for trial on the 5th day of December, 1856.

On the 12th day of July, 1823, José María Perea, for himself, and in the name of certain settlers of Manzano therein contained, petitioned the corporation of Tomé, under whose jurisdiction the land was, for a grant of land for a settlement, with the boundaries set forth in said petition.

On the 19th day of July, 1823, the corporation of the said town of Tomé appointed a committee of its members to place the petitioners in possession of the land under the boundaries set forth in the petition, and transmitting the proceedings in the case for the approval of the provincial deputation, which approval was made by the provincial deputation of the Territory of New Mexico, on the 30th day of July, 1823.

The papers acted upon by this office are the testimonios or certified copies of the original papers, given by direction of the provincial deputation, and certified to by the secretary thereof.

The signature of the said secretary is duly proven by testimony, and upon comparison with the records in this office bearing his signature is believed to be genuine. It is also proven by testimony, that the town was in existence at the time the United States took possession of

the Territory. The above grant is, in the opinion of this office, a good and valid one, and is, therefore, approved and transmitted to the proper department at Washington for the action of Congress in the premises.

WM. PELHAM,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 24, 1856.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

The foregoing is a true copy of the original on file in this office.

WM. PELHAM,
Surveyor General.

POBLADORES DE LA CASA COLORADO.

[José María Perea, Rafael C. Perea, Antonio Torres, Dionicio Maldonado, Eugenio Varela, Domingo Lucero, Vicente Torres, Juan Cruz Yturrieta, Julian Sanchez, Aban Sanchez, Miguel Archuleta, Gregorio Sedillo, José de Jesus Maldonado, José Sedillo, Miguel Lucero, Rafael Sedillo, Guadalupe Perea Vuida, Matilde Montoya Ydem, Cristoval Jaramillo, Rafael Torres, Buenaventura Sanchez, Manuel Baca, José Baca, Juan Antonio Serna, José Antonio Benavides, Carlos Baca, Juan Augustin Barela, Vicente Moya, Antonio Torres 1st, Julian Benavides, Tomas Benavides, José Gallego, José Ma. Sedillo, Antonio Torres 2d, Joaquin Sanchez, Mariano Pino, José Pino, Estevan Baca, A. V. S., Andres Samora, José Antonio Sedio, Juan Castio, Tomas Sanchez.]

M. Ylustre Ayuntamiento de Tomé :

En ciudadano José María Perea por si y á nombre de los pobladores del Manzano que constan anotados al margen, con el debido respecto hacen presente á V. S. que habiendo acordado la exma. diputacion provincial de este Territorio en cumplimiento de lo que previene el articulo diez y seis del decreto de 23 de Junio de 1813, de que estos habitantes dispersos en los valles y Montes, se reduzcan á vivir en poblado, en conformidad de lo dispuesto por las leyes ; y habiendose ejecutado por V. S. la dispocicion de S. E. recurrimos á V. S. á fin de que las tierras que se nos han facilitado para cultivar, poblar, y poseér con propiedad lejitima, se sirva V. S. ponernos en plena posecion, señalando los limites de terreno que estamos poseando en el punto conocido de la Casa Colorado, poniendonos por linderos de Norte á Sur desde el lindero de la jurisdiccion de Tomé hasta la ruina de la conosida por la antigua poblacion de las Nutrias ; y por el oriente los ejidos necesarios para pasteos y demas usos comunes, trabesias y serti-dumbres necesarias á toda poblacion construida sobre todos los solidos fundamentos de propiedad comun, particular, y habitada por los mismos ; pidiendo en circunstancia que para que cualesquier individuo de los anotados, ú otros que en lo subsecivo sin perjuicio de estos se admitieren en la nueva poblacion de la Casa Colorado pueda adquirir legitima propiedad, ha de fabricar casa formal de terrado,

adobe, y hacer introducion de sus bienes de toda clase contribuyendo en todas las obras de comunidad, procurando el ingreso y adelanto de la poblacion, defendiendo con las armas los hogares de su pueblo en todo su termino, contra cualquier enemigo interior y exterior, y ultimamente que el que no habitase en dicha poblacion con toda la familia que le corresponda, pierda, habitando en otra el derecho de propiedad que habia adquirido, por todo lo espuesto, pedimos todos y cada uno se sirva V. S. por medio de una comision de su seno mandar se nos señale los terminos de la poblacion en los puntos que llevamos referidos, y verificado, se nos obligue á poner las mohoneras correspondientes para gobierno de los pobladores y publico de toda la provincia, dandonos dicho terreno á nombre del supremo gobierno de la nacion Méjicana á cuya masa pertenecen los individuos que representan; pasandola en seguida á la exma. diputacion provincial de este Territorio para que de S. E. emane la aprobacion correspondiente; costas, protestas, y lo necesario. Tomé 12 de Julio de 1823, tercero de la yndependencia, y segundo de la libertad.

JOSÉ MARIA PEREA.

SALA CAPITULAR DEL AYUNTAMIENTO DE TOMÉ,
19 de Julio de 1823.

Como lo piden los interesados ha acordado esta corporacion, que por una comision de su seño se les señalen los puntos que piden por linderos del terreno, en que se les ha dado á nombre del supremo gobierno de la nacion pasandolo diligenciado á la excelentisima diputacion provincial de este Territorio para la aprobacion de estilo.

BARTOLOMÉ BACA.

MIGUEL DE OLONA,
Secretario de Cabildo.

En sesion de 30 del pasado Julio acordado esta diputacion aprobar la presente diligencia que es sobre pocesion de terreno á los vecinos del Manzano dio el ayuntamiento de Tomé en el paraje conosido con el nombre de la Casa Colorada. Dado en Santa Fé, á los 15 dias del mes de Setiembre de 1823, 3º y 2º doy fé.

JUAN BAUTISTA VIGIL,
Dip^{do}. Srio.

SURVEYOR GENERAL'S OFFICE, TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, December 26, 1856.

The foregoing is a correct copy of the original on file in this office.
DAVID V. WHITING, *Translator.*

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 30, 1856.

David V. Whiting, whose signature appears subscribed to the foregoing certificate, is, and was at the time of the signing of the same, the translator of this office.

WM. PELHAM,
Surveyor General.

CLAIM No. 32—HUGH STEPHENSON ET AL.

SANTA FÉ, *August 6, 1856.*

Enclosed you will find the petition of Mr. Hugh Stephenson, and the heirs at law of Juan Antonio Garcia, for a confirmation of their title to what is called the "Braceto grant of land," situated on the Rio Grande in Dona Ana county; you will find from an examination of the exhibits the following facts are proved:

1st. The occupancy of said grant from 1805 with claim of title, and general recognition of title of Juan Antonio Garcia and his heirs up to the present time, being over fifty years.

2d. That a grant was duly made in 1822 or 1823, by José Ordas, lieutenant governor of El Paso, that said grant existed in the archives of El Paso, and possession was duly given under said grant to Juan Antonio Garcia, but that in 1846, during the war between the United States and the republic of Mexico said grant was destroyed.

3d. That the boundaries of said land are duly ascertained by actual survey and the amount of land in acres estimated.

4th. That the heirs of Juan Garcia are the owners of one-third of said land, and Hugh Stephenson two-thirds, according to the survey and division made between them and the titles connected.

5th. The records of your office will perhaps show that two or three donation claims have been filed to portions of land situated within the limits of said grant, but as the eighth section of the act of 22d July, 1854, does not permit donation claims on Mexican grants until final action of Congress on such grants, it is unnecessary to allude to them further than to state, should it be necessary, there is abundant proof to show that the persons claiming said donations went into possession under the petitioners with a full knowledge of their title and with their license, and that they cannot now set up title in opposition to their landlord. With these suggestions the case is now submitted to you for your confirmation and report.

Yours, &c.,

JOHN S. WATTS,
Attorney for Claimants.

Hon. WILLIAM PELHAM,
Surveyor General, New Mexico.

—
SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

The foregoing is a correct copy of the original on file in this office.

WM. PELHAM,
Surveyor General.

TERRITORY OF NEW MEXICO, }
County of Sante Fé. }

*To the honorable William Pelham, Surveyor General of the Territory of
New Mexico, under the act of Congress approved July 22, 1854:*

Your petitioners, the heirs at law of Juan Antonio Garcia, deceased, and Hugh Stephenson, a vendee of said heirs, would respectfully state to you that, in the life time of the said Juan Antonio Garcia he went into the possession of a tract of land now situated in Doña Ana county in the year 1805, and him and his heirs continued to occupy and possess the said tract of land until the year 1851, when the said heirs sold a two-third interest in the said land to the said Hugh Stephenson, who went into the possession of the whole of said tract of land, and so continued in said possession until the same was surveyed and divided between the said heirs and said Stephenson, under the direction of the United States district court for the third judicial district, Doña Ana county. Your petitioner, further state, that the said tract of land is bounded as follows: "Beginning at a point on the Rio Grande known as the mouth of the Brazito acequia and running south along the said river a distance of three leagues to a lake known as the Trujillo lake, and thence extending back towards the east from said river to a range of sandy hill varying in distance from two to four and a half miles; thence in a northerly direction along said sandy hills, varying from two to four and a half miles from the river to a point due east of the place of beginning, and thence to the place of beginning." Your petitioners further state, that since the occupancy of the said Juan Antonio Garcia up to the present time the right and title of your petitioners to the land above mentioned has never been disputed by any one known to your petitioners. Your petitioners, further state that the said grant was not made to the said Juan Antonio Garcia until the year 1822 or 1823, notwithstanding he had continued to occupy said lands since the year 1805. Your petitioners further state that said grant was duly made by Don Jose Ordas, lieutenant governor of El Paso, then being within the jurisdiction of the State of Durango, Mexico, and possession was duly given and taken of the land aforesaid, but in consequence of the partial destruction of the archives of El Paso by the American troops in the year 1846, during the war with Mexico, the original grant has been lost or destroyed. Your petitioners would further state that, in a suit in the United States district court for the third judicial district, Doña Ana county, between the said heirs of Juan Antonio Garcia and the said Hugh Stephenson, the existence of the said grant was duly proven and its loss, and the possession of Juan Antonio Garcia and his heirs from 1805 to the time of said suit, and under the direction, order, and decree of said court said tract of land was surveyed and divided between the said Hugh Stephenson and the heirs of Juan Antonio Garcia, and deeds executed accordingly, by which the title to (13,482) acres of said land became vested in the said Hugh Stephenson, and (6,730) remained still in the heirs of Juan Antonio Garcia. Your petitioners would further state, that all the facts aforesaid will fully and at large appear by reference to a certified copy of the pro-

cedings in the said case of the heirs of Juan Antonio Garcia and Hugh Stephenson, which said proceedings are hereby made a part of this petition, marked as exhibit (W) herein, also the said deeds marked X and Y herein, and the map of said tract of land hereby made a part of said petition, marked as exhibit (O) herein. Your petitioners therefore ask that such steps may be taken in the premises, under said act of Congress, as will confirm to the said heirs of Juan Antonio Garcia the part belonging to them, and to the said Hugh Stephenson the part belonging to him, and as in duty bound they will ever pray, &c.

JOHN S. WATTS,

Attorney for claimants.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

The foregoing is a true copy of the original now on file in my office.

WM. PELHAM,
Surveyor General of New Mexico.

THE STATE OF TEXAS, }
County of El Paso. } ss.

Know all men by these presents, that I, Hugh Stephenson, of said county and State, in consideration of the concession and transfer by deed to me, of the date hereof, by Francisco Garcia y San Juan, of the town of El Paso, in the State of Chihuahua, in the republic of Mexico, of two thirds of the "Brazita tract of land," in conformity with previous agreement, and in compliance with a decree of the honorable district court of the United States for the county of Dona Ana, in the Territory of New Mexico, made at the spring term of said court in the year A. D. 1854, and in accordance therewith the survey and division of said tract of land, as made by Stephenson Archer, specially appointed by said court thereunto, have and thereby do relinquish and release unto the said Francisco Garcia y San Juan all my right, interest and claim in and to all that remaining one-third of said "Brazita tract of land," as represented in the plat of said tract in the survey aforesaid, and bounded as follows, to wit:

Beginning at a stake on the left bank of the Rio Grande in said county of Dona Ana, ten thousand (10,000) varas from the mouth of the Brazita acequia, set for the southwest corner of the two-thirds of said Brazita tract conveyed as aforesaid by said Francisco, and is also the northwest corner of this tract. Thence down said Rio Grande with its meanders five thousand (5,000) varas to a stake on the bank of said river, set for the southwest corner of said Brazita tract, from which a cotton wood tree, 14 inches in diameter, bears north 31° east, 21 varas. Thence east one hundred (100) varas to Trujilla lake, seven thousand five hundred (7,500) varas to a stake set in the sand hills for the south east corner of said Brazita, and the south east corner of this tract; thence in a northerly direction with said hills eleven

thousand five hundred and twenty (11,520) varas to a stake set for the southeast corner of the tract conveyed by said Francisco as aforesaid, and is also the northeast corner of this tract; thence west with "division line" and the south line of said two-thirds tract to the place of beginning, containing six thousand seven hundred and thirty-one (6,731) acres, more or less, to the said Francisco and unto his heirs and legal representatives; to have and to hold the same, together with all and singular the rights, privileges and appurtenances thereunto belonging, for ever, and against me, my heirs and legal representatives, and against all persons whomsoever claiming or to claim of, under, through or by me or them or either of them.

In testimony whereof, I have hereunto set my hand and scroll for seal this sixteenth day of November, in the year one thousand eight hundred and fifty-four.

HUGH STEPHENSON, [SEAL.]

Witnesses:

C. J. McBRIDE,

HORACE F. STEPHENSON.

STATE OF TEXAS, }
County of El Paso. }

Personally appeared before me, J. Hubbell, a duly commissioned notary public in and for the above county, Hugh Stephenson, to me well known, and acknowledged that he signed the foregoing instrument for the purposes and intentions therein expressed.

In testimony whereof, I hereby sign my name and affix my official seal this seventeenth day of November, 1854.

J. HUBBELL,
Notary Public.

—
TERRITORY OF NEW MEXICO, }
County of Dona Ana. }

I hereby certify that the foregoing instrument was filed in my office on the 12th day of March, A. D. 1855, and that the same is duly recorded in book B, page 187, of the county records.

In testimony whereof, I have hereunto set my hand and affix my seal of office at Las Cruces, this 12th day of March, A. D. 1855.

JAMES A. LUCAS,
Probate Clerk.

—
SURVEYOR'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

The foregoing is a faithful copy of the original document on file in this office.

WM. PELHAM.
Surveyor General.

THE STATE OF TEXAS, }
 County of El Paso. } ss.

Know all men by these present that I, Francisco Garcia y San Juan, of the town of El Paso, in the State of Chihuahua, in the republic of Mexico, for and in consideration of one thousand (\$1,000) dollars to me in hand paid, the receipt whereof is hereby acknowledged, have this day bargained, sold and released, conveyed and confirmed, and by these present do bargain, sell, release, convey, and confirm, unto Hugh Stephenson, of the county of El Paso, in the State of Texas, by virtue of former agreement and in accordance with a decree of the honorable the United States court for the county of Doña Ana, in the Territory of New Mexico, in the United States, made and decreed at the spring term of the said court in the year A. D. 1854, in a cause wherein Francis Garcia y San Juan was complainant, an dsaid Hugh Stephenson was defendant, all my right, title, interest, claim and demand in and to all that certain parcel or tract of land situate, lying and being on the left bank of the Rio Grande in said county of Dona Ana, in said Territory, known as *two-thirds* of the "Brazito tract of land," so called and known, and bounded and described by the field notes and plat of the tract aforesaid as made by Stephen Archer, in conformity with the decree aforesaid, as by reference thereunto will more fully appear. Beginning at a stake set no the left bank of the Rio Grande aforesaid, at the mouth of the acequia known as the Brazito acequia. Thence down said Rio Grande with its meanders ten thousand (10,000) varas to a stake on the bank of said river, set for the southwest corner of the two-thirds of said Brazito tract, by said decree ordered to be set apart by "division line" running from said river to the sandy hills, in conformity with said agreement, and denominated on said plat the "division line." Thence east with said "division line" to a stake in said sandy hills, set for the southeast corner of said two-thirds tract. Thence with said sand hills in a northerly direction eleven thousand five hundred and twenty (11,520) varas to a stake set for the northeast corner of said tract. Thence west with the north boundary line of said Brazito tract three thousand eight hundred (3,800) varas to the place of beginning, containing thirteen thousand four hundred and sixty-two (13,462) acres of land, more or less, unto the said Hugh Stephenson, together with all and singular the rights, privileges and appurtenance, of whatsoever nature thereunto belonging, and unto his heirs and legal representatives, to have and to hold forever, hereby warranting the same unto him and them against me, my heirs and legal representatives, and against all persons claiming or to claim by or through me or them or either of them, and against all lawful claim or claims of all persons whomsoever.

In testimony whereof, I have hereunto set my hand and scroll for seal this sixteenth day of November, in the year one thousand eight hundred and fifty four.

FRANCISCO GARCIA Y SAN JUAN.

Witness:

C. J. MCBRIDE,

HORACE F. STEPHENSON.

STATE OF TEXAS, }
 County of *El Paso.* }

Personally appeared before me, Jarvis Hubbell, duly commissioned notary public, Francisco Garcia y San Juan, who acknowledged that he signed the foregoing instrument for the purposes and intentions therein expressed.

[L. S.] In testimony whereof, I hereby sign my name and affix my official seal this seventeenth day of November, 1854.

J. HUBBELL,
Notary Public.

TERRITORY OF NEW MEXICO, }
 County of *Doña Ana.* }

I hereby certify that the foregoing instrument was filed in my office for record on the 12th day of March, A. D. 1855, and the same is duly recorded in book B, page 1855, of the county record.

[S. L.] In witness whereof, I have hereunto set my hand and affixed my seal of office at Las Cruces this 12th day of March, A. D. 1855.

JAMES A. LUCAS,
Probate Clerk.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

The foregoing is a true copy of the original on file in my office.

WM. PELHAM,
Surveyor General.

HUGH STEPHENSON *et al.* }
 vs. } *Grant.*
 THE UNITED STATES. }

The above case was set for trial on the 1st day of December, 1856.

In the year 1805, Juan Antonio Garcia petitioned Joaquin Real de Alencaster, the governor of the province of New Mexico, for a grant of land in what is now the county of Doña Ana, to extend from the Brasito, on the Rio Grande, to the marsh or lake of Trujillo, promising to build a house, erect enclosures, and cultivate the soil; maintaining fifteen men there at his own expense, for the purpose of protection, until travel and the benefits to be derived from working the mines in the adjoining mountains should attract a sufficient number of persons to form a permanent settlement.

On the 4th day of August, 1805, Joaquin Real de Alencaster, the governor of the province to whom the petition was addressed, decreed that the grant would be made whenever settlement should be established in the vicinity of the land petitioned for. On the 29th of

November, 1816, Juan Antonio Garcia again petitioned Bernardo Bonavia, the commandant general of the State of Durango, for a grant of the land, of which he had been in possession since the year 1805, and containing the same boundaries set forth in the petition made by him in that year, stating that there were several individuals of El Paso who had volunteered to accompany him in the formation of a settlement, and also promising to plant certain lands for the Apache Indians, and furnish them with provisions from the crops he might raise at the above mentioned place, for the purpose of keeping them at peace.

On the 14th of April, 1817, the commandant general referred this petition to the lieutenant governor of El Paso, requiring him to report thereon. On the 29th of June, 1819, José Ordas, the lieutenant governor of El Paso, reported in favor of the petition.

On the 17th of July, 1817, the commandant general of Durango returned the petition to the lieutenant governor of El Paso, requiring him to enclose the list of persons who were desirous of accompanying Juan Antonio Garcia in the formation of the settlement referred to in his petition, and to state the extent of the land petitioned for, its distance from the nearest settlement, its resources, &c., and if the settlement and residence of the judicial and ecclesiastical officers could be formed in the centre of the land petitioned for. On the 30th of August the lieutenant governor of El Paso reported that the land contained in length about three leagues, and in width from one-fourth to over one league; that there was an abundance of water and pastures, and offered every facility for cultivation; that there was difficulty in establishing the settlement and residence of the officers in the centre of the land asked for, and that it was about fifteen leagues distant from the last houses of the town of El Paso, and enclosing the list of those persons who had volunteered to accompany Garcia in the formation of the settlement.

On the 12th of September, 1817, Juan A. Garcia addressed a petition to the lieutenant governor of El Paso, stating that, as the circumstances which existed at the time he applied for a grant to the land in question had changed, he prayed that no further action should be taken in the premises until requested by him.

On the 18th of February, 1820, the said Garcia again petitioned the governor of New Mexico, stating that those who had volunteered to accompany him in the formation of the settlement had given up the idea of going, on account of the many restrictions placed upon the grant, and that, as he had been occupying the land for eleven years, he hoped that this circumstance would be no reason why the grant should not be made to him alone, and still promising to maintain a small number of armed men at his own expense, and build houses, erect enclosures, and cultivate the land which was not occupied by the Indians, concluding his petition by praying that the grant be made to him, if convenient to the service of the king.

On the 18th of August, 1820, Facundo Melgares, the governor of New Mexico, declined making the grant, on a supposed want of authority in the premises, and referred the petitioner to the proper authorities in the case.

On the 28th of July, 1821, the said Garcia again petitioned the commandant general of Durango for a grant of the Brazito tract, recapitulating all the steps he had taken in the premises, and the action of the authorities from 1805 up to that date.

Immediately following this petition is to be found a statement, made by a comptroller of the State of Durango, recommending that the grant be made, and that the testimony of witnesses be taken in order to ascertain whether the land petitioned for was severed or not from the public domain, and, in case it was not, that an attorney general be appointed to superintend the interests of the public revenue; and that a report be subsequently made, in order to ascertain the resources of the land, and its adaptation to the raising of stock and cultivation.

On the 17th of January, 1822, the above proceedings were transmitted to the first justice of the town of El Paso, with instructions to comply with the request contained in the statements of the comptroller.

On the 18th of April, 1822, the justice of El Paso proceeded to take the testimony of witnesses as to whether the land was public domain or not, and it was proven by said testimony that the land in question had not been severed from the public domain, but was public land. The above proceedings were then transmitted by George Guereña, the justice aforesaid, to Don José María Cordova, of the vicinity of El Paso, who, on the 19th of April of the same year, reported the extent, locality, resources, &c., of the land petitioned for. In order to comply with all requirements contained in the statement of the comptroller, George Guereña, the justice aforesaid, appointed Julian Bernal as attorney to superintend the interests of the public revenue, and, transmitting all the proceedings to him, requiring him to report on such matters as appertained to his duties as such attorney. The report of the attorney aforesaid does not appear in full in the documents filed in this office, having been torn off at some period unknown to the claimants.

A certificate, given by the second justice of the cantonment Bravos, follows the above, certifying that they are true copies of all the papers which could be found in the archives of El Paso relative to the Brasito grant of land, and which remained after the destruction of the archives by the United States troops, in the year 1846.

On the 30th day of March, 1829, Francisco Garcia y San Juan, son of Juan Antonio Garcia, who departed this life in the year 1828, addressed a petition to the prefect or justice of the opposite side of the river Bravo, requesting him, after reviewing the testimony presented to him, showing the occupancy of his father from the commencement of the present century up to the time of his death, in the year 1828, and that a grant was made to him according to law, that he declare him a legitimate owner of the Brasito tract of land.

On the 13th of February, 1849, Francisco Garcia y San Juan petitioned the justice of El Paso to cause certain individuals, therein named, to appear before him to answer the interrogatories contained in the petition, as to whether the witnesses were acquainted with his deceased father, and if he resided at the Brazito from the commence-

ment of the present century up to the time of his death; if they knew that at his own expense he cultivated the lands of El Bracito during his lifetime, and if he was lawfully placed in possession of the land by the competent authorities of the country; and that if he (the son) abandoned the land on account of indolence, or on account of the invasions of the Indians.

The answer to these interrogatories show that Juan Antonio Garcia occupied the Bracito lands during the time mentioned; that he cultivated the same at his own expense; that he was lawfully placed in possession by the competent authorities of the land; that some of the witnesses had the original documents granting the possession in their own hands; and that Francisco Garcia y San Juan abandoned the land on account of the constant attacks of the Indians, and the hourly exposure of his life.

On the 17th of March, 1849, Juan Maria Ponce de Leon, political chief of the cantonment Bravos, at the request of Francisco Garcia y San Juan, certified that Juan Antonio Garcia, deceased, petitioned for a grant of land at the Brasito; that he resided there for many years, cultivating the soil and raising stock; that, almost at his own expense, he kept the neighboring Indians at peace, and rendered many important services to travellers, and even to the entire nation, until the hostilities and incursions of the Indians drove him away; that, at a subsequent period, a grant of land was made to one John Gill, in the vicinity of El Bracito, and that the limits of Garcia's lands were always excepted from being granted to others; and that he knew all the above facts, having been appointed a commissioner by the Mexican government to examine the land petitioned for.

Further interrogatories were taken in the year 1849, showing that a grant was actually made to Juan Antonio Garcia, by Jose Ordas, who was at the time lieutenant governor of El Paso, and testifying as to the boundaries of the grant.

It is also proven, at the request of Francisco Garcia y San Juan, that the United States troops, during the war with Mexico, in the year 1846, when they took possession of the town, destroyed a large portion of the public archives of El Paso, where the originals of all grants were required to be deposited, thereby preventing the claimants from procuring all the documents necessary to the establishment of their claim.

On the 15th day of September, 1851, the remaining heirs of Juan Antonio Garcia executed powers of attorney to Francisco Garcia y San Juan, authorizing him, in their name, to establish before the government of the United States any claim they may have had in the said Bracito tract of land, with full power of substitution or revocation; and, by virtue of said powers of attorney, on the 16th of September, 1851, the said Francisco Garcia y San Juan substituted Hugh Stephenson, of the county of Doña Ana, in this Territory, to prosecute said claim before the authorities of the United States, vesting in said Stephenson all the rights and privileges he himself had derived from the heirs of the said Juan A. Garcia.

In the same year, 1851, those purporting to be heirs of Juan Antonio Garcia, sold the undivided two-thirds of said tract of land to Hugh

Stephenson, the present claimant, with the condition that they would obtain and perpetuate the testimony of the possession of the land by the authorities of the Spanish and Mexican governments to their ancestor the said Juan Antonio Garcia.

At the May term of the United States district court, a petition was filed in chancery by the supposed heirs of Juan Antonio Garcia against Hugh Stephenson, for the compliance with the terms of the sale to him made. During the progress of said suit witnesses were examined by order of the court, who proved that said Juan A. Garcia was lawfully seized of the land in dispute; whereupon a survey of the land was ordered to be made by said court, and a decree entered "that the defendant pay, or cause to be paid, the sum of one thousand dollars or its equivalent to the said complainants, as the purchase money of a two-third interest in the tract of land in said bill mentioned, known as the Bracito tract of land; beginning at a point on the Rio Grande, known as the mouth of the Bracito acequia, and running south along the said river a distance of three leagues, to a lake known as the Trujillo lake, and thence extending back towards the east from said river to a range of sand hills, varying in distance from two to four and a half miles; thence in a northerly direction along said sand hills, varying from two to four and a half miles from the river, to a point due east from the place of beginning, and thence to the place of beginning. It is further ordered, judged and decreed, that upon the payment of the said purchase money as in said bill specified, the said Stephen Archer be directed to survey and divide said tract of land between said complainants and the said Hugh Stephenson, according to the agreement in said bill stated and in said answer confessed to, giving to the said complainants one-third of the said tract of land, and the said Hugh Stephenson two-thirds, and report said survey and division to the next term of this court. It is further ordered, adjudged, and decreed that said complainants' deed to said defendant after said survey and division, two-thirds of said tract of land in said bill mentioned, and that said Hugh Stephenson deed to said complainants his right, title and claim to one-third of said tract of land in said bill mentioned, &c.

The deeds ordered by the court were duly executed and are filed with the documents presented by the claimants; the survey was also executed, and the plat made by Stephenson Archer is also filed in support of the claim.

The papers acted upon by this office, with the exception of the deeds and plat ordered by the court, are copies of the proceedings had in the United States district court, and duly certified by the clerk thereof.

It is not necessary for this office to examine into the validity of the testimony taken by the claimants in support of their claim, or whether it is taken in accordance with the requirements of the usage in taking testimony in a foreign country to be used within the United States, there being no instructions to this office other than to receive the testimony presented by claimants, and the question is, therefore, submitted for the deliberations of Congress.

From the facts set forth in the testimony presented, it appears that Juan Antonio Garcia was in possession of the Brazito tract of land in the year 1805, and that he and those purporting to be his heirs

and their assigns have continued in possession of the same up to the present day.

The testimony also shows that a grant was made to Juan Antonio Garcia in the year 1822 or 1823, by Jose Ordas, the lieutenant governor of El Paso; that owing to the destruction of the public archives, where such documents were ordered to be kept, at that place, in the year 1846, by the American troops, it was impossible for the grant itself or a copy thereof to be presented by the claimants, although diligent search was made for it without success.

The claimants have not presented any testimony to prove that the present claimants are the legal heirs and assignees of Juan Antonio Garcia, deceased. It is the opinion of this office that the case is one covered by the treaty of Guadalupe Hidalgo of 1848, and sustained by the decision of the Supreme Court of the United States in the premises, and that therefore the grant made to Juan Antonio Garcia by the authorities of the Mexican government, in the year 1822 or 1823, is a good and valid grant, and as no claim of title is presented to show that the present claimants are the legal heirs and assigns of said Juan Antonio Garcia, it is the opinion of this office that the grant should be confirmed to Juan Antonio Garcia alone.

The case is, therefore, transmitted to the proper department at Washington, for the action of Congress in the premises.

WM. PELHAM,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

The foregoing is a true copy of the original on file in this office.

WM. PELHAM.
Surveyor General of New Mexico.

UNITED STATES DISTRICT COURT, TERRITORY OF NEW MEXICO.

3d Judicial District, County of Doña Ana.—May term, 1853.

Pleas begun and held before the honorable John S. Watts, one of the associate justices of the supreme court of the Territory of New Mexico, on Monday, the 16th day of May, A. D. 1853, at the court house in the town of Las Cruces, in and for the county of Doña Ana, in the third judicial district of said Territory of New Mexico.

Be it remembered, that heretofore, to wit, on the 9th day of May, 1853, the following bill in chancery was filed in the clerk's office of said district court, in the words and figures following, to wit:

DISTRICT COURT OF THE UNITED STATES, } In the said county, May term,
County of Doña Ana. } A. D. 1853. In chancery.

*To the honorable Horace Mover, presiding judge of said district court,
sitting in chancery :*

Your orators and oratrixes, Francisco Garcia y San Juan, Josefa Garcia, Mariano Garcia, Josefa Bernal, Manuela Bernal, Mariano Bernal, Jesus Bernal, Nicolas Bernal, Miguel Cordoba, Jesus Cordoba, Trinidad Cordoba, Guadalupe Cordoba, Blasa Cordoba, and Josefa Cordoba, in their own right and behalf; and Camillo Alvarez, on part of and in behalf of his children, Santos and Maria Alvarez, minors, descendants and legal heirs of Marta Orcasitas, deceased; and Pablo Melendres, on the part of and in behalf of his children, Jesus, Trinidad, Pablo, Josefa, Antonio, and Libreato Melendres, descendants and legal heirs of Guadalupe Orcasitas, deceased, the last named, Melendres, being residents of the county of Doña Ana, the said Alvarezs residents of the same county, and the remainder of said complainants residents of the State of Chihuahua, humbly complaining, show unto your honor, that their common ancestor, Juan Antonio Garcia, died in the year eighteen hundred and twenty-eight, leaving as his legal heirs Francisco Garcia y San Juan, Mariano Garcia, Ramon Garcia, Anastacio Garcia, Nestora Garcia, and Josefa Garcia; the two first mentioned of said heirs and complainants in this bill are now living; the said Ramon Garcia has since died, leaving as his legal heir your oratrix, Josefa Garcia; the said Anastacio Garcia having intermarried with — Orcasitas, died, leaving as her legal heirs Guadalupe and Marta Orcasitas, who have also since deceased; the said Guadalupe having intermarried with Pablo Melendres, left as her legal heirs the above named Jesus, Trinidad, Pablo, Josefa, Antonio, and Liberato Melendres; the said Marta Orcasitas intermarried Camito Alvarez, and left as her legal heirs, at her death, the said Santos and Maria Alvarez; the said Nestora Garcia, having intermarried with Tomas Bernal, died, leaving as her legal heirs the above named Josefa, Manuela, Mariano, Jesus, and Nicolas Bernal; and the said Garcia, having intermarried with José Maria Cordova, deceased, leaving as her legal heirs the above named Miguel, Jesus, Trinidad, Guadalupe, Blaza, and Josefa Cordova; and they, your said orators and oratrixes, humbly complaining, show unto your honor, that their common ancestor, Juan Antonio Garcia, in the year one thousand eight hundred and five, made a petition to the governor of the department of New Mexico, as will appear by said true copy of the petition, marked exhibit (A,) and filed herewith, wherein he, the said Juan Antonio, prayed a grant of the tract of the land situated in the now county of Doña Ana, and known as the Bracito tract, extending in length from the point in the Rio Grande known as the mouth of the Brazito acequia, and running south along the said river a distance of three leagues (or nine miles) to a lake known as the Trujillo lake, and extending back towards the east from said river to a range of sandy hills, varying in distance from said river from two to four miles and a half.

That the said petition, exhibit (A,) was not granted by the said governor, but was deferred from further consideration until there should be a settlement near the said Brazito tract; and the said Juan Antonio, being at that time, in the said year of eighteen hundred and five, in the possession of said tract, continued in the occupancy of the same, cultivated the ground, constructed a large acequia at immense cost, and during and for the term of fourteen years, or more, maintained in his employment from fifteen to twenty armed men, for the purpose of keeping in awe and checking the incursions and outbreaks of a band of Apache Indians, who lived in the immediate vicinity of and part of said tract of land, the said Juan Antonio having stipulated, in his petition to the governor of New Mexico, that if the said grant should be made to him, he would maintain fifteen armed men at the said point.

That the said Juan Antonio, being in the possession of the aforesaid tract of land in or about the year eighteen hundred and fifteen or sixteen, desired some residents of El Paso, a town situated about forty-five or fifty miles distant from said tract of land, to become occupants of said land in connexion with himself, and to aid him in obtaining a grant of the same; and in the year eighteen hundred and sixteen the said Juan Antonio Garcia made a petition to the governor and commanding general of Durango, Don Bernardo Borraño, praying a grant of said land to him, Juan Antonio Garcia, and others who were desirous of accompanying him in the occupation of said tract, which will more fully appear by exhibit (B,) filed herewith, which is a true copy of the originals; that, as will more fully appear by said exhibit, B and C, true copies of the originals, filed herewith, the said petition last aforesaid was referred by the said commanding general of Durango to the lieutenant governor of the town of El Paso, then appertaining to the jurisdiction of the said State of Durango, and directing the said lieutenant governor to ascertain the boundaries and establish the same; also, to ascertain the distance of said tract of land from the nearest settlement; and in the case that it should be adjudged to the parties, (meaning the said Juan Antonio and eleven others who desired to occupy with him,) that they, the said parties, should be required to build the houses of the ecclesiastic and of all the judges or authorities, and should establish their residences in the centre of said tract of land; and that the settlement should appertain to the jurisdiction of the town of El Paso for judicial and ecclesiastical purposes, and other conditions which would have made the grant generous to the parties praying for the same, as will more fully appear by reference to exhibit (C.)

That the said Juan Antonio and the other parties to the petition, not desiring to comply with the conditions with which said grant was directed to be encumbered, withdrew their application for the grant, and requested that all further proceedings in regard to the same should be suspended; which will more fully appear by reference to exhibit (D,) filed herewith, which is a true copy of the original.

The said Juan Antonio Garcia remained alone in the occupancy of said tract, and in the year one thousand eight hundred and twenty, as will appear by exhibit (E,) filed herein, a true copy of the origi-

nal, made a second petition to the governor of the department of New Mexico for the grant of said tract of land; which was referred by the governor, on account of a want of authority to make the grant.

That afterwards, in the year eighteen hundred and twenty-one, the said Juan Antonio Garcia being in the continued possession of said tract of land, again petitioned the governor of Durango, as will appear by exhibit (F,) filed herewith, true copies of the originals, was referred by the governor of Durango to the comptroller of the State, and by him referred to the lieutenant governor of El Paso, Don José Ordos, with instructions to take the affidavits of witnesses as to whether the said Brazito tract of land was public domain or not; and also to ascertain its resources, its advantages for cultivation, and its adaptation to stock raising, upon which the affidavits of several witnesses were taken under the direction of said Governor Ordos, copies of which affidavits are filed herewith, and marked exhibit (K,) and are true copies of the originals.

That the said Don José Ordos, in the year twenty-two or three, made a grant of the said tract of land to the said Juan Antonio Garcia, founded upon the last aforesaid petition of the said Juan Antonio and upon the proceedings had in the case, and your orators' and oratrixes' said ancestor was formally put in possession of said Brazito tract of land by the authorities of El Paso by order of José Ordos, then lieutenant governor of that jurisdiction.

Your orators and oratrixes would further represent, that the said original grant, and all the said petitions, papers, and proceedings relating to the said claim or grant of said Brazito tract of land were filed and placed for safe keeping among the public archives of the said town of El Paso, as required by law, the said tract of land known as Brazito being under the jurisdiction of El Paso.

They further show unto your honor, that in the year one thousand eight hundred and forty-six the government of the United States of America and the republic of Mexico, being at war with each other, the troops of the government of the United States having conquered and taken possession of the said town of El Paso, they, the troops, took possession of and occupied the chambers of the ayuntamiento (or common council) of said town of El Paso, in which chambers the originals, all grants, deeds, and public documents were deposited for safe keeping, as required by law, and the troops destroyed a large portion of the public documents that were deposited in the public archives. Many deeds and original grants were afterwards found to be missing, and many others found scattered in the streets and about the said chambers which were used as aforesaid by the said troops as quarters; and that, among others, some papers belonging to the, and relating to the, said grant of the Brazito tract were entirely lost, and among them the grant of the said lieutenant governor to Juan Antonio Garcia.

Your orators and oratrixes further represent, that they have searched and caused diligent search to be made, among said archives for the said papers and original grant, but were only able to obtain those heretofore referred to, and filed as exhibits in this cause.

That the said Juan Antonio Garcia was in continued possession of

said described tract of land from the said year eighteen hundred and five to the year eighteen hundred and twenty-eight, when he departed this life, leaving in possession Francisco Garcia y San Juan, his son. That in the year 1851 your orators and oratrixes, being seized in fee simple, and also entitled in equity to the said tract of land, entered into an agreement to sell to Hugh Stephenson, a resident of the county of Doña Ana, and to make him a legal title to an undivided two-thirds interest of the said tract of land, he, the said Stephenson, agreeing to pay to your orators and oratrixes the purchase money for the same, to wit: the sum of one thousand dollars, or its equivalent, and forever defend and pay all costs that might accrue in the defence of your orators' and oratrixes' title to the remaining one undivided third of said tract of land as soon as and from and after such time as your orators and oratrixes have perpetuated the testimony of the witnesses to the fact of the said original grant from José Ordos, lieutenant governor of El Paso, to the said ancestor, Juan Antonio Garcia, having existed; and that the said ancestor was placed in formal possession by order of the said Ordos; and as to the fact of the said original grant and papers having been destroyed or lost; and as to the fact of possession, by the said ancestor, from the year eighteen hundred and five to the time of his decease.

Your orators and oratrixes further represent that, immediately upon the making of said agreement to sell said land, the said Hugh Stephenson (defendant) entered into, and is now in possession of, the whole of said tract of land, and sometimes pretends that no original grant, as aforesaid, existed; that your orators' and oratrixes' said ancestor was not put in possession as aforesaid; that if said grant existed, it was not destroyed as aforesaid, and that the said ancestor was not in possession from the said year of eighteen hundred and five until his decease; also pretends that, being in possession, he has a better right to said land than your orators and oratrixes, whereas your orators and oratrixes charge that the contrary is true.

Your orators and oratrixes further show unto your honor that the said witnesses, to wit: Bentura Lopez, José Jacques Ynocente Herera, Tomas Yrigoyen, Francisco Orcacitas, Juan Antonio Drobencia, are all them residents of the republic of Mexico, and out of the jurisdiction of the court, but now temporarily residing within the same; that many of them are over age of fifty years, and that their residence is likely to be lost by death or departure of said witnesses from the Territory and out of the jurisdiction of this court.

That your orators and oratrixes are not in a situation to prove at law the facts which can only be proven by said witnesses, and are desirous that said testimony of said witnesses to the said facts may be perpetuated and preserved. May it therefore please your honor that the said defendant, Hugh Stephenson, may answer the several matters aforesaid, and that the said witnesses to prove the facts of the existence of said original grant, by the said Ordas, to your orators' and oratrixes' ancestor. The fact of the said ancestor being put in formal possession as aforesaid; the fact of possession, by said ancestor, from the year eighteen hundred and five as aforesaid, and the fact of the loss or destruction of the original and other papers as

aforesaid, may be recorded and perpetuated in the court for the benefit of your orators and oratrixes, respectively, and that one or more commissioner or commissioners may issue under the seal of the honorable court for the examination of said witnesses.

May it please your honor to grant unto your orators and oratrixes a writ of subpoena directed to the said defendant, Hugh Stephenson, thereby commanding him to be and appear before your honor in this court at the next May term, A. D. one thousand eight hundred and fifty-three, and on the first day of said term of the court in said county of Doña Ana, and then and there answer the premises; and that the said defendant, being served with a copy of the bill, may be bound by all the proceedings in this cause, and as in duty bound will ever pray, &c.

M. F. TULLY,
Solicitor for Complainants.

TERRITORY OF NEW MEXICO, }
County of Doña Ana. }

Personally appeared before the clerk of the district court, county of Doña Ana, Pablo Melendres, guardian of certain minors mentioned in the above petition, who being duly sworn on oath, say that the facts set forth in the foregoing bill, in regard to the loss or destruction of the papers and grant herein referred as being lost or destroyed, and the facts in regard to the danger of said testimony of said witnesses in said bill mentioned in regard to the facts therein stated of being lost, are true.

PABLO MELENDRES.

Subscribed and sworn before me this 17th day of May, A. D. 1853.
FRANCIS J. THOMAS, *Clerk.*

And afterwards to wit, on the second day of court of the May term, A. D. 1853, of said court, the following proceedings were had in said cause, to wit:

FRANCISCO GARCIA Y SAN JUAN *et al.* }
vs. }
HUGH STEPHENSON. }

"On motion of Mr. Tully, Mr. Esler Hendrie is now appointed a commissioner to take the depositions of the witnesses in this cause in the presence of the parties, on ten days' notice to the parties of the time and place of taking the depositions; said commissioner is directed to first swear said witnesses, then carefully write down their evidence, and then have them sign the same and certify to said facts, then seal up said depositions, direct the same to the clerk of the 3d judicial district, and cause the same to be filed in his office, and this cause is now continued until the next term of court."

And afterwards, to wit: on the 19th day of May, A. D. 1853, the following answer was filed, which is in the words and figures following:

FRANCISCO GARCIA Y SAN JUAN *et al.* } Bill to perpetuate testimony.
 vs. } (In chancery.)
 HUGH STEPHENSON.

Hugh Stephenson, defendant in the above cause, for his answer as defendant to said bill of complaint of said plaintiff's complainants.

That as to the fact of the original grant, he is informed and believes the same to be true that, that is, that the said original grant was made as set forth in petition, and that the same and other papers were lost or destroyed, as therein stated, and the said ancestor of said complainants being in possession as therein stated, he is informed and believes them to be true. That as to the fact of said agreement of this defendant to purchase the said undivided two-thirds interest to the said lands, that the same is true, and that the said defendant did promise to pay what he considers to be an equivalent to the amount set forth by complainants as the purchase money. That as to the fact that this defendant being in possession of the whole tract of land as described and set forth, he admits the same to be true, and that he took possession of said land under said agreement to purchase, and to pay the said purchase money when the said testimony of the said witnesses should be perpetuated, as is by the complainants alleged and set forth. That the defendant is willing at any time to give said complainants possession of their said undivided third interest on said tract of land, and to comply with his said agreement when the said testimony shall be perpetuated, and the said defendant says that without this that there is any other matter, cause, or thing, in said complainants' said bill of complaint contained material or necessary for this defendant to make answer to, and not herein and hereby well and sufficiently answered, conferred towards, or denied, is true to the knowledge and belief of this defendant, and this defendant humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

HUGH STEPHENSON.

Subscribed and sworn to before me this 19th day of May, A. D. 1853.

FRA'S J. THOMAS,
Clerk 3d Judicial District of the Territory of New Mexico.

Be it remembered, that on the second day of the November term for Doña Ana county, A. D. 1853, the following entry was made:

FRANCISCO GARCIA Y SAN JUAN *et al.*, } In chancery.—Bill to perpetuate testimony.
 vs. }
 HUGH STEPHENSON.

And now on this comes the defendant, by his counsel, S. A. Hubbel, and suggests the death of the commissioner, Esler Hendrie, appointed at the last term of this court, and moves the court to appoint a new commissioner. It is therefore ordered by the court that Lewis Flotte be appointed as said commissioner, and that he obey, conform, and execute, in all respects, the decree made in this case at the last term of this court, and thereupon Lewis Flotte appeared and was duly sworn as said commissioner.

Be it remembered, that on the fifth day of the May term, 1854, in

Doña Ana county, the following entry in the foregoing cause was made in the words and figures following, to wit :

FRANCISCO GARCIO Y SAN JUAN *et al.*, }
vs. }
HUGH STEPHENSON. } *Chancery.*

Now comes the complainants, by John S. Watts, their solicitor, and the defendant in his own proper name, and the commissioner, Lewis Flotte, heretofore appointed to take the evidence in this case, and now said commissioner files in court the depositions of Tomas Yrigoyen, Juan Agaton Herera, Tomas Rivera, Richard Campbell, Samuel G. Bean, and James A. Lucas, taken before him, and this cause, by the agreement of the parties, is now submitted to the court for a decree herein, and the court being sufficiently advised in the premises, do decree as follows :

It is now ordered that the defendant pay, or cause to be paid, the sum of one thousand dollars, or its equivalent, to the said complainants as the purchase money of a two of one of an interest in the tract of land in said bill mentioned, known as the Brazito tract of land, beginning at a point on the Rio Grande, known as the mouth of the Brazito acequia, and running south, along the said river, a distance of three leagues, to a lake known as the Trujillo lake, and thence extending back towards the east from said river to a range of sandy hills, varying in distance from two to four and a half miles, thence in northerly direction along said sandy hills, varying from two to four and a half miles from the river, to a point due east of the place of beginning, and thence to the place of beginning. It is further ordered, adjudged, and decreed, that upon the payment of the said purchase money, as in said bill specified, that said Stephen Archer be directed to survey and divide said tract of land between said complainants and the said Hugh Stephenson, according to the agreement in said bill stated, and in said answer confessed, giving to the said complainants one-third of the said tract of land, and the said Hugh Stephenson two-thirds, and report said survey and division to the next term of this court. It is further ordered, adjudged, and decreed, that said complainants deed to said defendant, after said survey and division, two-thirds of said tract of land in said bill mentioned, and that said Hugh Stephenson deed to said complainants his right, title, and claim to one-third of said tract of land in said bill mentioned, and that said deeds be reported to this court at the next term thereof, for the inspection and approval of this court. It is further ordered, that this case be continued until the next term of this court.

And on the same of said court, the following depositions were filed in the clerk's office of said district court, in the words and figures following, to wit :

The undersigned, Lewis Flotte, in virtue of being appointed a commissioner by the district court of the United States for the third judicial district of the Territory of New Mexico, county of Doña Ana, May term, 1853, to take depositions of the witnesses in the cause of Francisco Garcia y San Juan and others *vs.* Hugh Stephenson, (in chancery,) in virtue of said appointment, do take the present declara-

tion of Tomas Rivera, who appears personally, and being duly sworn, declares as follows: That he is a witness that Don Juan Antonio Garcia was put in possession of a tract of land called El Brazito, which land was measured in his presence, and the documents and titles of said land given by José Ordas, who was lieutenant governor at that time; that he saw the titles of said land, and had them in his possession, or his hands; that the line of said land commences at the "Boca acequia," and extends to some ponds of water called Trujillo; that said Garcia lived on the land a long time, and raised corn, wheat, &c., until the Indians compelled him to retire to El Paso; that it is notorious and public that said Garcia is the owner, legally and lawfully, of said land, and that if any of the documents of said land are missing it is because the United States forces destroyed part of the archives when they took possession of El Paso, in the last war; to all of which herein declared he doth swear to be the truth, and in testimony of which doth sign it.

LEWIS FLOTTE.
TOMAS RIVERA.

CONCORDIA, February 19, 1854.

The undersigned, Lewis Flotte, in virtue of being appointed a commissioner by the district court of the United States, for the 3d judicial district of the Territory of New Mexico, county of Doña Ana, May term 1853, to take the deposition in the cause Francisco Garcia y San Juan and others *vs.* Hugh Stephenson, (in chancery,) and in virtue of said appointment there appeared in person before me, Don Juan Agaton Herera, who being duly sworn declares as follows: That on the 29th of March, 1849, he gave his declaration before the judge of El Paso, lawyer Robbs, to the following effect; That he had known Don Juan Antonio Garcia, father of Don Francisco, who lived on the land of El Brazito from the year 1801 until 1828; that he was a witness that said Don Juan Antonio titled said land and was put in possession of it by Don Jose Ordas, lieutenant governor at that time of El Paso, and when he retired from said land it was because he was forced to do so on account of the Indians, and not by his own consent, and I, the undersigned, having read to him his said declaration given in Spanish, as before said, on the 29th of March, 1849, he declares it to be the same. I, the undersigned, having also sworn said Juan Agaton Herera to state whether he knew anything more in relation to said land, in answer he declares: that if he did not declare on the 29th of March, 1847, all he knew about, he said that it was because he was not questioned, but he now declares that he saw the document of said possession and that he was present when the land was measured, that the line extends from the mouth of Brazito acequia to Trujillo ponds; that it is notorious and public that said lands belong to Juan Antonio Garcia, and that if the documents are missing in the archives of El Paso it is because the United States forces destroyed them with great many other documents when they took possession of El Paso in the last war, to all of which stated in the present he does declare and swear to be the truth, in testimony does sign the present in concordia. February 21, 1854.

LEWIS FLOTTE.
JUAN AGATON HERERA.

The undersigned, Lewis Flotte, in virtue of being appointed a commissioner by the district court of the United States for the 3d judicial district of the Territory of New Mexico, county of Doña Ana, May term, 1853, to take deposition of the witnesses in the cause of Francisco Garcia y San Juan and others *vs.* Hugh Stephenson, (in chancery,) in virtue of said appointment there appeared before me, Don Tomas Yrigoyen, who being duly sworn declares as follows: That on the 21st of September, 1849 he gave his declaration before the alcalde of El Paso, Lorenzo de Barrio to the effect that he had not seen the papers of possession made out, but that he had said documents in his hands, which documents were made out and given by Don Jose Ordas, who was at the time lieutenant governor of El Paso; that also he declared the boundary line of said land was as follows: from the of the Boca acequia of El Brazito to the ponds of water called Trujillo, that from north to the south he was not certain which was boundary line. And the undersigned having made to him his said declaration given in Spanish, as before mentioned, on the 21st of September, 1849, also sworn said Yrigoyen to state whether he knew anything more in relation to said land, he said that respecting said land it is notorious and public that said land belonged to Juan Antonio Garcia, and that he was in like possession of said land, and that if any documents are missing it is because they were destroyed by the American forces in the last war; it is notorious and public and he, the said Yrigoyen, was an eye witness that the troops destroyed a great many documents when they took possession of El Paso; to all of which the said Yrigoyen doth swear to be true, and in testimony of all declared in the present does sign. Concordia. February 20, 1854.

LEWIS FLOTTE,
TOMAS YRIGOYEN.

TERRITORY OF NEW MEXICO, }
County of Doña Ana. }

I, Lewis Flotte, commissioner appointed by the district court of the United States, for the third judicial district of the Territory of New Mexico, county of Dona Ana, at the May term 1853, to take the depositions of witnesaes in the cause of Francisco Garcia San Juan *et al. vs.* Hugh Stephenson, (in chancery,) do hereby certify that the deposition of Thomas Yrigoyen, Juan Agaton Herera, and Thomas Rivera, were taken before me on the 19th, 20th and 21st days of February, 1854, at my chambers in concordia; that said witnesses were first duly sworn by me, and that their evidence was then carefully written down before me, and read to said witnesses and was then subscribed by them. Witness my hand and private seal, having no official seal, this 21st day of February, 1854.

LEWIS FLOTTE,
Commissioner.

FRANCISCO GARCIA Y SAN JUAN *et al.* }
 vs. }
 HUGH STEPHENSON. } *Chancery.*

Be it remembered, that on the 18th day of May, 1854, personally appeared before me, Lewis Flotte, a commissioner appointed by the district court of the United States, for the third judicial district of the Territory of New Mexico, county of Dona Ana, May term, 1853, to take the depositions of witnesses in the above entitled cause. Richard Campbell, competent witness, who being first duly sworn upon his oath, stated as follows, to wit:

Question 1st. Was you acquainted with Juan Antonio Garcia in his life time?

Answer. I was acquainted with him.

Question 2d. Was he the grandfather or the father of all the complainants in this bill?

Answer. He was either the father or the grandfather of said complainants.

Question 3d. When and where did you first become acquainted with Juan Antonio Garcia?

Answer. I first became acquainted with him in May or June of the year 1825.

Question 4th. Where was he then living?

Answer. He was then living in a good house with his family and servants, at a place called the Brazito, on a large and extensive ranch with a large quantity of land in cultivation, and a good acequia from the Rio Grande.

Question 5th. How long did he continue to live there?

Answer. I saw him still there in the years 1826 and 1827, and my impression is that in the latter part of the year 1827 the old man was sick and infirm, and had gone to El Paso, but his stock and servants were still on his ranch at the Brazito.

Question 6th. Who has claimed and occupied said ranch since then?

Answer. It has never been in the actual occupancy of any person since Juan Antonio Garcia died and left it, but has always remained unoccupied until Hugh Stephenson went into possession under the heirs of said Juan Antonio Garcia and his heirs, who have always been and recognized as the owners of said ranch.

Question 7th. What were the boundaries of said ranch, as claimed and pointed out to you by Juan Antonio Garcia?

Answer. The boundaries I do not know, but they were pointed out to me as extending from the head of the ditch to some ponds below, known as the ponds of Trujillo, the river being on the west, and the hills on the east of said ranch, and further sayeth not.

R. CAMPBELL.

Samuel G. Bean, being of lawful age, and now duly sworn upon oath, states as follows:

Question 1st. Do you know anything about the destruction of the public records or any part of them at El Paso, and if so state it?

Answer. I do know that in December, 1846, the United States troops went into El Paso, and were quartered in the rooms where the public records were kept, and it was very common to light the candles and kindle the fires with the papers in the rooms; we were quartered in El Paso about two months, and I frequently saw leaves of the records taken whenever any paper was wanted for any purpose, and futher sayeth not.

SAMUEL G. BEAN.

James A. Lucas, of lawful age, being first duly sworn on oath, states as follows:

Question 1st. Do you know anything about the destruction of the public records or any part of them at El Paso, and if so state it?

Answer. I do know that about the 27th of December, 1846, the United States troops went into El Paso, and were quartered in the court-house and rooms where the archives were kept, and remained quartered there about two months, during which time the papers and public documents were taken, and used frequently by the soldiers without the knowledge of what they were or their value, whenever they had use for paper, and further sayeth not.

JAMES A. LUCAS.

TERRITORY OF NEW MEXICO, }
County of Doña Ana. }

I, Lewis Flotte, having been appointed commissioner by the district court of the United States for the third judicial district in the Territory of New Mexico and for the county of Doña Ana, at the May term 1853, in the case of Francisco Garcia y San Juan *et al.* vs. H. Stephenson, (in chancery,) do hereby certify that the above named persons, Richard Campbell, Samuel G. Bean, and James A. Lucas, are personally known to me; that they personally appeared before me at my chambers in the town of Las Cruces, Doña Ana county, on the 18th day of May, 1854; that said persons were first duly sworn by me, and that their evidence was then given in my presence and before me, and under my direction reduced to writing; and I do further certify that after the evidence of said witnesses was thus reduced to writing, it was carefully read to them each, and by each of them subscribed in my presence before me. In witness whereof, I have hereunto set my hand and private seal, no other seal provided, this 18th day of May, 1854, at Las Cruces, Doña Ana county.

LEWIS FLOTTE,
Commissioner.

Be it remembered that on the 5th day of the November term 1854, for Doña Ana county, the following entries were made in the record of said court in the following case, to wit:

FRANCISCO GARCIA Y SAN JUAN *et al.* }
 vs. }
 HUGH STEPHENSON } *Chancery.*

"Now come the complainants by their attorney, John S. Watts, and the defendant in his own proper person, and it appearing to the court that in the decree rendered at the last term of this court the boundary of said tract of land south to north on the east was accidentally omitted, it is now ordered to be entered, as if then, as follows: 'Thence in a northerly direction along said sand hills, varying from two to four and a half miles from the river, to a point due east of the place of beginning.'"

FRANCISCO GARCIA Y SAN JUAN *et al.* }
 vs. }
 HUGH STEPHENSON } *Chancery.*

And now comes into court Stephen Archer, the surveyor appointed and directed to make the survey and partition of the tract of land in said bill mentioned, and makes his report herein of said survey, which report is now approved by the court, and is ordered to be spread upon the record, and is in the words and figures following, to wit :

TERRITORY OF NEW MEXICO, }
 County of Doña Ana. }

Field-notes of a survey made for Hugh Stephenson, in conformity with an order of the United States court for the county aforesaid, made at the spring term thereof in the year 1854, eighteen hundred and fifty-four, known as the Brazito tract situated in said county :

Beginning at a stake set on the bank of the Rio Grande, at the mouth of an acequia, known as the Brazito acequia, thence down the Rio Grande with its meanders to a stake set on the bank of said river, three leagues from which a cotton wood, fourteen inches in diameter, north 31 degrees, east 21 varas; thence east 100 varas, to a lake known as the Trujillo lake, 7,500 varas, to a range of sand hills at a stake, the southeast corner of said tract; thence with said range of sand hills in a northerly direction 21,520 varas, to a stake, the north-east corner of said tract; thence west 3,800 varas to the place of beginning, containing 20,195 acres.

Bearings marked thus,

Chain bearers,

JOSÉ MARIA MONTOYA,
 GRINEO CAMACHO.

I, Stephenson Archer, district surveyor of El Paso and Presidio land district, do hereby certify that I have made the foregoing survey

by order of the court of Doña Ana county, and that the above are true field-notes and plats thereof.

Surveyed September, 1854.

STEPHENSON ARCHER,
District Surveyor of El Paso and Presidio Land District.

Accompanying said report is also a plat of said tract of land which is also ordered spread of record, and is in the words and figures following, to wit:

FRANCISCO GARCIA Y SAN JUAN *et al.* }
vs. }
HUGH STEPHENSON. } *Chancery.*

It is now ordered, adjudged, and decreed herein, that the complainants recover of the defendant their costs and charges in this behalf laid out and expended, taxed at twenty-four dollars and thirty-one cents.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

The foregoing is a true copy of the original on file in this office.

WILLIAM PELHAM,
Surveyor General of New Mexico.

PASO, *February 8, 1820.*

Don Antonio Garcia resident of this jurisdiction, in the most approved manner provided by law, and most convenient to him, appeared before you and states: that becoming necessary for him to make or renew his application for the settlement of the place called Bracito, the settlement of which was asked for by him, for which purpose steps were taken in the matter, and documents were written and which are in the archives of the government under your charge, and a reference to them becoming necessary, and desiring to make such use of them as he deems proper, he requests that you deliver them to him, and that they be looked for in the package for the year 1817, which date is referred to in order to save trouble, or prevent the necessity of drawing your attention from other matters, therefore, he humbly prays you to be pleased to grant his request by which he will receive grace and justice, and he swears according to law.

JUAN ANTONIO GARCIA.

ACTING LIEUTENANT GOVERNOR.

Decree.—As presented and admitted, and in view of what this party requests, let copies be given to him immediately of such documents as may be in favor of the party interested, and by this decree I, Thomas Bernal, acting lieutenant and political governor of this town, did so

decree and sign with my attending witnesses, acting by appointment in the absence of any public or royal notary, there being none in these parts, according to the terms of the law, to which I certify.

THOMAS BERNAL.

Attending :

THOMAS PONCE DE LEON,
ALEJANDRO CASTRO.

PASO, November 29, 1816.

Don Juan Antonio Garcia de Noriega, resident of El Paso, retired lieutenant of dragoons of the provincial militia of said town, with the greatest respect and submission known in law, and convenient to me, appear before the superiority of your excellency, stating: that about eleven years since I opened a ditch (acequia,) at the place called El Bracito, as will more fully appear to your excellency by the accompanying petition which I presented to the governor of the province, and during last year a little corn was planted for the Apaches on the borders of said ditch, and as these are never established in any one place, and this year considering the epidemic and contagion of locusts which existed in this afore mentioned town falling upon all the fields and destroying them completely. I determined to settle upon the aforenamed tract of El Bracito, placing upon it the stock of sheep I have on shares, with which I poorly support myself and family; I broke up lands, at the aforementioned place, leaving those that were planted for the Apaches, and those that were recently broken up I planted in corn and beans, and having gathered the small crop which God gave me, I have been releasing my little stock with it and some wheat which I planted, the water, pastures and conveniences being so abundant at said place; and considering that several residents of this town are without lands, they have informed me that they are ready to accompany me for the purpose of establishing a small settlement. Therefore, I pray your excellency that having received information of the aforementioned place from Lieutenant Colonel Don Pedro R. de Laramande, and Lieutenant Colonel Don Alberto Maynes, and having acquainted yourself with all the conveniences which are presented for a good settlement, and deeming it convenient that your excellency be pleased through your kind charity to allow me, together with those residents who may desire to accompany me, to establish my residence and stock farm at the aforementioned place of El Bracito; I also ask from the high penetration of your excellency that those of us who are now settlers may receive the gracious boon of being exempted, for the time your excellency may see proper, from the contributions and taxes which are levied in this town as well as tithes, we would have to pay from the fruits of the little crops we may gather. The intention of the grant I ask for is for the purpose of maintaining the place, which I have heretofore maintained with the Apaches by giving them grain, and the little that I may acquire, excepting the portion before mentioned, shall be for the purpose of contributing towards the gifts of grain before mentioned, and which I will give them. The chiefs of the Apaches have told me that next year they desired to have their

lands planted, and if said settlement is established, aided by the citizens of the town of El Paso and the new settlers, I will plant their lands so as to keep them more quiet, therefore, I pray and request your excellency to be pleased to decree as you may deem convenient by which I will receive grace and favor.

JUAN N. GARCIA.

COMMANDANT GENERAL.

BOOK SIXTH 27.—*Decree.*

DURANGO, APRIL 24, 1817.

Report of Bonavia, Lieutenant Governor of El Paso.

PASO, June 29, 1817.

SIR COMMANDANT GENERAL: Your excellency well knows how much the king our sovereign has recommended the formation and protection of new settlements in these provinces, it is my opinion that the settlement which Don Juan A. Garcia intends to establish at the place known as El Bracito del Rio del Norte, near Roblero, accompanied by several residents and heads of families, as appears by the accompanying list, at his own cost, should be encouraged. The quiet condition of the Indians, affording time to make the settlement and commence cultivation, the said settlement to be administered from the curacy of El Paso, and requiring them to have horses, saddles and arms, and to be owners of the lots, houses and enclosures which they may erect, and the lands they cultivate, the commons, water and timber to be unappropriated (realengo.) Your excellency being pleased to give the instructions which may be necessary for the good government of the settlement, advising me as you may deem proper in the premises, such is all the information I can give your excellency in compliance with your superior decree of the 24th of April last.

JOSE ORDAS.

DURANGO, July 17, 1818.

Decree.—Let it be returned to the lieutenant governor of El Paso, in order that forwarding the list which he refers to, and which he omitted to enclose, of the residents who, in company with Don Juan A. Garcia, solicit permission to settle upon the land referred to, he report the distance of the land from the more immediate settlements, the facilities offered for establishing another on account of the abundance of water and pasture, and in case it is granted to the parties interested, if the town and the residence of the minister who is to administer to them and the justice, and others who are to compose the neighborhood can be established in the centre of said land.

BONAVIA.

PASO, August 30, 1817.

SIR COMMANDANT GENERAL: The land which the individual contained in the foregoing proceeding desires to cultivate, in company with the persons contained in the accompanying list, which I involuntarily omitted to enclose when I forwarded these proceeding to your excell-

lency, is in length about three leagues, in width on the western side about one fourth of a league, beyond which it is a little over one league, and continues of that width to where it terminates on the east. There is an abundance of water, being bounded on the south by the river which runs through this jurisdiction. It also has an abundance of pasture, and offers the greatest inducement in case the settlement is established, and there is no impediment against the construction of the town, and the residence of the minister who is to administer to them, of the justice and others who are to compose the neighborhood, in the centre thereof. It is, more or less, about fifteen leagues distant from the first houses of this jurisdiction.

The wealth of the neighborhood within this jurisdiction, and the timber which is annually cut for the traffic of their crops on both sides of the river, will not allow the new settlers to cut timber on that land, neither will the people of this town be injured on that account, as above that place they have it in abundance; such is all the information I can give your excellency in compliance with your superior decree of the 17th July last, seeing which your excellency may provide according to your superior pleasure.

JOSÉ ORDAS.

List of the individuals who desire to accompany Don Juan Antonio Garcia in the settlement of El Brazito, viz: Don Juan A. Garcia with 14 servants, Don José Barrios with 2, Don Juan Barrios and two brothers, Patrizio Lucera, Miguel de Herrera with two men, Simeon Talamte, Don Ramon Garcia with two brothers, Antonio Provencio, Mateo Telles, Vicente Quarón, Mathias Valencia, Don José Garcia with one man.

Note.—Beside the above there are others who intend going and are only awaiting the action of that superiority.

PASO, August 30, 1817.

SIR GOVERNOR: Don Juan A. Garcia, a Spaniard and native resident of the town of El Paso, the termination of your excellency's jurisdiction, retired lieutenant of the urban militia of said pueblo, with the greatest respect and veneration with which I should present myself before the high penetration of your excellency, I appear and state, that being informed by the repeated orders of his Majesty of his desire that all the convenient places on both sides of the river del Norte be settled, for the greater security against the enemy who is constantly ravaging this province, and that its settlements plausibly enjoy the abundance of water contained in said river, the cultivated plains suitable for cultivation, as well as the registered mineral productions, which promise great resources to the country, such as the Organos and San Andres mountains, the metal from which has been assayed; those of Roblero and San Diego, which are so superior; the pastures for cattle, the raising of horses, and the cultivation of the soil, with an abundance of water, which, to the patricians, is undeniable; being one of those myself, and having children who can sus-

tain and advance them, I pray your excellency to be pleased to grant me, in the royal name of the King our sovereign, those portions of land from the Bracito to the marsh (estero) of Trujillo, at which place I promise to build a house, put up enclosures, and open cultivation in the vacant and uncultivated lands, and maintain there the small number (at present) of fifteen men, until travel and interest will attract a larger number of permanent settlers, for the benefit of the country and their own proper interest, with the pecuniary view of registering and working, in company with intelligent men, the mines which we have already examined, and whose example will not fail to attract others for the same object, and in this manner carry out the intentions of his Majesty, which have been recommended for so many years. Do not deem it strange, your excellency, that I have made this petition without consulting the lieutenant governor of my place of residence; but considering and being certain that this gentleman does not exercise the precious authority to grant the same, I have come to your superior tribunal, incurring risks and costs and time, to the end that your excellency may be pleased to approve, do, and direct as I request, provided your excellency may deem it advantageous to the state of the country and the public good. In view of all which, I pray and request your excellency to be pleased to determine as you may deem most convenient, by which I will receive grace, which I impetrated and stand in need of. I swear, according to all forms, that I do not act in malice; costs, protests, and whatever may be necessary, &c.

JUAN A. GARCIA.

SANTA FÉ, August 4, 1805.

Decree.—This petition will be considered so soon as a settlement is established in the vicinity of the place referred to.

REAL ALENCASTER.

PETITION.

PASO, September 12, 1817.

SIR LIEUTENANT GOVERNOR: Don Juan A. Garcia de Noriega, resident of this jurisdiction, using the most proper means, reserving the most competent, as best provided by law, I appear before you, and state, that the circumstances having changed which impelled me to desire to see the formation of a settlement, which would be of benefit to the religion of the King our sovereign, and to the public, at the place and deserted fields, which are known by the name of El Bracito, the petition which I presented to the commandant general should also be changed, which superior communication, his last act provided that you should report on the points mentioned in his decree, intending, therefore, to suspend, for the present, any further judicial proceedings in the premises, as it is not calculated to do.

justice; intervening which, I humbly pray your excellency to suspend any further proceedings in the matter, until further application be made by your petitioner. I swear, &c.

JUAN A. GARCIA.

Moreover, in order that all may appear on record, that this, my petition, be attached to the proceedings.

The above is a copy of the original documents that in official proceedings exist on file in the archives under my charge, which are faithfully and legally copied; and being in the condition requested by the party, let it be delivered to him for such purposes as he may deem convenient; and in order that it may be duly legalized, I affixed this certificate, to which I attached my rubric.

Fees, six dollars.

BERNAL.

PETITION.

To his excellency the Governor:

Don Juan Antonio Garcia de Noriega, resident of the town of El Paso del Rio del Norte, the termination of the jurisdiction of that province under your command, retired lieutenant of the Urban militia of this town, with the greatest respect and veneration due to the high penetration of your excellency, I appear before you, and state, that, having made repeated applications during the last fourteen years, the first being made in the year one thousand eight hundred and five, to his excellency Governor Don Joaquin Real de Alencaster, who held that office at that time, and the second in the year 1816, to the commandant general, Don Bernardo Conavia, as will appear by the accompanying documents, which I humbly transmit to your excellency, soliciting the settlement of the place known as El Bracito, situate in this jurisdiction, and distant about 15 leagues from this town, the views which the foregoing documents present, at sight, having had no other effect. The first part of my petition shows that there were certain individuals, residents of this said town, who voluntarily desired to accompany me for the purpose of establishing said town; but now I am persuaded that they have become luke-warm, the cause of which, notwithstanding, that in the first report made by Lieutenant Governor Don José Ordas, to the commandant general, he states: "It is my opinion that it should be encouraged, the quiet condition of the Indians affording time to make the settlement and commence cultivation, the said settlement to be administered from the curacy of El Paso," and it is set forth in the decrees themselves; and in the second, in the last paragraph, he adds a note, as states: "The wealth of the neighborhood within this jurisdiction and the timber which is annually cut for the traffic of their cro on both sides of the river, will not allow the new settlers to cut tim on that land for this town, neither will they be injured on

that account, as above that place they have it in abundance ;" which is the cause, as I stated to your excellency, that those who voluntarily offered to accompany me for the purpose of establishing said settlement have declined doing so.

It is evident, sir, and not unknown to your excellency, that even should my just application be carried into effect, (which I desire,) this jurisdiction will not be injured in any manner, the cutting of timber being held in common with those of the new settlement, the land being so extensive that these facilities all afforded, not only on this side but also on the opposite side of the river Del Norte, at Doña Ana ; so many and such just motives impel me to disturb the attention of your excellency, not being, in my opinion, opposed to the service of both of their Majesties ; but, on the contrary, the re-settlement of the deserted and uncultivated places being recommended by our sovereign for the encouragement of agriculture and the prosperity of his subjects. Nevertheless, sir, as stated, that those who voluntarily desired to accompany me, as principal settlers, have changed their opinion for the reasons ; I pray your excellency that this be no cause why respectful petition should not have the effect I desire, as, although those persons may not accomplish the object, there are many others who have no legitimate property, who hire themselves out, and with the small salaries they receive fulfil their obligations and support their families.

Although your excellency may not consider all that I have stated to be just, I expect from your kind piety that, deeming it, I may receive a grant, in the name of his Majesty, of the aforesaid land from El Bracito to the marsh (estero) of Trujillo, as asked for in my aforesaid first petition, which is included in the foregoing proceedings, offering to comply with the same conditions contained in said petition, such as the building of a house, erection of enclosures, commencing cultivation, and supporting a small number of men at my own expense. I trust, from your accredited benevolence, that all I have stated in reference to this matter will not be troublesome to your excellency ; on the contrary, that you be much pleased to approve, do and direct as I request, provided your excellency deem it convenient to the interest of the country and for the public good. Therefore, I pray and request your excellency to be pleased to determine as you may deem most convenient by which I will receive the favor I impetrated, and stand in need of. I swear, according to all form, that I do not act in malice ; costs, protests, and whatever may be necessary, &c.

JUAN A. GARCIA, [one rubric.]

PASO, February 18, 1820,

Decree.

SANTE FÉ August 28, 1820.

His excellency Don Joaquin del Rial Alencaster, governor of this province, in a decree of the 4th of August, 1805, conditionally refused to grant the request of the petitioner ; and now, this government not having (as it believes) as much authority as that chief, although it is

convinced by its topographical knowledge, that the resettlement be made, has resolved that the party interested apply to the proper source.

MELGARES.

One Cuartillo. Seal fourth for the year one thousand eight hundred and twenty-one. Qualified, the Constitution sworn to by the King, on the ninth day of March, 1820. One Rubric.

Petition.—Don Juan A. Garcia de Noriego, resident of El Paso, retired lieutenant of the Urban militia of the proper jurisdiction, appears before your excellency with all due respect, and states: That during the previous year 1817 I presented a petition to Don Bernardo Bonavia, the immediate predecessor of your excellency, asking that, in view of having maintained my stock for eleven years at the place called El Bracito, when, at my expense, I opened a ditch, (acequia) broke up lands, and cultivated a small field of corn, which crop I divided among the Apaches that were at peace in the aforementioned town. I might be permitted, in company with other residents of the same jurisdiction who were destitute of lands of their own, to establish a settlement at the aforementioned place of El Bracito, which, on account of the abundance of water, pasture and other conveniences to be found there, would be very useful; and the mineral mountains containing gold and copper mines, which are not worked on account of their isolated position, would probably attract other individuals; at the same time requesting said superior chief that, being now settlers, we should be exempt for such period as he saw proper from the taxes that might be imposed upon us in the aforesaid town of El Paso, and also from the payment of tithes. The aforesaid chief, in a decree of the 24th of April, 1817, saw proper to require a report from the lieutenant governor of this town, who, in compliance therewith, stated that the establishment of new settlements in this province being so much recommended by the King our sovereign, many benefits would result from the granting of the petition made by me, with such other remarks as he saw proper to add, and which appears in full in the proceedings herewith accompanying, from pages 1 to 4. In consequence of said report, the aforementioned Mr. Bonavia directed, in a decree of the 17th July, 1817, that the aforementioned lieutenant governor should state the extent of the land contained in El Bracito, its distance from the more immediate settlements, the inducements it offered for the establishment of a settlement on account of the abundance of water and pasture; and in case the grant was made to the parties interested, the residence of the clergy, justice, and other individuals composing the settlements, could be erected in the centre thereof. On pages 4 and 5 of the same proceedings will be found a petition which I presented to Don Joaquin del Rial Alencaster, governor of New Mexico, in which, stating in detail the many advantages offered at El Bracito to the marsh known by the name of Trujillo, I asked that the said land be granted to me in the name of the King, promising to build a house, erect enclosures, break up land, and maintain fifteen or twenty men at my own expense, until, at my request, and attracted by interest, with the primary object of working together, the views of his Majesty for the establishment of settlements in these

provinces wherever the locality would allow, so often recommended, should be carried into effect. The aforesaid governor of New Mexico decreed, on the 4th of August, 1805, that my petition would be considered whenever there were settlements in the immediate vicinity of El Bracito. On the 12th of September, 1817, I presented to the lieutenant governor of this jurisdiction the petition contained on the reverse of page 5, in which, after stating the reasons why at that period I abandoned the request, I asked that in the meanwhile all judicial proceedings in the matter should be suspended until renewed by me; in consequence, the matter remained in the condition it was previously. The cause which compelled me to desist being removed, I presented the petition contained in the aforesaid proceedings, from pages 7 to 9, to the present acting governor of the province of New Mexico, asking that the aforesaid land of El Bracito to the marsh (estero) of Trujillo, be granted to me in the name of his Majesty, as I requested in the petition to be found on pages 4 and 5 of the aforesaid proceeding; but said governor, satisfied that he did not have sufficient authority to grant my request, provided, on the 28th day of August, 1820, that, notwithstanding he was satisfied by his topographical knowledge that it would be proper to reestablish the aforementioned place of El Bracito, I should apply to the proper source. In consequence of which, and desiring that the land of El Bracito to the marsh of Trujillo be granted to me as aforesigned, with the pasture and timber thereto annexed, I humbly pray your excellency, that, in view of all I have stated and the little merit I deserve, your excellency be pleased, with the previous formalities required, to direct that the aforementioned place of El Bracito to the marsh, (estero) called Trujillo, be assigned to me, by which I will receive grace.

Town of our Lady of Guadalupe del El Paso, July 28, 1821.

Most excellent sir,

JUAN A. GARCIA,

Opinion of the Intendent of Durango.

DURANGO, January 9, 1822.

INTENDENT: The attorney general of the public revenue states, that since the year 1805, D. Juan A. Garcia, resident of the town of El Paso, presented himself, registering the land of El Bracito, situate within that same Territory, and offering to settle upon the same with his stock and the necessary hands for its security and care; but the governor of that province, probably on the account of the risks arising from the invasions of the savages at that period, decreed that the petition would be considered when settlements were established in the vicinity of said place. Afterwards, in the year 1817, he renewed his petition, asking further that he be permitted to settle upon said place; in view of which, proceedings were instituted at the office of the commandant general, as far as to indicate the number of families and residents who were ready to remove to the new settlements and engage in its improvement; but, for the reasons indicated by the said Garcia, the further progress of the petition was suspended until the

year previous, 1820, as appears by the record of the proceedings had before the governor, and requiring him to apply to the proper authority. He made application to the commandant general of these provinces, who forwarded the petition to this intendency. So much for the proceedings. There is no doubt that the increase of the population, especially in that remote province, is to be preferred to the raising of stock and the cultivation of the soil, which branches will receive a strong impulse by the mere fact of increasing the population. The laws and last decrees concerning their establishment, provided that the suitable lands which are adapted to settlements should not be granted to individuals for the purpose of raising stock or cultivating the soil; but the land which may be registered, and containing the requisites prescribed, of good climate, fertility, and abundance of water, and other qualities referred to in said decrees, shall be reported to the supreme government, together with the proceedings, for the purpose of there determining whatever may be deemed convenient.

The one before me represents, at first sight, the lands of El Bracito as being *useful and convenient for settlement*, as several residents of El Paso interested to settle upon them at a former period, as I have intimated. It is not yet known if they belong to the nation or not; and, therefore, I ask that, before any other action is taken, the testimony of these witnesses be taken, who shall state distinctly if they are national or not, or without any determined owner; that after other testimony be taken to prove the locality, extent and resources of the land in question, its climate, rivers, streams or springs which water or surround it, its fertility or sterility; that this being done, the report be transmitted to this intendency, from whence the proceedings will be forwarded, in order to carry into effect what has been asked for, to the sub-delegate of justice of first vote of El Paso, requiring him to report if the several residents who so offered in the year 1817, or others, yet intend to settle upon said land; and that in order to report if they are national or not, to appoint an attorney general to supervise the interests of the public revenue; which is the opinion of the undersigned in the premises.

LICENCIATE RAMAS.

Fees, with opinion, seven dollars.

DURANGO, January 17, 1822.

Decree. Let it be transmitted to the first justice of the town of El Paso, to proceed to the compliance of the requirements asked for by the attorney general of the public revenue, reporting with all possible despatch.

D. HERRERA.

Writ of the First Justice of El Paso.

PASO, April 18, 1822.

The foregoing proceedings, reunited to me by the intendent Don D. Mariano Herrera on the 17th of January of the present year, is received, to the effect that, being seen, this justice should proceed to give due compliance with what has been asserted by the attorney general

of the public revenue in Durango contained therein ; and the first step to be taken, being that proof be received from three witnesses concerning the points mentioned in said proceedings, I should order, and did order, that Don Ventura Caravajal and D. Je. Ma. Velarde, and citizen D. Je. Ma. Garcia, alderman of this illustrious corporation, be summoned to appear to-morrow. Which being concluded, to proceed to the other matters therein contained ; and by this writ, I, D. George Guerena, justice of first appointment, have so provided, ordered, and signed with those in my attendance, with whom I act by appointment, and on the present paper, there being none of any seal ; to which I certify.

GEORGE GUERENA.

Attending :

JUAN MA. PONCE.
GAUDALUPE VENAVIDES.

Testimony of first witness.—In the town of El Paso, on the 19th day of April, 1822, second of the independence of this empire, before me, D. George Guerena, justice of the first appointment of said town, appeared before this court D. Bentura Carabajal, for the purpose of testifying if the lands of El Bracito, asked for by D. Juan A. Garcia, of this vicinity, for settlement, belong or not to the nation or to any private individual, as directed by the attorney general of the public revenue of Durango ; and having understood what he was required to state, he said that it is apparent, and that from his infancy he has known the said land is national and has no individual owner ; but that the residents of this place, although distant from here about 15 leagues, make use of it for the purpose of cutting timber and wood, and for pastures and cattle as well as sheep ; and if they are deprived of this privilege, he considers it will cause the ruin of the town ; that he certainly knows and answers to the questions propounded to him ; and in order that it may so appear, he signed with me, said justice, and attending witnesses, with whom I act by appointment ; to which I certify.

GEORGE GUERENA.

Attending :

JUAN MA. PONCE DE LEON.
VENTURA CARAVAJAL.
MARIANO ORCASITAS.

Testimony of second witness.—Immediately and before me, the aforesaid justice, I caused D. Jose Ma. Valarde, alderman of this illustrious corporation, to appear, as required by the attorney general of Durango, who stated that he has always known that said place is national and without owner ; but that the residents of this town, although distant from said place about 15 leagues, make use of it for the purpose of cutting timber and wood and to pasture cattle ; and

that if they are deprived of this privilege, he considers that it is impossible for the town to submit ; that he certainly knows and answers to the questions propounded to him ; and in order that it may so appear, he signed with me, the aforesaid justice, and attending witnesses with whom I act by appointment, in the absence of a notary, there being none within the terms prescribed by law. I certify.

GEORGE GUERENA.

Attending :

JO. MA. VELARDE.

JN. MA. PONCE DE LEON.

MARIANO ORCASITAS.

Testimony of third witness.—Incontinently and before the said justice, in the presence of those of my attendance, I caused to appear D. Jose Ma. Garcia, resident of this place, for the purpose of stating if the lands of El Bracito, asked for by D. J. A. Garcia for settlement, belong or not to the nation or to any private individual, as directed by the attorney general ; and having been informed, he stated that he is aware and knows that said place is national and without any individual owner ; but that the residents of this town, although distant from said place about 15 leagues, make use of it for the purpose of cutting timber and to pasture cattle ; and that if they are deprived of this privilege, he considers that it will be impossible for them to subsist. That he certainly knows and answers to the interrogatories propounded to him ; and in order that it may appear, he signed with me, the said justice, and those in my attendance, with whom I act by appointment. I certify.

GEORGE GUERENA.

J. A. GARCIA.

Attending :

JUAN MA. PONCE DE LEON.

MARIANO ORCASITAS.

Writ.—In the town of El Paso del Rio del Norte, on the 20th day of the month of April, 1822, second of the independence of this empire, I, D. George Guerena, justice of the first appointment, in view of the demands made by the attorney general, contained on page 13 of these proceedings, should order, and do order, that, in order to procure the information concerning the quality, extent and resources of the land at El Bracito, that these, in their present state, be transmitted to D. Jose Ma. Cordova, of this vicinity, in order that, seeing them, he may give them the direction required, returning them to me with his report in order to proceed as further required ; and by this writ, I, the said justice, so provided, ordered, and signed with my attending witnesses ; to which I certify.

GEORGE GUERENA.

Attending :

J. M. PONCE.

MARIANO ORCASITAS.

Report of citizen José Maria Cordova.

D. George Guerena, justice of first vote:

SIR: Don José Maria Cordoya, resident of this jurisdiction, in compliance with your directions, by which you transmit these proceedings, requiring me to report in the same act concerning the land of El Bracito, I know that its extent from the marsh (estero) of Trujillo to the place known as El Bracito is about three leagues in length, and from the banks of the river to the side of the Organos mountains, in some places where it is susceptible of cultivation, over one half league in width; it has the advantage of all the land in the valleys on the river, being level, and has no other timber than a few scattering cottonwoods, the balance being covered with brush, thorns, and other brambles, except on the banks of the river, which are well covered with large and small cottonwood, willow, and thyme, (Tomillo.) The climate is almost equal to that of this town, except it is colder, on account of being towards the north. There is no other water but that of this river of El Paso, upon whose banks it is established; there are no springs or permanent streams of water; these only run when it rains.

I believe the land to be rich and fertile for agricultural purposes, the same as that of this town, and will yield the same crops, as it is protected from the north winds by the Organos mountains, which, on their northern side, abound in pine and oak timber. It is true that I can report in conformity with what has been directed.

PASO, April 19, 1822.

PASO, April 23, 1822.

Writ.—The foregoing proceedings are received with the report therein set forth by D. José Maria Cordova, of this vicinity, on the 19th instant, as required by the foregoing writ; and the appointment of an individual of this place to supervise the interest of the public revenue being wanted to complete the requirements of the attorney of Durango, I appoint for that purpose D. Julian Bernal, to whom these proceedings will be transmitted in the condition in which they may be found, in order that, in view of the same, he may proceed to report what he is required; which being done, he will return them to me for the purpose of doing therein whatever may be necessary, and by this decree, I, D. George Guereña, justice of first appointment, with attending witnesses, to which I certify.

GEORGE GUEREÑA.

Attending:

JUAN MARIA PONCE.

JUAN JOSÉ GARCIA.

Opinion of the Attorney General.

TOWN OF EL PASO, October 8, 1852.

SIR: Justice first appointed, D. Julian Bernal, of this jurisdiction, under your charge, and attorney general, appointed by your direction, which, on the date of the 23d instant, was entered in these proceedings; in consequence thereof, he infers that he accepts said appointment, and in order to avoid any difficulty which may arise in so important a matter for the want of any formality in the premises, he seems in due form to faithfully discharge the duty devolving upon him by said appointment to the best of his limited knowledge. In virtue of which, there being no doubt of the testimony of the witnesses that the land of El Bracito belongs to the public revenue, whose interests I defend, I pray you, that, having issued the summons, the licentiate and attorney, citizen Ventura Lopez, second substitute, civis justice of the Cantonment Bravos, certifies that the foregoing copy documents which could be procured, belonging to the original possession of the lands of El Bracito, is faithfully and legally from the originals on ten written pages, as will appear. Also, that they were not copied to the end, because only a portion of the proceedings which are copied can be found, which have been copied, and found after the destruction of the archives of this town by the troops of the United States in the year 1846.

BENTURA LOPEZ.

Attending:

JOSÉ BEANES.

FRANCISCO BARROW.

Fees for the certificate and authentication of the ten foregoing written pages, twenty-two rials. I swear it to the prefect or justice of the opposite side of the Rio Bravo.

Francisco Garcia y San Juan, resident of the town of El Paso, presents himself before you, and states that, since the commencement of the present century, my deceased father, D. Juan A. Garcia, removed to El Bracito, a deserted place, where he remained until the year 1828, when he terminated his days cultivating that soil, supporting and making presents at his own expense to the savage Apache tribe; but by the death of my father, all influence was lost over the enemy, and his children from that time commenced experiencing misfortunes, and the loss of the property which they held, to such a degree that they were compelled to abandon that delightful country in which we subsisted in our youth by the bounty of our honored and hard-working father; and beyond what has been stated, the undersigned has suffered, by the vicissitudes of time, the loss of the documents which legitimize the land referred to. I cannot do less than to address myself to you, stating the right I have to this land, and to prove that such documents of possession were in existence at the same time that the originals have disappeared. The judicial proceedings, in nine written pages, herewith accompanying, are entitled to credit; they also express the reasons why I abandon the land referred to; but as, at present, steps are being taken

in the matter, I cannot remain as a silent spectator without making use of my rights. Therefore, I pray and request you to be pleased to consider my petition to be well and sufficiently substantiated, in order to declare that I am a *legitimate owner of the lands of El Bracito*, distant from this town about 18 leagues, which area was asked for by my deceased father since the 30th of August, 1817, as will appear by a rough report which I also accompany of the lieutenant governor of this town during those times, to the commandant general of Chihuahua, and which is all that could be found ; certainly it is a precedent to show that my father interested himself in settling that land in company with those persons contained at the foot of the petition.

I swear not to act in malice, and in whatever may be necessary, &c. It is made on the present common paper, there being none of the proper seal, promising to pay the proper cost.

FRANCISCO GARCIA SAN JUAN.

TOWN OF EL PASO, *March 30, 1829.*

TOWN OF EL PASO, *February 13, 1849.*

SIR JUSTICE OF THE PEACE : Francisco Garcia y San Juan, of this vicinity, in the most approved manner appears before you, and states - that it is convenient to my rights that you cause citizens Joaq'n Valarde, José Ma. Maese, and Antonio Gonzalez to appear before your court, who, being sworn according to the interrogatory I present, that you will be pleased to return to me the judicial testimony which may be taken, in order following my petition.

1st. If they knew my deceased father, Don Juan A. Garcia ; and if it is certain that he was residing at the place of the Bracito, distant about 18 leagues from this town, about the commencement of the present century up to the year 1828, in which he terminated his days.

2d. If they knew that he worked a portion of those lands, at his own expense, during his lifetime ; and if they know that he was placed in possession of those lands by the proper authorities of those times.

3d. To declare if, when I left the lands of the Bracito, to which I refer, was it through idleness, or abandonment on account of the invasions of the savages.

These are the questions ; therefore, I pray and request you to be pleased to do as I have requested. I swear that I do not act through malice, and in whatever may be necessary, &c. It is made on common paper, there being none of the proper seal, with the protest that I will pay its value.

FRANCISCO GARCIA Y SAN JUAN.

PASO, *February 13, 1849.*

As requested by the party, let the information he requires be obtained. The justice of the peace of the district decreed and signed it with those in his attendance.

LICENCIATE ROBLES.

Attending :

FRANCISCO BARRON.
JOSÉ SAMBRANO.

Don Francisco Garcia San Juan, being notified of the foregoing decree on the same date, said that he hears it, and signed with the justice in his attendance.

FRANCISCO GARCIA SAN JUAN.
LICENCIATE ROBLES.

Attending:

FRANCISCO BARRON.
JOSE SAMBRANO.

On the 15th of February, 1849, in order to obtain the information solicited by the party interested, he presented Jose A. Gonzalez as a witness, who, under the oath which he took by God our father, and a sign of the cross, he offered to state the truth in what he knew and was interrogated, and he stated that his name was as aforesaid, married, aged 52 years, resident of this town.

Interrogated. In accordance with the foregoing interrogatories, he answered to the first, that he did know Don Juan A. Garcia, father of D. Francisco G. San Juan, and that it is true he resided at the place called Bracito, distant about 18 leagues from this town, from the commencement of this century up to the year 1828, when he died.

To the second, he answered that all its contents are true because the deceased, Antonio Garcia, worked and cultivated fields on the lands of the Bracito at his own expense; and he knows that he was placed in possession of those lands by the legal authorities of that time; that it contained three leagues in length and one in width.

To the third, he answered that D. Francisco San Juan left the lands of the Bracito on the account of the invasions of the barbarous Indians, and that he did not abandon it. That the above is what he can testify by the oath which he has taken, and he did not sign, not knowing how. The justice and those in his attendance signed.

FRANCISCO ROBLES.

Attending:

FRANCISCO BARRON.
JOSE SAMBRANO.

Whereupon, D. Joaquin Velarde was sworn, who offered to state the truth in what he knew and was interrogated, and he stated that his name is as above stated, married, aged 48 years, competent to testify, and of this vicinity.

Interrogated in accordance with the foregoing interrogatories, he answered the first question by stating that all its contents are true, having seen for himself. To the second, he answered that he positively knew that the deceased, D. Juan Antonio A. Garcia, worked a portion of the lands mentioned at his own expense, as it was public, and well known that he applied to the supreme authorities, praying for a grant to said land on account of having obtained them by occupying them the time he did in the utmost good faith by permission of the authorities themselves, and that he heard it stated that the possession aforesaid had been granted to him, the aforesaid lands containing three leagues in length and one in width.

To the third, he answered that the reason why the petitioner with-

drew from the lands of the Bracito and abandoned his lands, was the almost daily inroads made upon him by the savages; and that the force he had to repel them with amounted to nothing, neither was any assistance rendered to him from the town on account of the great distance; had there not been so just a reason, nothing less than the loss of his life, from one moment to another; the deponent asserts without equivocation that Mr. Don Juan never would have left his lands acquired by legal means, as the fruits thereof were sufficient for his support, and every passenger who trod those lands was assisted. The foregoing is the true reason why he left them, as there was no indolence or abandonment, or even apathy. That what is stated is the truth under the oath he has taken, which he affirmed and ratified upon the testimony being read to him, which he signed with the justice and attending witnesses.

ROBLES.
JOAQUIN VELARDE.

Attending :

FRANCISCO BARRON.
J. SAMBRANO.

On the 16th instant, Don José Maria Mease was sworn, who offered to state what he knew and was interrogated; and having offered to do so, he said his name is as aforesated, married, aged 35 years, resident of this town, and competent to testify. Interrogated in accordance with the foregoing interrogatories, to the first he answered that all its contents are true. To the second he answered, that its contents are also true, because the deceased Antonio Garcia worked for many years, and cultivated fields at his own expense on the lands of the Bracito, and that he knows he was placed in possession of them by the legal authorities of those times; that the aforementioned lands contained three leagues in length and one in width.

To the third, he answered that Don Francisco Garcia San Juan withdrew from the lands of the Bracito on account of the invasions of the barbarous Indians, but not on account of idleness or abandonment; that what is stated is the truth under the oath which he has taken, which he affirmed and ratified upon the testimony being read to him, and signed with the justice and those in attendance.

FRANCISCO ROBLES.
JOSE MARIA MEASE.

Attending :

FRANCISCO BARRON.
JOSÉ SAMBRANO.

This information being concluded, it is returned to the party interested, on three written pages, on common paper, binding himself to replace it whenever there is any.

PASO, *February 16, 1849.*

Fees, without the paper, \$4 7 rials.

PASO, August 30, 1817.

SIR COMMANDANT GENERAL: The land solicited for settlement by the individual contained in this petition, in company with the individuals contained in the accompanying list, the same which I involuntarily neglected to enclose, (I forwarded said proceedings to that superiority,) contains in length about three leagues, in width, towards the west, about one-fourth, immediately after, a little over one league, which width it contains to where it terminates on the east. It has an abundance of water, being bounded on the south by the river passing by this jurisdiction; it also abounds in pastures, and offers the greatest facilities in case its settlement is effected; and there is no obstacle to the building of the settlement and residence of the minister who is to administer to them, and that of the justice and others who are to form the neighborhood in the centre thereof; it is distant about fifteen leagues, more or less, from the first houses of this jurisdiction.

The opulence of the neighborhood of this jurisdiction, and the timber which is annually cut in the traffic of their crops, on both sides of the river, will not present the new settlers to cut that which is on those lands for the town; neither will they be injured for this reason, because from them, upwards, it is to be found in the greatest abundance. The above is all I can report to your excellency in compliance with your foregoing decree, dated the 17th of July last, in order that, in view thereof, you may use your superior pleasure.

*List of the individuals of this jurisdiction who request to accompany
Don Juan A. Garcia in the settlement of the Bracito, to wit:*

Don Juan A. Garcia, with 14 servants.....	15
Don José Barrios, with 2 servants.....	3
Don Juan Barrio and his 2 brothers.....	3
Don Patricio Lucero.....	1
Don Miguel de Herr'a, with 2 men.....	3
Don Simon Talamante.....	1
Don Ramon Garcia, with 2 men.....	3
Don Antonio Provencio.....	1
Don Mateo Telles.....	1
Don Vicente Quarron.....	1
Don Martias Valencia.....	1
Don José Garcia, with 1 man.....	2
 Total.....	 35

Note.—That besides those contained in this, there are several who propose to go, who are only waiting for the decision of that superiority.

PASO, August 30, 1817.

TOWN OF EL PASO, *March 17, 1849.**Political chief of this district:*

SIR: Citizen Francisco Garcia San Juan presents himself before your excellency with due respect, and states: That whereas authorities of the United States are exercising jurisdiction on the opposite side of the Bravo river, and these are ignorant of my right to a certain quantity of land at the place called El Bracito, I present your excellency the accompanying documents, in order that you may be satisfied of my legal right to said lands, as it is well known to your excellency, and all the rest of the neighborhood; and that your excellency be pleased to give me a certificate, setting forth my right thereto with it, to present my claim to the authorities of the opposite side; therefore I pray and request your excellency to do as I request, by which I will receive favor. Writing this on common paper, there being none of the proper seal, I swear, &c.

FRANCISCO GARCIA SAN JUAN.

Citizen JUAN MARIA PONCE DE LEON,

Political Chief of the Brabos district.

I certify, as far as the law allows, that D. Juan N. Garcia, deceased, the father of the petitioner, asked for the possession of the land called El Bracito; that he lived there for many years, cultivating the land and raising stock of all descriptions; that almost at his own expense he entirely kept the Apaches at peace, and rendered other very useful services to travellers, and even to the entire nation, until the savages by their insurrections and hostilities forced him to withdraw from said place; the land itself proves that it has been cultivated, as it is crossed by ditches, (acequias;) some of the land is ridged, and the ruins of the house still exists. I also know, not remembering the year, that an individual of the United States, named John Gill, asked for and received a grant of land at the same place from the Mexican authorities, respecting those of Don Juan A. Garcia; this he affirms, having been one of the commissioners in the measurement of the land asked for, and at the request of the party interested, and for the purpose which he may deem necessary, I give him these presents, which I sign at El Paso, on the seventeenth day of March, one thousand eight hundred and forty nine.

JUAN M. PONCE DE LEON.
FAUSTIANO MONTES,
Secretary.

TOWN OF EL PASO, *March 28, 1849.*

SIR: Francisco Garcia y San Juan of this town, appears before your court and states: that in order to add more strength to my right, that you be pleased to cause the citizen Inocento Herrera, Agaton Herrera, and Mateo Telles, to appear before you, who, being sworn ac-

cording to law, and in accordance with the interrogatory herewith presented, that you be pleased to return me the original of all that may be done in continuation of this.

First. If they knew my deceased farther, D. Juan A. Garcia ; and if it is true that he resided at El Bracito, distant about 18 leagues from this town, from the commencement of the present century up to the year 1828, when he terminated his days.

Second. If they knew that he worked a portion of these lands during his life at his own expense ; and if they saw that he was placed in possession of them by the proper authorities of those times.

Third. To state if I withdrew from the land of the Bracito referred to on account of indolence or abandonment, or on account of the invasions of the savages. These are the interrogatories; therefore, I pray and request you to do as I have requested. I swear not to act through malice, and in whatever may be necessary. It is written on common paper, there being none of the proper seal, promising to pay its value.

FRANCISCO GARCIA SAN JUAN.

JUSTICE OF THE PEACE OF THE DISTRICT.

PASO, *March 29, 1849.*

Let the information required be obtained. The justice of the peace of the district decreed and signed it with those in attendance.

LICENCIATE ROBLES.

Attending:

FRANCISCO BARRON.

LEWIS ORTEGA.

The foregoing decree was made known to D. Francisco San Juan on the same date, and he stated that he heard it, and signed with the justice and those in attendance.

LICENCIATE ROBLES.

FRANCISCO GARCIA SAN JUAN.

Attending:

FRANCISCO BARRON.

LEWIS ORTEGA.

Whereupon, Vicente Herrera was sworn, who promised to state the truth in what he knew and was interrogated, which being done according to the foregoing interrogations, he answered :

To the first, that he knew Don Juan A. Garcia, whom he served for many years at El Bracito, distant about 18 leagues from this town, more or less, and that the deceased, Juan A. Garcia, resided at this place from the commencement of the present century up to the year 1828, when he died.

To the second, he answered that he saw and worked a portion of those during his lifetime at his own expense ; that he also saw that possession was given to him by Mr. D. José Ordas, who was at that time lieutenant governor of this town.

To the third, he answered that D. Francisco San Juan withdrew from that place, broken down by the inroads of the savages, who robbed him

of all his property, but not on account of indolence or abandonment; that what he has stated is true, under the oath which he has taken; adding that he is married, aged 48 years, competent to testify, and did not sign, not knowing how. The justice and those in his attendance signed.

FRANCISCO ROBLES.

Attending :

LUIS ORTEGO.

Juan Agaton Herrera was sworn on the same date, who promised to state the truth in what he knew and was interrogated, which being done in accordance with the foregoing interrogatories—

He answered to the first; that he knew Don J. Antonio Garcia, father of Don Francisco, and that it is true that he resided at El Bracito, from the commencement of the present century up to the year 1828, when he died.

To the second he answered; that he saw that Don Juan A. Garcia worked those lands at his own expense, and he also saw that he was placed in possession of them by Mr. José Ordas, who was at that time lieutenant governor of the town.

To the third he answered; that Don Francisco Garcia San Juan withdrew from the afore mentioned lands, being compelled to do so on account of the savages, who daily made war upon him, but he did not leave on account of indolence or abandonment; that the above is what I [he] can state under the oath he has taken; adding he is a widower, aged sixty years, and did not sign, not knowing how. The justice and those in attendance signed.

FRANCISCO ROBLES.

Attending :

FRANCISCO BARROW,
LEWIS ORTEGA.

PASO, March 29, 1849.

The testimony of Mateo Telles was not taken, being a non-resident of this town, and being absent, which is stated for reference.

His [this] testimony being concluded, with two witnesses that it has been taken, it is returned to the party on two pages.

Fees without paper \$4 1 rial.

TOWN OF EL PASO, September 21, 1849.

To the second constitutional justice of this town :

Citizen Francisco Garcia San Juan appears before you and states; that for the purpose of establishing my rights, you cause citizens José A. Prob'o, Tomas Yrigoyen and Francisco Horcasistas to appear before your court to testify under oath.

First. If they saw that posession was given to my deceased father, Don Juan A. Garcia, of the lands of El Bracito, and state who was the justice who gave said documents.

Second. To state which are the boundaries by which these lands

have been divided, stating the dividing points by which it has always been known, which being done you will please to return all the proceeding to me ; therefore I pray and request to do as I ask. I swear not to act in malice, and whatever may be necessary, &c., binding myself to replace the paper, there being none of the proper seal.

FRANCISCO GARCIA SAN JUAN.

Let the testimony asked for be taken. Citizen Lorenzo Barrio, second constitutional justice, so decreed and signed with those in his attendance.

LORENZO BARRIO.

Attending :

FRANCISCO BARROW,
NICOLAS BARELA.

In the present act and sworn according to form I, Antonio Prob'o, promised to state the truth in what he knew and was interrogated. He stated that his name was as above, widower, resident of this town, aged 55 years, laborer and C. A. R.

Interrogated concerning the first question in these interrogatories, and having been informed thereof stated ; that he had the title deeds to the lands called El Bracito in his hands, issued in favor of Don J. A. Garcia, and that these were given by Don José Ordas, at that time lieutenant governor of these places.

The second being read to him he answered : That at that time, the boundaries known were one from the mouth of the ditch (acequia) of the Bracito to the marshes called Trujillo, and from the extremities of these two points, commencing at the river, one league and one-half towards to the north ; that what he has stated is the truth under the oath which he has taken, which testimony he affirmed and ratified upon its being read to him. He did not sign, not knowing how. The justice and those in attendance did so.

LORENZO DEL BARRIO.

Attending :

FRANCISCO BARROW,
NICOLAS BARELA.

Don Thomas Yrigoyen being present, was sworn, and he promised to state the truth in what he knew and was interrogated. He said his name was as above stated, resident of this town, carpenter, aged forty years, and C. A. R.

Interrogated concerning the first question found in the foregoing interrogatories, and having been informed thereof, he stated : That he did not see the possession given, but had the title deeds in his hands ; that it purports to be given by Don José Ordas, who appears to have been at that time lieutenant governor of this country.

The second having been read to him, he answered : That he is certain that, commencing above and coming down, the boundary was the mouth of the ditch (acequia) of El Bracito to the marshes called Trujillo ; but he is not certain which is the fixed boundary from north to south.

That the above is what he can state under the oath which he has taken, which he ratified and confirmed, and signed with justice and those in attendance.

LORENZO DEL BARRIO.
THOMAS YRIGOYEN.

Attending :

FRANCISCO BARROW,
NICOLAS BARELA.

Don Francisco Orcasitas was then sworn, who proposed to state the truth in what he knew and was interrogated. He said his name was as above stated, married, aged 49 years, resident of this town, industrious, and C. A. R.

Interrogated to the tenor of the first question to be found in the foregoing interrogatories, he answered : That he knew that possession was given to Don José A. Garcia of the lands called Bracito, and that this was issued by Don José Ordas, lieutenant governor of this town ; and that he knows this, having had the aforesaid possession in his hands. Being informed of the second, he answered : That the boundaries contained in the possession were, commencing above, and coming down from the mouth of the ditch (acequia) of El Bracito to the marshes called Trujillo, and from the river, towards the north, a league and one-half in each direction ; that what is above stated is the truth under the oath which he has taken, which he ratified and confirmed upon the testimony being read to him, which he did not sign on account of a nervous affection under which he labors. The justice and those in attendance signed.

LORENZO DEL BARRIO.

Attending :

FRANCISCO BARROW,
NICOLAS BARELA.

PASO, *September 21, 1849.*

The taking of this testimony being concluded, let it be returned to the party for the purposes he may deem convenient. The sitting justice so decreed, and signed with those in attendance.

LORENZO DEL BARRIO.

Attending :

FRANCISCO BARROW,
NICOLAS BARELA,

Pablo Meléndrez, resident of Doña Ana, as head of a family, and representing the right my sons and daughters may have, as descendants of Doña Guadalupe Orcasitas, deceased, to the land of El Bracito, which is in dispute, and that perhaps my uncle, by marriage, Don Francisco Garcia San Juan, may obtain something in favor of my progeny, and for my part I give him sufficient authority for all that may be necessary to favor my interests, the same as I could do if personally present ; and in testimony thereof, I grant these letters in the town of El Paso, this 11th day of August, 1851.

PABLO MELENDREZ.

Doña Marta Orcasitas, resident of Doña Ana: And for the right I may have to the lands of El Bracito, which are in dispute, and that perhaps my uncle, Don Francisco Garcia y San Juan, may obtain something in our favor, for my part I give him sufficient for all that may be necessary to favor my interests, the same as I could do if personally present; and in testimony thereof, I grant these letters in the town of El Paso, on the 11th of August, 1851. At the request of Doña Marta Orcasitas, Juan Herrera, Don Thomas Ignacio Bernal, for the right which my children, Mariano, Jesus, Josefa, Manuela, and Nicolas, may have, Josefa Garcia for herself, and Mariano Garcia, royal soldiers of the town of El Paso, Pablo Melen-drez in the name of his minor children, and Marta Orcasitas for herself, the last named residents of Doña Ana, do grant our full authority, as is required and may be necessary, to Don Francisco Garcia y San Juan to assert before the government of the United States of North America the right which we have to the lands of El Bracito, and for that purpose may present himself before the judges and justices, before whom he can and shall ask and demand answer, and deny, collect, contest, and protest; take out deeds, copies, and other papers appertaining to us, and present the same; file exceptions, decline jurisdiction, ask for benefits of restitution, present witnesses, deeds, and proofs; question and contradict opposing testimony; reject judges, counsellors, and clerks; give reasons for refusals if necessary, and swear to the same; prove and decline proof; cause oaths to be taken by the opposite parties of slanders and conclusions, and others that may be proper; make executions, secuestrations; consent to releases; dissolve injunctions; make sales or disposals of property; accept conveyances; take possession and protection; conclude and ask for hear writs, and sentences, agreements, and decisions, and consent to what is favorable; and to the contrary appeal and pray, and pray continue appeals and prayers where he can, and shall legally do so; obtain provisions, decrees, requisitions, and orders, and present the same, and cause to be intimated where and to whom they are directed, and for all and everything and part, and whatever may be incident thereto and dependent thereupon. We give him such ample authority, that for the want of it, he shall leave nothing undone wherever it may be necessary to all interests and purposes, as if we were personally present, with free and general administration and authority, to prepare suits for judgment, and to substitute and revoke substitutions, and appoint others; and we all declare in form, and form its validity we bind ourselves and our persons, our property acquired or to be acquired. In testimony wherof, we grant these presents in the town of El Paso, on the fifteenth day of September, one thousand eight hundred and fifty-one, on this common paper for the want of the proper, those who sign being responsible for the proper amount.

TOMAS BERNAL,
MARIANO GARCIA,
JOSEPH GARCIA.

Don Francisco Garcia y San Juan, resident of the town of El Paso, for himself and as attorney of the persons contained in the foregoing power of attorney, given to him for the purpose of ascertaining before the government of the United States of North America the right they have to the lands of El Bracito, states: That he is embarrassed in the compliance of his duty on account of not knowing the language, and also the lands which may favor his principals, and for this purpose I cannot do less than transfer this power in favor of D. Hugh Stephenson, with the same clauses and authority granted to me; and in testimony thereof I signed in the town of El Paso, on the 16th of September, 1851.

FRANCISCO GARCIA Y SAN JUAN.

To the second justice of this town, Francisco Garcia y San Juan, of this neighborhood, presents himself before you, and states: That having to assert his claim to the land called El Bracito before the authorities of the United States, claiming under a just and legal title from time immemorial, being situate within the boundaries of that government, and being necessary for him to show the legal causes for the non-production of the judicial title which established his right to the aforementioned land of El Bracito, you will be pleased to cause citizens Juan Jose Sanchez and Luis Jaques to appear before your court and declare under oath:

First. If they knew that the American troops, when they invaded this town in December of the year 1846, took all the houses in the Plaza for quarters, as also the halls of the illustrious corporation, where the public archives were deposited.

Second. To declare what they positively know the same troops done with the archives, stating in detail all they know and saw in reference to the matter, which being done you will please return the proceedings to me to be used as I may deem proper. Therefore, I pray you to do as I request, I swear not to act through malice, and in whatever may be necessary, &c.

FRANCISCO SAN JUAN.

TOWN OF EL PASO, *October 27, 1852.*

PASO, *October 28, 1852.*

As presented let the testimony asked for be taken.

The second civil justice so decreed and signed with those in attendance, which I certify.

BENTURA LOPEZ.

Attending:

FRANCISCO BARROW,
JOSE BEANES.

Immediately presented Mr. D. José Jaques, who being sworn according to law, promised to state the truth in what he knew and was interrogated, which being done, and he competent to testify, he answered that his name was as above stated, married, aged 39 years, a merchant and competent to testify. To the first question in the foregoing interrogatories, which was read to him, he answered; that it is true that in

December of the year 1846, when the troops of the United States of North America invaded this town they took possession of all the houses on this square (plaza) for quarters, as well as the hall of the illustrious corporation where the public archives were deposited.

To the second he answered ; that it was publicly said that the same American troops destroyed the greater portion of the archives ; that what he has stated is the truth under the oath he has taken, which he affirmed and ratified upon the testimony being read to him, which he signed with the justice and those in attendance. I certify—

BENT'A LOPEZ.

Attending :

FRANCISCO BARROW,

JOSÉ JAQUES,

JOSÉ BEANES.

Wherefore, I presented Mr. D. J. J. Sanches, he was sworn according to law and offered to state the truth in what he knew, and was interrogated, which being done, and being competent to testify, he said his name was as above stated, married, aged 46 years, occupation a laboror, resident of this town and competent to testify. To the first question in the foregoing interrogatories he answered, upon its being read to him ; that he knows that the American army which came under the command of Colonel Dffa, (Doniphan,) in the year mentioned in the interrogatory, occupied the town hall of this place, and that the archives of the corporation and justices' courts were deposited there ; that the deponent was first justice at that time, and that as such Captain Waldo, doctor of medicine and belonging to the said army, informed him that the soldiers were entirely destroying the archives, and that for that reason he went there immediately with several others and collected the few public papers they had left, the greater portion having been already burned and thrown in the street, and even some time after there were important public papers found scattered in the streets ; that with what he has stated he answers the two questions read to him from the foregoing interrogatories ; that what he has stated is the truth under the oath which he has taken, which he affirmed and ratified upon the testimony being read to him, which he signed with the justice and those in attendance. I certify—

BENT'A LOPEZ.

J. J. SANCHES.

Attending :

FRANCISCO BARROW,

JOSÉ BEANES.

TOWN OF EL PASO, *October 21, 1852.*

The foregoing proceeding having been concluded let them be returned to the party interested for the purposes he may deem proper. The second substitute justice so decreed and signed with those in attendance. I certify—

BENT'A LOPEZ.

Attending :

FRANCISCO BARROW,

JOSÉ BEANES.

Fees for those proceedings without the paper \$2 4 rials.

SURVEYOR GENERAL'S OFFICE, TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, November 28, 1856.

The foregoing is a correct translation of the original on file in this office.

DAVID V. WHITING
Translator.

SANTA FÉ, NEW MEXICO,
December 31, 1856.

The foregoing is a true copy of the original on file in this office.
 WM. PELHAM
Surveyor General of New Mexico.

GRANT (ORIGINAL)—ESCRITO 1820.

Señor Teniente Gobernador Interino:

Don Antonio Garcia, vecino de esta jurisdiccion, como mejor haya lugar en derecho y al mio combenga ante V. parezco y digo: Que necesitando para hacer ó seguir de nuevo mi ynstance sobre la poblacion del paraje nombrado el Brasito, que solicité se hiciere á cuyo fin se practicarán diligencias en la materia y documentados se hayan en el archivo de este gobierno de su cargo y debiendo necesitar tenerlas á la vista y hacer de ellas el eso que me convenga he de merecer á V. se me entreguen dichos documentos y solo se busquen en el legajo del año 1817, cuyo fecha cito para no ser molestoso y quitar á V. la atencion de otros negocios, por tanto, A V. suplico rendidamente se sirva hacer como pido que en ello recibire merced justicia y gracia y piro en toda forma, Paso 8 de Febrero de 1820.

JUAN ANTONIO GARCIA.

PASO, Febrero 9, de 1820.

Auto.—Por presentado y admitido y en atencion á lo que esta parte solicita proceda desde luego a darsele testimonio de los documentos hablen en favor del interesado. Y por este auto yo, Don Tomas Bernal, teniente gobernador politico interino de este pueblo asi lo decreto y firmé con los testigos de mi assistencia actuando por recept^a. por falta de todo escribano publico ni real que no lo hoy en estas partes en los terminos prevenidos por la ley, de que certifico.

TOMAS BERNAL.

Assistencias: Jⁿ. M^a. PONCE DE LEON.
 ALEJANDRO CASTRO.

Escrito.—Señor commandante general: Don Juan Antonio Garcia de Noriega, vecino del Paso, teniente retirado de las milicias provinciales de dragones de dicho pueblo, con el mas respecto y sumision que haya lugar en derecho y al mio combenga paresco y digo ante la supe-

rioridad de V.S. diciendo: Que hace como once años que saqué una acequia en el paraje que nombran el Brasito, como se lo hago ver á V.S. en el adjunto escrito que presenté al señor gobernador de esta provincia, y el año pasado para la enunciada acequia se les sembró á los Apaches un poco de maíz y como estos nunca se establecen en una sola parte en este año mirando en la época presente la grande epidemia y contagio que había en este espresado pueblo de Langosta que cuyo en todos los sembrados que los dijeron aniquilados me animé á sentarme en el nominado paraje del Brasito poniendo mi rancho de ganado menor que tengo á redito con el que pobremente me mantengo y sostengo mi pobre familia hallandome en dicho rancho del Brasito habré tierras dejandolas que estaban abiertas en que sembraran dichos Apaches y las que nuevamente habré las sembré de maíz y frijol y habiendo lebantado mi corta cosecha que Dios me dió me he estado quitando de mis bienecitos y de un poco de treguo que tengo semprado por ser tan abundantes las aguas pastos y comodidades que ofrece en dicho paraje en vista de que varios vecinos que en este dicho pueblo se hayan sin tierras, me comunicado que estan prontos á compañoarme á que se haga una corta población, por lo que suplico á V.S. que saceriorado del citado paraje por Teniente Coronel Don Pedro R. de Lara mandé y el Teniente Coronel Don Alverto Maines, será V.S. impuesto de todas las comodidades que promete para una buena población, y que hayandole por conbeniente se sirba V.S. por su bondadosa piedad se me permita en conjunto de los vecinos que quisieren á compoñarme á poner mi resinto y rancho en el mencionado Brasito; como tambien pido á la alta penetración de V.S. que los que fuesemos nuevos pobladores nos haya la gracirosa merced de exceptuarnos de las contribuciones y pensiones que en este pueblo se hayan de signar y del diesmo que puedamos dar de los frutos de nuestras cortas cosechas que lebantemos por el tiempo que V.S. fuere gustoso. Esta merced que impetro es motivado á que para mantener como he mantenido la tranquilidad de la paz con los Apaches á cido gratificandole con semillas y lo poco que adquiero y exceptuandnos de lo que espresso será para ayuda de la gratificación que espresso y que les daré. Los capitancillos de los Apaches me han dicho que este año entrante quieren que se les siembren sus tierras y siempre que se berifique dicha población anciliado del vecindario del pueblo del Paso y con los nuevos pobladores les sembrare para tranquilizarlos mas. Por tanto a V.S. rendidamente pido y suplico se sirba decretar como lo hayare por conbeniente en lo que recibire merced y gracia. Quado. 6º, 27.

JUAN A. GARCIA.

PASO, Noviembre 29, de 1816.

Ymfl. el Teniente Gobernador del Paso.—Decreto informe del Teniente Gobernador del Paso, Benavia

DURANGO, 24 de Abril, de 1817.

Sr. COMANDANTE G'RAL: Vien sabe V.S. cuan recomendado esta por el Rey N.S. el que se formen y amparen los nuevas poblaciones en estas provincias lo que pretende hacer Don Juan A. Garcia acompañado de varios individuos vecinos y cabesas de familia segⁿ. la lista adjunta en el paraje del Bracito del Rio del Norte cerca de Robledos á sus expensas

parece se debe facilitar por el tiempo pacifico de los Gentiles da lugar á establecer la poblacion y labor siendo administrada del Curata del Paso y advertidos que teniendo cavallos silla y armas seran dueños de solares que fabriquen y de las tierras que cultiven y simbren siendo los egidos aguas y bosques realengos sirbiendose V.S. mandar la instrucion conbeniente para los buena principios del establecimiento y prevenirme lo que tenga á bien sobre todo. Es cuanto puedo informar á V.S. en cumplimento á su superior decreto de 24 de Abril ultimo. Paso, Junio 29, de 1817.

JOSÉ ORDAS.

DURANGO, 17 de Julio de 1817.

Decreto C.—Debuelvase el teniente govor. del Paso para que acompañado la lista que cita y dejo de incluir de los vecinos que en union de Don Juan A. Garcia solicitan poblar en terreno que se espresa informe la estension que tiene la distancia á que se haya de las poblaciones mas inmediatos las proporciones que ofrece para fundar otro por la abundancia de aguas y pastos y si en el caso de adjudicarse á los interesados podrá establecerse en el centro del mismo terreno la poblacion y habitaciones del ecclesiastico que ha de administrarlos del juez y demas que hagan de componer el vecindario.

BONAVIA.

C.—Distancia del Teniente Gobernador del Paso.

SEÑOR COMANDANTE GENERAL: El terreno que solicita poblar el contenido en esta instancia en compaňia de los individuos que comprende la adjunta lista misma que por un equiboco inboluntario dejo de incluir cuando pase dicha instancia á esa superioridad tiene de largo cosa de tres leguas de ancho al lado del poniente como un quarto de legua á su immediacion poco mas de legua con cuyo ambito signa hasta donde finalis por la parte del oriente. Es abnndante de aguas pues por el lado del sur linda con el rio que pasa por esta jurisdiccion. Lo es al mismo tiempo de pastos y ofrece las mayores proporciones en caso que se berifique su herencion y no hay embaraso para que en su centro se Vbigne la poblacion y habitaciones del ecclesiastico que ha de administrarlos del juez y demas que hayan de componer el vecindario. Se haya distante de las primeras casas de esta jurisdiccion cosa de quince leguas pocomas ó menos. La opulencia del vecindario de esta jurisdiccion y cortes de leña que anualmente hacen para el trafico de sus cosechas por una y otra vanda del rio no permitera que los nuebos pobladores usen de cortar la que hay en aguel terreno pero tampoco se perjudican los de este pueblo por esta causa mediante agua de ayi para arriba la tenien demasiado abundante. Es cuanto puedo informar á V.S. en cumplimento á su superior decreto fecha 17 de Julio ultimo, para que en su vista disponga lo que fuera de su superior agrado.

JOSÉ ORDAS.

PASO, 30 de Agosto, de 1817.

Lista de los individuos pobladores.

Lista de los individuos que solicitan á compoña á Don Juan Antonio Garcia en la poblacion del Bracito, á saber: Don Juan A. Garcia con 14 sirbientes, Don José Barrios con 2, Don Juan Barrios y dos hermanos suyos, Patricio Lucero, Miguel de Herrera con dos hombres, Simon Talamente, Don Ramon Garcia con dos hermanos, Antonio Provencio, Mateo Telles, Vincente Quarón, Matias Valencia, Don José Garcia con un hombre. *Nota:* Que amas de los anotados ha varios animados que solo aguarden la resolucion de esa superioridad.

PASO, 30 de Agosto, de 1817.

SEÑOR GOBERNADOR: Don Juan A. Garcia, Español vecino natural del pueblo del Paso termino de la jurisdiccion de V.S., teniente retirado de las milicias hurbanas de dicho pueblo, con el mayor respecto y beneracion que debo ante la alta penetracion de V.S. paresco y digo: Que estando intelligenciado en las repetidas ordenes de S. M. sobre que pueblen los recintos y parajes comodos de una y otra banda del Rio del Norte á fin del mayor seguro de los enemigos que constantemente estan hostilisando esta provincia y que sus poblaciones disfruten plauemente asi de las abundantes aguas de dicho rio de los planes incultos para laborios como de las producciones minerales registradas que prometer grandes proporciones á la patria como son los serros de los Organos y San Andres cuyos metales tenemos ensayados, los de Robledo y San Diego (que son tan optimos) la pasturacion de ganados mayores crias de cavallada y laborio con abundantes aguas cuyas ventajas para los patricios son innegables siendo yo uno de estos y tener hijos que en mi favor pueden sostenerlas y adelantarlas suplico á V.S. se sirba *mercenarme en el real nombre del Rey nuestro señor*, las porciones de tierra desde el Brasito hasta el estero de Trujillo en el cual citio prometo hacer casa parar corrales y abrir laborios en las tierras airasas é incultas y mantener ayí á mi costa y mencion el numero (para á hora) de quince hombres mientras la ambulacion é interes atrae mayor numero de habitantes pobladores en bien de la patria y de su propio conocido interes con la mira primaria de registrar y trabajar con consorcio de hombres inteligentes los minerales que ya tenemos reconocidas y que á ejemplo de esto no falten otros que se encarguen de hacer lo mismo y de este modo llegue á tener efecto la mente de su magestad de tantos años recommendeda. No estrañe V.S. que yo haya hecho este pedimento dejando de practicarlo ante el señor teniente gobernador de mi residencia pero considerando y estando cierto en que en este señor no residen las precisas facultades para su adguicicion he venido á su superior juzgado emprendiendo riesgos y gastos y tiempo á fin de que V.S. sea muy serbido de aprobar hacer y mandar como solicito siempre que V.S. lo estime conbeniente al estado á la patria y al bien publico. Por toda lo cual, A. V.S. pido y suplico se sirba determinar como mejor hayave conbeniente en lo que recibiré merced que impetro y he menester. Juro en toda forma no proceder de malicia costas protesto y en lo necesario, &c.

JN. ANTO. GARCIA.

SANTA FÉ, 4 de Agosto, de 1805.

Decreto.—Esta ynst^a. sera á tendida cuando se berifique poblacion en las inmediaciones del paraje que cita.

REAL Y ALENCASTER.

Escrito.—SEÑOR TENIENTE GOB'OR: Don Juan A. Garcia de Noriega vecino de esta jurisdiccion usando del mejor ocурso á salvo los competentes como mejor proceda en derecho ante V. paresco y digo: Que bariado las circunstancias que me instimularon el deseo de ver formada una poblacion que util á la religion al Rey nuestro señor, y al publico en el parje y campos desiertos que se conocen con el nombre del Brasito ha devido tambien mudar de aspecto la solicitud que con este objeto interpuse ante el Señor Comandante General cuya superior comunicacion ultima providencia ha dispuesto que V. informe sobre las particulares que instruye en su decreto por lo que intentando suspender por á hora todo procedimiento judicial y que pueda rer relativo á este asunto por no conbenir á mi justicia ella mediante A. V. suplico rendidamente sobre seda en el despacho de este negocio hasta que no sea nuebamente interpelado para ello por mi parte. Juro &.

JUAN A. GARCIA.

PASO, Febrero 12, de 1817.

Otro si, que para que de haga la debida const^a. se agregne esta me peticion al expediente. Juro &.^a V.S. *supra*. Es copia de los documentos originales que en expediente existen en el archivo de mi cargo los que van fiel y legalmente sacados y estando en el estado que la parte solicita entreguesele á esta para los fines que le sean conbenientes. Y para la debida constancia puce esta razon que rubriqué. Derechos, seis pesos.

BERNAL.

Escrito.—SEÑOR GOBERNADOR: Don Juan Antonio Garcia de Noriega vecino del pueblo del Paso del Rio del Norte, termino de la jurisdiccion de esa provincia de su mando teniente retirado de la malicia urbana de este pueblo con el mayor respecto y beneracion que debo ante la alta penetracion de V.S. parece y dice: Que haciendo ya la serie de catorce años tengo hechas repetidos instancias la primera el año de ochocientos cinco ante el Señor Governador Don Joaquin del Real Alencaster que lo hera en aquel tiempo y la 2^a en 816 al Señor Comandant General Don Bernardo Bonavia, como se ve en los adjuntos documentos que humildemente á compaño á V.S. solicitando poblar el parage nombrado el Brasito cita en este jurisdiccion distante de este pueblo como 15 leguas no habiendo tenido otro efecto el aspecto que a la vista reprecenta los citados documentor. Es constante al principio de mi solicitud hubo algunos individuos vecinos de este dicho pueblo que voluntariamente querian á companarme para formar dicha poblacion y a hora segun me persuado se hay tibros siendo la causa de que aun sin embargo en el primer informe que el Tenient Gobr. Don José Ordas hace al Señor Commandante General dice “le parece se deve facilitar por el tiempo pacifco de Gentiles que da lugar á establecer

la poblacion y labor y que deve ser administrado por el curato del Paso y se manifiesta en los mismos autos y en el 2º. en el ultimo parrafo pone el agregado y dice la opulencia del vecindario de esta jurisdiccion y corte de lena que anualmente hacen para el trafico de sus cosechas de una y otro banda del rio no permiten que los nuebos pobladores vien de cortar lo que hage en aquel terneno para este pueblo pero que tampoco se perjudican estas por esta causa mediante que de ayi para arriba la tenien demasiado abundante.” Causa como digo á V.S. se hagan desanimados los que antes voluntarios se prestaban en mi union all fomento de la referida poblacion, “ Es constante senor y nada lejos del conocimiento de V.S. que aun cuando llegue á tener efecto esta mi justa solicitud (como deseo) en nada se perjudica esta jurisdiccion teniendo comunes los cortes de lena con la nueva poblacion por ser el terreno tan amplio que no solo da lugar para esta y si á otra á la banda opuesta del rio por el lado del norte en el Dona Ana tantos y tan justificados motivos me mueben á molestar la atencion de V.S. por parecerme nada opuesto al serbº. de ambos magestades y antes recomendables por nuestro soverano el repueblo de los parajes desiertos y baldidos para el aumento de la agricultura y el mejor bien de sus vasayos. Sin embargo senor de que como digo que los vecinos que voluntariamente querian acompanarme haciendo cabesas de pobladores se hagan de otro parecer por los motivos espuestos suplico á V.S. no sea obstaculo este para que esta mi reverente question tenga el efecto que desea pues cuando estas no lo verifiquen hay otros muchos mas que no tienen propiedad legitima mantenindose solo acomodades para con el corto salario mantener sus obligaciones y la subsistencia de sus familias.” Aun cuando en parte no estime por justo todo cuanto llebo dicho espero de su bondadosa piedad hallandolo por conbeniente se me mercede á nombre de su magestad en el referido terreno desde el Bratiso hasta el estero de Trujillo como solicito en mi citada 1ª. presentacion y se comprende en los precitados autos ofreciendo cumplir lo mismo que ofrecé hacer en dicho pedimento como es fabricando casa parar corrales y abrir laborios y mantener un corto nº. de hombres a mi costa. Espero de su acreditada venevolencia no le sea molestoso tanto quanto en el particular espongo antes si sea muy serbido aprovar hacer y mandar como solicito siempre que V.S. lo estime conbeniente al estadio á la patria y al bien publico, por tanto.” “ A. V.S. pido y suplico se sirba determinar como mejor hagave por conbeniente en lo que impetro y é menester. Juro en toda forma, no proceder de malicia, costas protesto y en lo necesario, &a.

JUAN A. GARCIA.

[Una rubrica.]

PASO, 18 de Febrero, de 1820.

SANTA FÉ, Agosto 28, de 1820.

Decreto.—El Señor Gobernador de esta Provincia, Don Joaquin del Real Alencaster en decreto de 4 de Agosto de 1805 se negó á conceder la solicitud del suplicante condicionalmente y á hora esta govº. no tan autorizado (segun se cree) como aquel jefe no obstante de la presun-

cion en que esta por sus conocimientos topograficos de que conviene se pueblo ha resuelto occurra el interesado á donde corresponda.

MELGARES.

Un cuartillo, sello cuarto, año de mil ochocientos veinte y uno, habilintado jurado la constitucion por el Rey en 9 de Marzo de 1820.

[Una rubrica.]

Escrito.—Don Juan A. Garcia de Noriega, vecino del Paso, teniente retirado de las milicias urbanas de la propia jurisdiccion, ante V.E. con el devido respecto paresco y digo: Que en el año pasado de 1817, presenté escrito al Excmº. Señor Don Bernardo Bonavia inmediato antecesor de V.E. pidiendole que la virtud de que hacia once años que mantenía mis ganados en el paraje nombrado el Brasito en donde amis espensas abré una asequia rompé tierras é hise una corta siembra de mais cuya cosecha emberté entre los Apaches establecidos de paz en el citado pueblo se sirbiese permitirme que en union de otros vecinos de la misma jurisdiccion que carecian de tierras propias fundar una nueva poblacion en el referida paraje del Brasito que por la abundancia de aguas pastos y demas proporciones que en él se disfrutan seria muy util y tal ves llamaria la atencion de otros individuos los cerros minerales de plata y cobre que existen en sus cercanias y no se trabajan por hayarse en desierto suplicando é igualmente á dicho superior jefe que á como nuebos pobladores se nos excimiere por el tiempo que fuera de su agrado de las pensiones que en el pueblo del Paso de nos asignaren y del pago de diesmos. El nominado jefe en decreto de 24 de Abril de 1817, tubo á bien pedir informe ál teniente gobernador de este pueblo que en su cumplimiento espreso que estando tan recomendadas por el Rey N. S. el establecimiento de nuevas poblaciones en estas probincias resultaria muchas en ventajas acederse á la solicitud hecha por mi con todo lo demas que le parecio conbeniente y circunstanciado consta en los folios No. 1, á 4 del espedito. que debidamente acompañó. A consecuencia de dicho informe dispues el mencionado Señor Bonavia por decreto de 17 de Julio, de 1817, que el nominado teniente gobernador espuciere las estencion de los terrenos que comprende la estencion del paraje de Brasito, distancia á que se haya de las poblaciones mas inmediata las proporciones que ofrece para ubicar poblacion por abundancia de aguas y pastos y si en el caso de adjudicarse á los interesados podrian establecer en el centro del mismo terreno las habitaciones para el ecclesiastico juez y demas individuos que compuciesen el vecindario. En el mismo á los folios 4 y 5 se haya un escrito que presente al Señor Gobernador de Nuevo Mexico Don Joaquin Real Alencaster, en que referiendo menudamente los buenas proporciones del paraje del Brasito hasta el estero conocido con el nombre de Trujillo pedi que en nombre del Rey se me adjudicase dicho terreno prometiendo construir casa parrar corrales abri tierras y mantener a mi costa quince ó veinte hombres mientras que á imitacion mia y mobidos del interes con la mira primaria de trabajar en consorcio liba teniendo ofecto la mira de su magistad tan repetidamente recomendada de que se establescen poblaciones en estas probincias que prestan proporciones para ello. El citado gobernador del Nuevo Mexico decreto en 4 de Agosto de 1805, que mi solicitud seria atendida

luego que hubiese poblacion en las inmediaciones del nominado paraje del Brasito. Con fecha 12 de Setiembre de 1817, presenté al teniente gobernador de esta jurisdiccion el escrito de foxas 5 buelta en que despues de manifestar las causas que en aquella epoca me asistian para desistir de la solicitud pedí que suspendiese por entonces todo procedimiento judicial hasta que fuese nuebamente promovido por mi: en cuya consecuencia quedó el asunto en el estado en que antes tenia. Habiendo sesado los motivos que me obligaron á tal desistimiento presenté al actual gobernador interino de la provincia de Nuevo Mexico, el escrito que corre del folio 7 al 9 del expediente citado pidiendo que se mercenare á nombre su magestad el referido terreno del Brasito hasta el estero de Trujillo como solicité en escrito que se haya á folios 4 y 5 del ya enunciado expediente pero dicho gobernador persuadido de que carecia de facultades para conbenir en mi solicitud dispuso en 28 de Agosto de 1820 que sin embargo de estar penetrado por sus conocimientos topograficos de que conviene se pueble el nominado punto del Brasito occuviere á donde corresponde. En cuya consecuencia y combinendome segun dejo manifestado el que se me adjudique el terreno del Brasito hasta el estero de Trujillo con los pastos y montes que le son anexos, A. V.E. rendidamente suplico que en atencion á cuanto dejo expresado y al corto merito que me asiste se sirba V.E. disponer que prebias las formalidades requicitas se me adjudique dicho puesto del Brasito hasta el estero que llaman de Trujillo en lo cual recibiré merced.

JUAN A.G A RCIA.

EXMO. SEÑOR.

Pueblo de Nuestra Señora de Guadalupe del Paso, 28 de Julio, de 1821.

Dictamen de la Yntendente de Durango.

Yntendente—El promotor fiscal de hacienda publica dice que desde el año de 805 se presente Don Juan A. Garcia vecino del pueblo del Paso registrando las tierras del Brasito cituadas en aquel mismo Territorio y ofreciendo poblarles con sus ganados y los correspondientes brasos para su custodia y seguridad, pero el gobernador de aquella provincia acaso por los riesgos que presentarian las incursiones de los barbaros en aquella epoca decretó que se admitiria la instancia cuando se cituare poblacion en las inmediaciones de dicho paraje. Posteriormente en el año de 817 repitió su solicitud estiendola á que se le permitiese poblar el enunciado paraje y se instruyó con tal motivo expediente en la comandante general hasta indicarse el numero de familias y vecinos que estaban prontos a trasladarse á la nueba poblacion y ocuparse en su fomento mas por las causas que indicó el mismo Garcia se suspendió en curso de su solicitud hasta el año pasado de 820 que incistió en el registro por ante el gobernador de aquella provincia y previniéndosele que ocurriese ala autoridad correspondiente se dirigió al exmo. señor comandante general de estas provincias que emitió la instancia á esta Yntendencia, y es lo que resulta del expediente. No hay duda que el aumento de poblacion y particularmente en aquella remota probincia es de preferente atencion ala cria de ganados y cul-

tivo de terrenos cuyos ramos recibirán un fuerte impulso por solo el hecho de fomento de poblaciones. Las leyes y ultimos decretos tratando de proteger el establecimiento de estas prescriben que los terrenos acomodados y aproposito para poblaciones no se merceden a los particulares para criaderos de ganados ó laborios de siembra sino que resultando los terrenos que se registrasen con las calidades que se prescribían de buen temperamento, fertilidad, abundancia de aguas y otras que se refieren en dichos decretos se diera cta. al govierno supremo con los expedientes para que allé se resolviere lo mas conveniente. El que tenga a la vista presenta en su primer aspecto a las tierras del Brasito como utiles y acomodadas para poblacion pues que yá en otra epoca trataron de poblarlas, varios vecinos del Paso segun he insinuado aun no se sabe si ellos pertenecen ó no a la nacion y de consiguiente pido que ante todas casas se reciba una informacion de tres testigos que declaren en el particular de si son ó no nacionales y sin dueño determinada que en seguida se reciba otra informacion que acredite la localidad extension y circunstancias del mismo terreno su temperatura, rios, arroyos ó fuentes que lo riegan ó circundan y de su feracidad ó esterilidad que hecho asi con lo que resultarese de cuenta á esta Yntendencia que remitirá el expediente para la practica de lo pedido al subdelegado ó alcalde de 1^{er} voto del Paso previniéndosele que informe si aun existen dispuesto á poblar dicho terreno varios vecinos que á ello se ofrecieron en el año de 17 si otros y que para la informacion de si son ó no nacionales nombre un promotor fiscal que sostenga los derechos de la hacienda publica, que es lo que concluye el que aqui llebo la vos por la misma.

Honorario con vista siete pesos.

LICDO. RAMOS.

DURANGO, 9 de Enero, de 1822.

DURANGO, 17 de Enero, de 1822.

Decreto.—Remitase al alcalde 1º. del pueblo del Paso para que proceda á la practica de las diligencias que se piden por el promotor fiscal de la hacienda publica donde citada con la posible vrebedad.

DON HERRERA.

[Una rubrica.]

Auto del Alcalde 1º. del Paso.

PASO, Abril 18, de 1822.

Por recibido el presente expediente que el Señor Intendente Don D. Mariano Herrera, me remitió con fecha 17 de Enero del corriente año á efecto de que en su vista se procediese por este juzgado á darle el curso correspondiente segun lo dispuesto por el señor promotor fiscal de la hacienda publica en Durango constante en el y siendolo 1º. que espide en este se reciba informacion de tres testigos segun lo que resulta de lo diligenciado en dicho expediente. Debia de mandar y mando que para esta fin se citen para el de mañana á los tres repidores de esta ylustre corporacion, Don Bentura Carbajal y Don José Maria Velarde, y el vecino Don José Maria Garcia para que concluido esto

se proceda á lo demas que haya lugar, y por esto auto y Don George Guerena, alcalde de 1^{er} nominacion asi lo provei mande y firmé con los de mi asistencia con quienes actuo por recept^a. y en el presente papel por no haber de ningun sello, de que certifico.

GEORGE GUERENA.

Assistencia : JUAN MA. PONCE.
GUADALUPE VENERIDES.

Declaracion del 1º testigo.—“En el pueblo del Paso a los 19 dias del mes de April de 1822, segundo de la independencia de este imperio ante mi Don George Guerena alcalde de 1^{er}. nominacion de dicho pueblo compareció á este juzgado Don Ventura Carbalal á efecto de que informe si los terrenos del Brasito que pretende Don Juan A. Garcia de esta vecindad para poblacion pertenecen ó no a la nacion ó algun particular segun lo mandado por el señor promotor fiscal de la hacienda de Durango, y entendido de lo que se le pregunta dijo : que le consta y desde su infancia sabe que dicho paraje es nacional y sin dueño particular, pero que los vecinos de este pueblo aunque de él al dicho paraje dista como 15 leguas hacen vso de él para la saca de madera, leña y pastorias de caballada y ganados asi mayores como menores y que si priban á esos de esta gracia considera se proporcione la ruina de este pueblo : que es ctº. sabe y responde á lo que se le pregunta. Y para su constancia lo firmó con migo dicho señor juez y los testigos de mi asst^a. con quienes actuo por recept^a. de que certifico.

GEORGE GUEREÑA.
VENTURA CARBAJAL.

Assistencia, JUAN MA. PONCE DE LEON.
MARIANO ORCASITAS.”

Declaracion del 2º testigo.—“Ynmediatamente y ante mi dicho señor juez mande comparecer segun lo mandado á Don José Maria Velarde, regidor de ylustre corporacion segun lo pide el promotor fiscal de Durango dijo : que siempre ha sabido que dicho paraje es nacional y sin dueno pero que los vecinos de este pueblo aunque de él a dicho paraje disto como 15 leguas hacen vso de él para la saca de madera leña y pastorias de ganados y que si se privan á estos de esta gracia considera incapaz de que subsista este pueblo que es ctº. sabe y responde á lo que se le pregunta. Y para su constancia lo firmó con migo dicho señor juez y los testigos de ast^a. con quienes actuo por recept^a por falta de escribanos que no lo hay en los terminos preveindos por ley doy fée.

GEORGE GUEREÑA.
JOSÉ MARIA VELARDE.

Asst^a., J. M. PONCE DE LEON.
MARIANO ORCASITAS.”

Declaracion del 3º testigo.—“Yncontenente y ante mi dicho Señor juez presentes los de mi assistencia mande comparecer al vecino de este pueblo Don José Maria Garcia á efecto de que si los terrenos del Brasito que pretende poblar Don Juan A. Garcia pretenecen ó no a la nacion ó á posesion de algun particular segun lo mandado por el promotor fiscal y entendido dijo : que conoce y sabe que dicho paraje es

nacional y sin dueno particular pero que los vecinos de este pueblo aunque de él á dicho paraje dista como 15 leguas hacen uso de el para la saca de madera pastorias de ganados y que si se privan de esta gracia á estos se considera sea incapaz de que puedan subsistir que es ctº. sabe y responde a lo que se le pregunta y para constancia lo firmó con migo dicho Señor juez y los de mi astº. con quienes actuó por receptº. doy fee.

GEORGE GUERENA.
JOSÉ MARIA GARCIA.

Asstº., J. M. PONCE DE LEON.
MARIANO ORCASITAS."

Auto.—“En el pueblo del Paso del Rio del Norte a los veinte dias del mes de Abril de 1822, segundo de la independencia de este imperio, yo Don George Guerena, alcalde de 1º. nominacion en virtud de lo pedido por el Señor promotor fiscal constante en estas diligencias á foxas 13 debia de mandar y mando que para la practica del informe de la localidad estension y circunstancias del terreno del Brasito se posen estas en el estado que se hayan á Don José Maria Cordova de esta vecindad para que en su vista les de el curso que ellas piden de bolbiendomelas con su informe para proseder alo demas que haya lugar y por este auto yo dicho Señor juez asi lo provei mande y firme con los testigos de astº. de que certifico.

GEORGE GUERENA.

Astº. J. M. PONCE.
MARIANO ORCASITAS.”

Dictamen del C. José Maria Cordova.

SEÑOR ALCALDE DE 1º. VOTO DON GEORGE GUERENA: El vecino de esta jurisdicion, Don José Maria Cordova, en cumplº. a la providencia de V. en que me pasa este expediente para que informe en el mismo acto en comicion al terreno del Brasito si se que la estencion desde los esteros de Trujillo hasta el paraje nombrado el Brasito habra de largo tres leguas y de ancho desde la orilla del rio hasta las lomas de la sierra de los Organas como mas de media legua en partes que pueda ser utiles para tierras de lavor tiene la circunstancia de que toda es tierra llana los ancones del rio y no tiene arboleda mas que uno que otro alamo y lo demas esta lleno de abrajos espinas y demas especies de malera excito la orilla del rio que esta bien poblada de alameda grande y pequena sons y tornillo el temperamento es casi igual al de este pueblo que solo puede ser algo mas frio por estar mas abajo del norte aguas no tiene ningunas mas de las de este rio del Paso en cuya origa esta situada no tiene fuente ninguna ni arroyo de agua permanente por que estos solo la tienen de la que llueve el suelo soy de sentir que es util y fuertil a la agricultura lo mismo que el de este pueblo y que podra dar las mismas producciones pues esta resguardando del viento norte con la sierra de los Organas y esta por la parte del norte tiene abundantes maderas de pinos y encinos. Es ctº. puedo informar en cumplimiento de lo mandado.

JOSÉ MARIA CORDOVA.

Paso, Abril 19, de 1822.”

H. Ex. Doc. 73—6

PASO, Abril 23, de 1822.

Auto.—Por recibido el presente expediente con el informe sentado en el por Don José María Cordova de esta vicindad en 19 del corriente segun se le pide en auto anterior y faltando para dar cumplimiento a lo pedido por el Señor fiscal de Durango el nombramiento en este suelo para que sostenga los derechos de la hacienda publica nombro para tal fin á Don Julian Bernal, á quien sele pasara dicho expediente en el estado que resulte para que en su vista proseda á esponer lo que á su cargo corresponde y concluido me lo debolbera á fin de que en él se practique lo demas necesario y por esta auto yo Don George Guereña, alcalde 1^r nombrado asi lo provey mande y firme actuando por recept^a. con testigos de assist^a. de que certifico.

GEORGE GUEREÑA.

Ast^a. J. M. PONCE.

J. JOSÉ GARCIA.

Dictamen del Promotor Fiscal.

Senor Alcalde 1^r nombrado Don Julian Bernal de esta jurisdicion del cargo de V. y promotor fiscal nombrado por su providencia que con fecha 23 del corriente asentó en esta expediente deduse en consecuencia de ella que acepta el tal nombramiento y para ebitar cualesquiera nobedad que en asunto de tanta gravedad pueda resultar para falta de requisito en el asunto jura en devida forma desempenar legalmente hasta donde lo permite su corto juicio los deneres á que constituye el nombramiento en cuya virtud no resultando hasta á hora oposicion por los declarantes que el terreno del Brasito deje de pertenecer a la hacienda publica de quien defiendo sus derechos suplico á V. que evacuados la citas que el Senor Licenciado y Pro—

El C. Bentura Lopes, juez 2^o. sup^o. de lo civil del Canton Brabos certifico: que la anterior copia de los documentos que se han podido adquirir pertenecientes a la pocesicion original de los terrenos del Brasito es sacada fiel y legalmente de sus originales en las dies foxas utiles que aparecen. Así mismo no se concluyó de sacar hasta el fin por haber solo aparecido el troso del expediente que se ha copiado y haya do despues del despilforro del archivo de esta villa causado por las tropas de Estados Unidos en el año de 846.

BENTURA LOPES.

Ast^a., JOSÉ BEANES.

FRANCISCO BARROW.

Derechos de esta certificado y autorisacion de las 10 fojas utiles anteriores 22 rs., lo juro.

Señor Prefecto ó Juez de la otro banda del Rio Brabo:

Francisco Garcia y San Juan vecino de la villa del Paso ante V. se presenta y dice: que desde el principio del siglo en que vivimos mi dif^{to}. padre Don Juan A. Garcia se trasportó al Brasito lugar desierto en donde permaneció hasta el año de 28 en que concluyó sus dias elaborando aquellas terrenos sosteniendo y gratificando á sus espensas ala tribú Apache salbajes, mas como de la muerte de mi padre con-

cluyo todo influjo para con el enemigo desde luego los hijos comensamos á esperimentar desastres y perdidas be biens que disfrutabamos hasta el grado de abandonar aquel terreno delicioso en el que nos comieron en nuestra juventud en el bien estar de mi padre honrrado y laborioso pero siendo que amas de lo espuesto se le ha seguido al que habla haber desaparecido por las bicititudes de los tiempos la perdida de los documentos de legitimidad del terreno que menciono ; no puedo menos que dirijirme á V. manifestando el derecho que tengo á este y para probar que hube tales documentos de posesion ala vez que han desaparecido los primordiales ha merito las disposiciones juridicas que adjunto en nueve fojas utiles cuyos tambien espresan el causal del por que me separé del terreno que refiero pero ya que en la presente toca á su deliberacion no puedo quedarme de un expectador frio sin hacer uso de mi derecho, y por lo tanto, A V pido y suplico se sirba el dar por bastante y bien documentada mi peticion para declarar que soy un dueño legitimo del terreno en el Brasito distante de esta villa cosa de de 18 leguas cuya area pidió mi difunto padre Don Juan A. Garcia desde el 30 de Agosto de 1817, segun aparece por un borrador informe que tambien acompaña y que solo he pedido encontrar del teniente gobernador de aquellos tiempos en esta villa dirijido al comandante general de Chihuahua, por supuesto es un antecedente de cuando mi padre se interesó poblar aquel terreno en comp^a. de las personas que se anotan al pie del informe. Juro no obrar de malicia y lo neces^o., &^a. Va en el presente papel comun por no haber del sello que corresponde con la protesta de pagar los derechos correspondientes.

FRANCISCO GARCIA SAN JUAN.

VILLA DEL PASO, Marzo 30, de 1829.

SEÑOR JUEZ LETRADO : Francisco Garcia de esta vecindad ante Vd. como mejor proceda parece y dise : que conviene á mi derecho se sirba hacer comparecer á su juzgado a los ciudadanos Joaquin Velarde, José Maria Maese, y Antonio Gonzales quien juramentados conforme al interrogat^o. que presento se serbira debolberme las declaraciones juridicas que se practiquen a continuacion de me pedido.

1^a. Si conocieron á mi difunto padre Don Juan A. Garcia, y si es cierto que estubo vibiendo en el paraje del Brasito distante como 18 leguas de esta villa desde principios del siglo en que vibimos hasta el año de 28 en que concluyo sus días.

2^o. Si saben si laborió á sus espensas parte de aquellos terrenos en el tiempo de su vida y si saben se pocaionare de estos por las autoridades respectivas de aquellos tiempos.

3^a Declaren si cuando me retiré de los terrenos del Brasito que refiero fue por desidia ó abandono ó fue por las incursiones de los Yndios barbaros. Estas son las preguntas : por tanto,

A. V. pido y suplico se sirba hacer como llebo pedido. Juro no obrar de malicia y lo necessario &^a. Va en el comun por no haber del sello que corresponde, con la protesta de pagar su valor.

FRANCISCO GARCIA Y SAN JUAN.

VILLA DEL PASO, Febrero 13, de 1849.

PASO, Febrero 13, de 1839.

Como lo pide la parte practique la informacion que solicita. El juez de letras del distrito lo decreto y firmó con los de asist^a.

LIC. ROBLES.

Asist^a. : FRANCISCO BARROW.

JOSÉ SOMBRANO.

Notifidado en la misma fecha á Don Francisco Garcia San Juan del decreto que antecede dijo : que lo oyo y lo firmo con el juez y los de asist^a.—Francisco Garcia San Juan—Lic. Robles—de ast^a. Francisco Barrow—de asist^a.—Jose Sambrano.

En 15 de Febrero de 1849, para practicar la informacion pedido por el interesado presentó por testigo á José A. Gonzales quien bajo de juramento que hizo por Dios Nuestro Señor y una senal de cruz, ofrecio decir verdad en lo que supiere y fuese preguntado y digo llamarse como queda derecho casado edad 52 años vecino de esta villa.

Preguntado—Con arreglo al anterior interrog^t. y dijo á la 1^a. que conoció a Don Juan Antonio Garcia padre de Don Francisco G. San Juan y que es cierto estubo bibiendo en el paraje que le llaman el Brasito distante como 18 leguas de esta villa desde principios de este siglo hasta el año de 28 en que murió. A la 2^a. dijo : que es cierto todo su contenido por que el defunto Ant^o. Garcia mucho años trabajo é hizo labores á sus espensas en los terrenos del Brasito y sabe que se poseicionó de aquellos terrenos por las autoridades lexítimas de aquel tiempo que tenia 3 leguas de largo y una de ancho. A la 3^a. dijo : que Don Francisco San Juan se retiro del terreno del Brasito por las incursiones de los Yndios barbaros y no abandono que es lo que puede declarar por el juramento que ha prestado y no firmó por no saver lo hizo el juez y los de asst^a.—Francisco Robles—de ast^a. Francisco Barrow—de ast^a. José Sambrano.

Luego se juramentó a Don Joaquin Velarde que ofrecio decir verdad en lo que supiere y fuese preguntado y dijo llamarse como queda dicho estado casado edad 48 años sin grales y de esta vecindad. Preguntado con arreglo al anterior interrogatorio y dijo a la primera pregunta que es cierto todo su contenido pues le consta de vista. A la 2^a. dijo que á ciencia cierta le consta que el finado Don Juan Antonio Garcia laborió a sus espensas parte de los terrenos que se mencionar pues esto fue publico y notario y que tambien sabe que ocurrio solicitando ante las autoridades supremas se le diera posesion de ellas en razon de haberles ganado por el tiempo que de la mejor buena fe las habia poseido con permiso de las mismas autoridades y que oyó decir se le habian dado las pociencias referidas constando los expresados terrenos de 3 leguas de largo y una de ancho. A la 3^a. dijo : que la causa que tubo el solicitante para retirarse del Brasito y abandonar sus terrenos fué la persecucion casi diaria que le hacian los barbaros y que la fuerza que él tenia para repararlos era ninguna ni menos se le daba de esta villa ningun ancilio en razon de la larga distancia que hay pues á no haber habido tan poderosas causas nada menos que espuesto á perder la vida de un momento á otro a segura el que declara sin equivocacion que jamas se hubiera retirado el Señor Don Juan de sus terrenos justamente adquiridos por los medios legales pues los frutos de aquellos le propor-

cionaban suficientemente su subsistencia y tambien se alibiara todo pasajero que pribaba aquellos terrenos. Lo espuesto fué la verdadera causa de que se retirara de ellos pues no hubo nada de desidia ni abandono ni menos apatia y que lo dicho es la verdad por el juramento que ha prestado en el que se afirmó y ratifico leida que le fué su declaracion y firmo con el juez y los testigos de asist^a.—Robles—Joaquin Velarde—de ast^a. Francisco Barrow—de ast^a. Jose Sombrano.

En 16 del corriente se juramento a Don Jose Maria Maese que ofrecio decir verdad en lo que supiese y fuese preguntado y habiendo ofrecido hacerlo dijo llamarse como queda dicho estado casado edad 35 años vecino de esta villa sin generales R. C. A. R. Perguntado con arreglo al interior interrogatorio a la primera dijo que todo su contenido es cierto. A la 2^a dijo que tambien es cierto su contenido porque el defunto Ant^o. Garcia muchos años trabajo é hizo labores a sus expensas en los terrenos del Brasito y sabe que se posesiono de aquellos por las autoridades lejítimas de aquellos tiempos que los mencionados terrenos tenian 3 leguas de largo y una de ancho. A la 3^a. dijo que Don Francisco Garcia San Juan se retiro de los terrenos del Brasito las incursiones de los Yndios barbaros mas no por desidia ni abandono que lo dicho es la verdad por el juramento que ha prestado en el que se afirmo y ratifico leida que le fue su declaracion y firmo con el juez y los de asist^a.—Francisco Robles—José Maria Maese—de ast^a. Francisco Barrow—de ast^a. José Sambrano.

Estando concluida esta informacion se le debuelve al interesado en tres fojas utiles en papel comun que dando obligado a reponerlo cuando lo haya. Derechos sin el papel 4 pesos 7 rials.

PASO, *Febrero 16, de 1849.*

SEÑOR COMMANDANTE GENERAL: El terreno que solicita polar el contenido en esta instancia en compania de los individuos que comprende la adjunta lista misma que por un equiboco inboluntario dexé de incluir cuando pase dicha instancia á esa superioridad tiene de largo cosa de tres leguas de ancho á el lado del poniente como un quarto á su inmediacion poco mas de legua con cuyo ambito signe hasta á donde finalisa por la parte del oriente es abundante de aguas pues por el lado del sur linda con el rio que para por esta jurisdiccion lo es al mismo tiempo de pastos y ofrece las mayores proporciones en casos que se verifique su herecion y no hay embaraso para que en su centro se hubique la poblacion y habitaciones del ecclesiastico que ha de administrarles del juez y demas que hayan de componer el vecindario se haya distante de las primeras casas de esta jurisdiccion cosa de quince leguas poco mas ó menos. La opulencia del vecindario esta jurisdiccion y cortes de lena que anualmente hacen para el trafico de sus cosechas por uno y otro banda del rio no permitira que los nuebos pobladores usen de cortar la que haya de aquel terreno para esta pueblo pero tampoco se perjudican estos por esta causa mediante á que de ayí para arriba la tienen demasiado abundante. Es cuanto puedo informar á V.S. en cumplimiento á su superior decreto que antecede fecha de Julio ultimo para que en su vista disponga lo que sea de su mayor agrado.

PASO, *30 de Agosto, de 1817.*

Lista de los individuos de esta jurisdiccion que solicitan á compania Don Juan A. Garcia en la poblacion del Brasito, á saver:

Don Juan A. Garcia, con 14 sirbientes.....	15
Don José Barrios, con 2 sirbientes.....	3
Don Juan Barrio y sus 2 hermanos	3
Don Patricio Lucero.....	1
Don Miguel de Herr'a, con 2 hombres.....	3
Don Simon Talamante.....	1
Don Ramon Garcia, con 2 hombres.....	3
Don Antonio Provencio.....	1
Don Mateo Telles.....	1
Don Vicente Quarron.....	1
Don Matias Valencia.-.....	1
Don José Garcia, con un hombre.....	2
 Total...	 35
 =====	 =====

Nota.—Que amas de los anotados en esta hay varios animados que solo á guardan la resolucion de esa superioridad.

PASO, 30 de Agosto de 1817.

SEÑOR GEFE POLITICO DE ESTA CANTON: El ciudadano Francisco Garcia y San Juan ante V.S. con el debido respeto se presenta deciendo que en atencion á que de la otra banda del Rio Brabo estan rigiendo autoridades de los Estados Unidos y estos desconocen el derecho que tengo sobre cierta cantidad de terrenos en el paraje nombrado del Brasito presente á V.S. los adjunto documentos para que sersiorado de la legitima propiedad que tengo sobre los mencionados terrenos como á V.S. y á todo vecindario le es constante se sirba estenderme un certificado del derecho que me asiste para con el representar mi accion a la citado autoridad de la otra banda; por tanto, A V.S pido y suplico haya como solicito en que recibira gracia haciendo esta en papel comun por no haber del sello correspondiente. Juro &a,, Villa del Paso, Marzo 17, de 1849.

FRANCISCO GARCIA SAN JUAN.

El ciudadano Juan Maria Ponce de Leon, Gefe Politico del Canton Brabos, certifico en cuanto el derecho me permite que el padre del suplicante finado Don Juan A. Garcia, pido pocesion del terreno nombrado el Brasito que vibio en él bastantes años laboriendo la tierra creando animales de todas especies que á sus expensae casi mantenía á los Apaches de paz y prestaba otros servicios demasiado utiles a los tramitantes y aun a la nacion entera hasta que los barbaros por su alsamiento y hostilidades le hicieron retirarse de derecho punto el testimonio de haber cultivado el expresado terreno lo manifiesta el mismo pues se haya todo atravesado de acequias algunas tierras abordades y la ruina de la casa tambien me consta sin acordarme que año pido un indibiduo de los Estados Unidos nombrado Don Juan Gid terreno en aquel punto y se le concedió por las autoridades Megicanas respetando

los del expresado Don Juan A. Garcia esto afirma por haber sido uno de los comisionados en la medida del terreno que se pretendia y á pitimento del interesado y para los fines que le sean necesarios le doy la presente que firmo en el Paso á diez y siete de Marzo de mil ochocientos cuarenta y nueve.

JUAN MARIA PONCE DE LEON.

FAUSTINO MONTES, *Secretario.*

SEÑOR JUEZ LETRADO DEL CANTON: Francisco Garcia y San Juan de esta villa ante su juzgado paresco y digo que para mas robusteser mi derecho se sirba hacer presente ante V. á los ciudadanos Ynocente Herrera, Agaton Herrera y Mateo Telles quienes juramentados segun derecho conforme al interrogatorio que presento se sirba debolverme original todo lo que se practique á continuacion de esta: 1^a. Si conocieron á mi difunto padre Don Juan A. Garcia, y si es cierto que estubo viviendo en el paraje de Brasito distante como 18 leguas de esta villa desde principios del siglo en que bivimos hasta el año de 28 en que concluyó sus dias. 2^a. Si saver que laborió á sus espensas parte de aquellos terrenos en el tiempo de su vida y si vieron que se posecionare de estos por las autoridades respectivas de aquellos tiempos. 3^a. Declaren si cuando me retire de los terrenos del Brasito que refiero fué por desidia ó abandono ó fué por las incurziones de los Yndios barbares. Estos son las preguntas; por tanto, A V. pido y suplico se sirba hacer como llebo pedido. Juro no obrar de malicia y lo necesario. Va en el comun por no haber del sello que correponde con el protestar de pagar su valor.

FRANCISCO GARCIA SAN JUAN.

VILLA DEL PASO, *Marzo de 28, de 1849.*

PASO, *Marzo 29, de 1849.*

Practiques la informacion que solicita el Juez de Letras del Distrito lo decretó y firmó con los de ast^a.

LIC. ROBLES.

Ast^a., FRANCISCO BARROW.
LUIS ORTEGA.

En la misma fecha se le notificó a Don Francisco San Juan el anterior decreto y dijo que lo oye y firmo con el juez y los de ast^a.—Lic. Robles—Francisco San Juan—de ast^a. Francisco Barron—de ast^a. Luis Ortega.

Y luego se juramento á Ynocente Herrera que ofrecio decir verdad en lo que supiere y fuese preguntado y siendolo conforme al interrogatorio que antecede. A la primera dijo, que conocio á Don Juan A. Garcia á quien sirbio muchos años en el paraje de Brasito distante de esta villa como 18 leguas mas ó menos y que en este punto estubo viviendo el finado Juan A. Garcia desde principios del presente siglo hasta el año de 28 que murió. A la 2^a. dijo, que vió é laborió á sus espensas parte de aquellos terrenos en el tiempo de su vida y tambien vió que se le dio posesion por el Señor Don José Ordas, teniente gobernador que fue en ese tiempo de esta villa. A la 3^a. dijo, que Don Francisco San Juan se retiró de aquel punto agobiado de las incur-

siones de los barbaros que le robaron todos sus bienes mas no por desidia ni abandono que lo derecho, es la verdad por el juramento que ha prestado agregando ser casado edad 48 años de esta vecindad sin generales y no firmo por no saber lo hizo el juez de asst^a.—Francisco Robles—de asst^a. Francisco Barron—de asst^a. Luis Ortega.

En la misma fecha se juramento a Juan Agaton Herrera que ofrecio decir verdad en lo que supiere y fuese preguntado y siendolo con arreglo al interrogatorio que antecede. A la 1^a. dijo, que conoció á Don J. Ant^o. Garcia, padre de Don Francisco, y que es verdad estubo biviendo en el punto del Brasito desde principios de esta siglo hasta el año de 28 que murió. A la 2^a. dijo, que vio que á sus espensas el difunto Don Juan A. Garcia é laborió aquellos terrenos é igualmente vio que fué posesionado de ellos por el Sr. Don Jose Ordas, teniente gobernador que fué in en aquel tiempo de esta villa. A la 3^a. dijo, que Don Francisco Garcia San Juan se retiro de los mencionados terrenos obligado de los barbaros que le hacian diariamente la guerra mas no por desidia ni abandono que es lo que puede declarar por el juramente que ha prestado agregando ser viudo edad 60 años, y no firmo por no saber lo hizo el juez y los de asist^a.—Francisco Robles—de asst^a. Francisco Barrow—de assist^a. Luis Ortega.

No se le tomó declaracion á Mateo Telles por no pertenecer á esta villa y estar ausente y se anota para constancia.

Estando terminada esta informacion con los dos testigos que se han esaminado se le debuelve á la parte en dos fojos. Derechos sin papel 4 pesos 1 real.

PASO, Marzo 29 de 1849.

SEÑOR JUEZ 2º. CONSTITUCIONAL DE ESTA VILLA: El ciudadano Franc^o. Garcia y San Juan ante V. comparesco y digo: Que para el uso de mi derecho se ha de servir hacer presente á su juzgado a los ciudadanos José A. Prob^o. Tomas Yrigoyen y Francisco Horcasitas, quienes juramentados en forma declaren:

1º. Si bieron que á mi difunto padre Don Juan A. Garcia, se le dió posesion de los terrenos del Brasito manifestando quien fué el juez que dio tales documentos.

2º. Digan cuales son los linderos con que siempre se han dividido estos terrenos declarando los puntos debisorios con que siempre se han conocido; dicho lo que pido V. se serbira debolverme todo lo actuado. Por lo tanto, A V. suplico se sirba hacer como pido. Juro no obrar de malicia y lo necesario, & a., obligandome a al repocicion del papel por no haber del sello correspondiente.

FRANCISCO GARCIA SAN JUAN.

VILLA DEL PASSO, Setiembre 21, de 1849.

VILLA DEL PASO, Setiembre 21, de 1849.

Tomesa la informacion que se solicita. El ciudadano Lorenzo Barrio, alcalde 2^a constitucional asi lo decreto y firmo con los de asist^a.—Lorenzo Barrio—de asist^a. Barrow—de asst^a. Nicolas Barela.

En el acto presente y juramentado en forma J. Ant^o. Prob^o. ofrecio decir verdad en lo que supiere y fuese preguntado digo llamarse como se ha dicho viudo vecino de esta villa edad 55 años labrador y C. A. R.

Preguntado sobre la primera que se encuentra en este interrogatorio impuesto de ella dijo, que tubo en sus manos las posesiones del terreno llamado del Brasito espedidas á favor de Don J. A. Garcia y que estas fueron dadas por Don José Ordas, teniente gobernador en aquella epoca de estos puntos. A la 2^a. leida que le fué dijo, que en aquel tiempo los linderos connosidos eran uno de la boca asequia del Brasito a los esteros llamados de Trujillo y de los estremos de estos dos puntos partiendo desde el rio legua y media asi al norte que lo dicho es la verdad por el juramento que ha prestado en él que se afirmó y ratificó leyda que le fué su declaracion no firmó por no saber lo hizo el juez y los de asist.^a—Lorenzo Barrio—de asist^a. Francisco Barrow—de asist^a. Nicolas Barela.

Y luego presente Don Tomas Yrigoyen se juramento y ofrecio decir verdad en lo que supiere y fuese preguntado dijo llamarse como se ha dicho casado vecino de esta villa carpintero edad cuarenta años y C. A. R. Preguntado sobre la primera pregunta que se encuentra en el anterior interrogatorio é impuesto de ella dijo, que no vió estender la posecion pero si tubo en sus manos la posecion que se cita estendida por Don José Ordas que segun aparece en aquella epoca era teniente gobernador de este suelo. A la 2^a. leyda que le fué contestó, que esta cierto que partiendo de arriba abajo el lindero era de la boca asequia del Brasito hasta los esteros denominados de Trujillo mas de sur á norte no esta cierto cual es el lindero fijo que es lo que puede declarar por el juramento que ha prestado en que se afirmó y ratificó firmo con el juez y los de assistencia.—Lorenzo del Barrio—Tomas Yrigoyen—de assistencia Francisco Barrow—de assistencia Nicolas Barela.

En seguida se juramentó á Don Francisco Orcasitas que ofrecio decir verdad en ct^o. sepa y sea preguntado dijo: Llamarse como se ha dicho casado edad 49 años vecino de esta villa laborioso y C. A. R. Preguntado al tenor de la primera pregunta que se encuentra en el anterior interrogatorio dijo: Que sabe que á Don Juan Antonio Garcia se le dió posesion de los terrenos denominados del Brasito y que esta fue estendida por Don José Ordas teniente gobernador que era de esta villa y que esto le consta por haber tenido en sus manos la espresada posesion. Ala 2^a. impuesto de ella dijo: que los linderos que en la posesion se espresaba eran, de arriba abajo partieⁿ. de la boca asequia del Brasito hasta los esteros de Trujillo denominados y del rio al norte legua y media por cada viento que lo dicho es la verdad por el juramento que ha prestado en lo que se afirmó y ratificó leyda que le fué su declaracion que no firmó por la conbulcion de nerbios de que esta atacado lo hiso el juez y los de asistencia.—Lorenzo del Barrio—de asista. Francisco Barrow—de asista. Nicolas Barela.

Estando concluida esta informacion debuelvase a la parte para los usos que le convengan. El alcalde actuante asi lo decreto y firmó con los de asistencia.

LORENZO DEL BARRIO.

Ast^a., FRANCISCO BARROW.
NICOLAS BARELA.

Pablo Melendres vecino de Doña Ana como cabeza de familia y por el derecho que puedan tener mis hijos é hijas como procedentes de la

finada Doña Guadalupe Orcasitas en el terreno del Brasito en cuestion y que tal vez mi tio politico Don Francisco Garcia S. Juan pueda sacar á salvo alguno cosa en favor de mi prole y por mi parte lo faculto suficientemente para todo aquello que sea necesario en favor de mi accion y como si yo lo hiciere presente siendo. Y para su constancia doy estas letras en la villa del Paso hoy 11 de Agosto de 1851.

PABLO MELENDRÉZ.

Doña Marta Orcasitas vecina de Doña Ana y por el derecho que puedo tener en el terreno del Brasito en cuestion y que tal vez mi tio Don Francisco Garcia y San Juan pueda sacar á salvo alguna cosa en favor nuestro, por mi parte lo faculto suficientemente para todo aquello que sea necesario en favor de me accion y como si yo lo hiciera presente siendo, y para constancia doy estas letras en la villa del Paso á 11 de Agosto de 1851. Por ruego de Doña Marta Orcasitas, Juan J. Cartera, Don Tomas Ygnº. Bernal por el derecho que puedan tener sus hijos Mariano, Jesus, Josefa, Manuela y Nicolas, Josefa Garcia por sé y Mariano Garcia soldados reales de la villa del Paso, Pablo Melendrez á nombre sus hijos menores y Marta Orcasitas por sé, los ultimos vecinos de Doña Ana otorgamos nuestro poder cumplido como se requiere y es necesario á Don Francisco Garcia y San Juan para que puede hacer valer ante el govrº. de los E. V. N. A. el derecho que tenemos al terreno del Brasito y por lo mismo pueda presentarse ante los jueces y justicias que con derecho pueda y deba pida y demande responda y niegue, renuncie quereye y proteste saque escrituras testimonios y otros papeles que nos pertenezcan y los presente openga excepciones decline jurisdº. pida beneficios de restitucion presente testigos escritos y provamas tache y contradiga lo en contrario reuse jueces letrados y escribanos espresse las causas de las recusaciones si lo necesitaren y las jure, pruebe y se aparte de ella haya y pida se hayan por las partes contrarias los juramentos de la calumnia y desistorio y otros que combengan haga ejecuciones secuestros de consentimiento de soltura alse embargos haga rentas ó ramates de bienes acepta traspasos tome poseciones y amparos concluya pida y oigo autos y sentencias interlocutorias y definitivas y consienta lo favorable y de lo contrario apele y suplique y siga las apelaciones y suplicaciones donde con derecho pueda y deva gane proviciones bulcres requisitorias y mandamientos y lo presente y haga intimar donde y á quien se dirijieren que para todo ello y cada cosa y parte y lo incidente y dependiente le damos poder tan cumplido que por falta de él no ha de dejar cosa alguna por obrar en todo lo que se ofreciese como nosotros mismos lo hariamos presentes siendo con libre y general administracion y facultad de enjuiciar y subsistuir rebocar los substitutos y nombrar otros y si todos reclaramos en forma y asu firmesa obligamos nuestras personas y bienes habidos y por haber en cuyo testimonio otorgamos la presente en la villa del Paso a los quince dias del mes de Setiembre de mil ochocientos cincuenta y uno en este papel comun por falta del correspondiente que dando los que firme afectos al reitegro de lo que sea.

TOMAS BERNAL.

MARIANO GARCIA.

JOSEFA GARCIA.

Don Francisco Garcia y San Juan vecino de la villa del Paso por si y como apoderado de las personas que se empresan en el antecedente poder que se le otorgó para hacer valer ante el gobierno de los Estados Unidos N. A. el derecho que tienen al terreno del Brasito dice que para cumplir con este encargo se encuentra en escoyos tanto por no saber el idioma como las leyes que puedan faborecer a mi poderdantes y para cuya circunstancias no puedo menos que substituir este poder á favor de Don Hugh Stephenson con las mismas clausulas y firmesas que ami me considieron y para su validacion la firmé en la villa del Paso á 16 de Setiembre de 1851.

FRANCISCO GARCIA Y SAN JUAN.

Señor Alcalde 2º de esta Villa:

Francisco Garcia y San Juan de esta vecindad ante V. se presenta y dice que teniendo que hacer valer ante las autoridades de los Estados Unidos el derecho que tiene al terreno nombrado el Brasito como poseedor con justo y legal titulo desde tiempo inmemorial por haber quedado este dentro de los egidos de aquella potencia y serle presiso demostrar las causas legales que meritan la falta de las posesiones jurídicas que establecieron su propiedad en el mencionado terreno del Brasito se sirbirá V. hacer presente á su juzgado á los ciudadanos Juan Jose Sanchez y Jose de la Luz Jaques quienes juramentados en formen declaran :

1º. Si saben si las fuerzas Americanos en Diciembre del año de 846 cuando inbadieron á esta villa tomaron para cuarteles todas las casas de la plaza asi como tambien las salas capitulares del ylustre ayuntamiento en donde existia el archivo publico.

2º. Declaran que fué lo que á ciencia cierta saben hicieron con el archivo las mismas tropas espresando minusiosamente todo lo que sobre el particular vieron y supieron hecho lo que pido se sirbira devolvirmelo actuado para los usos que me fueron conbenientes. Por tanto, á V suplica se sirba hacer como solicito juro no obrar de malicia y lo necesario, &c.

FRANCISCO SAN JUAN.

VILLA DEL PASO, Octubre 27, de 1852.

PASO, Octubre 28, de 1852.

Por presentado tomense las declaraciones que se peden. El Señor juez 2º. imfe. de lo civil asi lo decreto y firmó con los assistencia doy feé.

BENTURA LOPEZ.

Asistº.: FRANCISCO BARROW.

JOSÉ BEANES.

Ynmediatamente presente al S. D. José Jaques se juramentó en forma de derecho y ofreció decir verdad en lo que supiere y fuese preguntado y siendolo por sus gralºs. dijo llamarse como se ha dicho estado casado edad 39 años oficio comerciante vecino de esta villa y sin generales. A la 1ª. pregunta del anterior interrogatorio leída que le fué dijo es efectivo que en Diciembre del año de 846 que invadieron á esta villa las tropas de los E. V. N. A. tomaron para cuarteles todas las

casas de esta plaza lo mismo que las salas capitulares del ylustre ayuntamiento en donde excistia el archivo publico. A la 2^a. dijo que á voz publica se dijo que las mismas tropas Americanos destrosaron lo mas de ese archivo, que lo dicho es la verdad por el juramento que ha prestado en lo que se afirmó y ratificó leida que le fué su declaracion que firmó con el juez y los de asistencia doy feé.—Bentura Lopes—de ast^a. Francisco Barron—de ast^a. José Jaques—de ast^a. José Beanes.

En seguida presenté el Señor D. J. J. Sanches se juramento en forma y ofrecio decir verdad en lo que supiere y fuese preguntado y siendolo por sus generales dijo llamarse como se ha dicho estado casado edad 46 años oficio labrador vecino de esta villa y sin generales. A la 1^a. pergunta del anterior interrogatorio leyda que le fue dijo, que sabe que el ejercito Americano que vino al mando del Coronel Dffa, en el año que se le pregunta ocuparon las casas capitulares de esta villa y que en ella se hayaba el archivo del ayuntamiento y juzgados que él que habla era juez 1^o. en ese tiempo y que como tal el Capitan Waldo, Dor. en medicina y del mismo ejercito le abisó que que los soldados estaban destruyendo enteramente los archivos y que por lo mismo ocurrio inmediatamente con algunos personas y recojio los pocos papeles publicos que habian dejado pues los mas ya los habian quemado y hechado a la calle de suerte que pasado algun tiempo aun se encontraban tirados por las calles papeles de bastante importancia, que con lo espuesto deja contestadas las dos preguntas que se le han leydo del interrogatorio anterior que lo espuesto es la verdad bajo el juramento que ha prestado en lo que se afirmó y ratificó leyda que lo fué su declaracion que firmó con el juez y los de asistencia, doy feé.—Bentura Lopes—J. J. Sanches—de ast^a. Francisco Barron—de ast^a. J. Beanes.

VILLA DEL PASO, *Octubre 28, de 1852.*

Por estar ya concluidas las anteriores diligencias debuelveme al interesado para los vios que le conbengan. Señor juez 2^o sup^{te}. asi lo decreto y firmó con los assistencia, doy feé.

BENTURA LOPEZ.

Asist^a. : FRANCISCO BARROW.

JOSÉ BEANES.

Derechos de estas diligencias sin papel 2 pesos 4 rials.

Clerk's fees for copy of the record, &c., \$28 75.

THE TERRITORY OF NEW MEXICO, }
County of Socorro. }

I, Vincent St. Vrain, clerk of the United States district court for third judicial district of said Territory, do hereby certify that the above is a true and complete transcript of the record and proceedings in the above cause. Witness my hand and private seal, no official seal having yet been provided by law, this 15th day of December, A. D. 1855.

VINCENT ST. VRAIN, *Clerk.*

SURVEYOR GENERAL'S OFFICE, TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, December 24, 1856.

The foregoing is a correct copy of the original document now on file
in this office.

DAVID V. WHITING,
Translator.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 31, 1856.

David V. Whiting, whose signature is attached to the above certificate, is, and was at the time of signing the same, the translator of this office.

WM. PELHAM,
Surveyor General.

