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Statement of the case.

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the time when the confession was given and was entered of record, or when the execution was issued, and it was held that the first named was the time to be inquired about. The execution was issued on the 22d of April. The confession was signed on the 7th of May, and entered of record on the next day, and the twenty-four hours had made no change in the debtor's affairs. He was solvent on both of those days. On the 22d of April he was insolvent. The distinction, so important in the present case, between the condition of affairs when the judgment was authorized and the condition months later, when the judgment was entered of record, did not and could not arise.

Except for the judgment of a majority of my brethren to the contrary, I should say that it was plain, 1st, that the judgment was entered by virtue of an authority from the debtor when he was insolvent to the knowledge of the creditor; and, 2d, that this was a procuring by the debtor of the seizure of his property on execution, which cannot be sustained under the Bankrupt law.

Great as is my deference to the opinions of my associates, I am not able in this case to yield my judgment.

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### BROWN *v.* BRACKETT.

A confirmation of a claim to land in California under a grant from the former Mexican government, obtained under the act of Congress of March 8d, 1851, is limited by the extent of the claim made; and the decree of confirmation cannot be used to maintain the title to other land embraced within the boundaries of the grant.

ERROR to the Supreme Court of the State of California, the action being ejectment for lands in that State, on which judgment was rendered for the defendant in a District Court of the State and affirmed by the Supreme Court.

*Mr. C. T. Botts, for the plaintiff in error; Mr. J. M. Coghlan, for the defendant in error.*

## Opinion of the court.

Mr. Justice FIELD stated the case, and delivered the opinion of the court, as follows:

This is an action for the possession of certain real property situated in the county of Marin, in the State of California. The premises are embraced within the boundaries of a grant made by the former Mexican government to one Ramon Mesa, in March, 1844. Through Mesa the plaintiff derives his interest; and as evidence of the recognition and confirmation of Mesa's title, produces a decree of the District Court of the United States for California confirming, under the act of Congress of March 3d, 1851, a claim of one Vasques to a portion of the land covered by the same grant; and he insists that as the confirmation of that claim involved a recognition of the validity of the grant, this decree may be invoked for the maintenance of his title to the remaining portion of the premises.

It is undoubtedly true, as contended by counsel, that the tribunals of the United States in acting upon grants of land in California of the former Mexican government, under the act of 1851, were concerned only with the validity of the grants as they came from that government, and were not interested in any derivative titles from the grantees further than to see that the parties before them were *bonâ fide* claimants under the grants. And it is also true that the decrees of confirmation, and the patents which followed, inured to the benefit of all persons deriving their interests from the confirmees. But in these positions there is nothing which gives countenance to the pretensions of the plaintiff in this case. Every confirmation is limited by the extent of the claim made; and it does not follow that because the tract embraced within the description of the grant is more extended than the land claimed, that the confirmation would have been made to any greater amount than that claimed if it had been prayed. Good reasons may have existed why the remaining portion could not be confirmed, and why its confirmation was not, therefore, asked. The remaining portion may have consisted of lands not subject to grant under

## Syllabus.

the colonization laws of Mexico; or it may have been previously granted to other parties by the Mexican government; or it may have been subsequently acquired by that government previous to the cession, or by our government subsequently. Whatever the reasons the confirmation covered nothing and protected nothing beyond the claim asserted.

After the full and elaborate consideration which has been heretofore given in this court, in the numerous cases before it, to Mexican grants in California, we do not feel called upon to say more as to the effect of a confirmation of claims under them. Every conceivable point respecting these grants, their validity, their extent, and the operation of decrees confirming claims to land under them, has been frequently examined; and the law upon these subjects has been repeated even to weariness.

JUDGMENT AFFIRMED.

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**ATLEE v. PACKET COMPANY.**

1. A pier erected in the navigable water of the Mississippi River for the sole use of the riparian owner, as part of a boom for saw-logs, without license or authority of any kind, except such as may arise from his ownership of the adjacent shore, is an unlawful structure, and the owner is liable for the sinking of a barge run against it in the night.
2. Such a structure differs very materially from wharves, piers, and others of like character, made to facilitate and aid navigation, and generally regulated by city or town ordinances, or by statutes of the State, or other competent authority.
3. They also have a very different standing in the courts from piers built for railroad bridges across navigable streams, which are authorized by acts of Congress or statutes of the States.
4. A structure such as that above described, in the first paragraph of the syllabus, and which was under consideration in the present case, held not to be sustained by any of these considerations.
5. A constant and familiar acquaintance with the towns, banks, trees, &c., and the relation of the channel to them, and of the snags, sand-bars, sunken barges, and other dangers of the river as they may arise, is essential to the character of a pilot on the navigable rivers of the interior; this class of pilots being selected, examined, and licensed for their knowledge of the topography of the streams on which they are employed, and