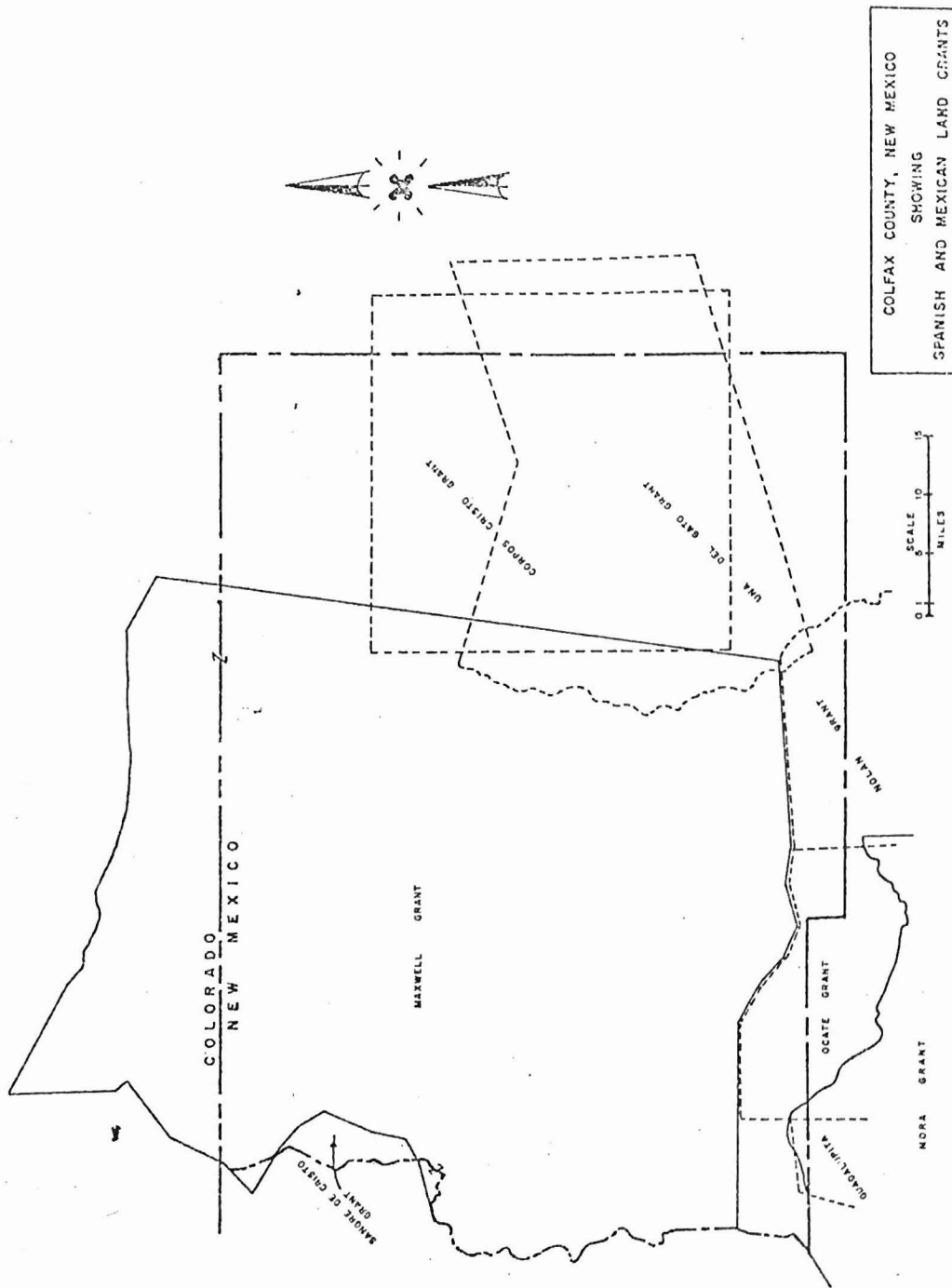
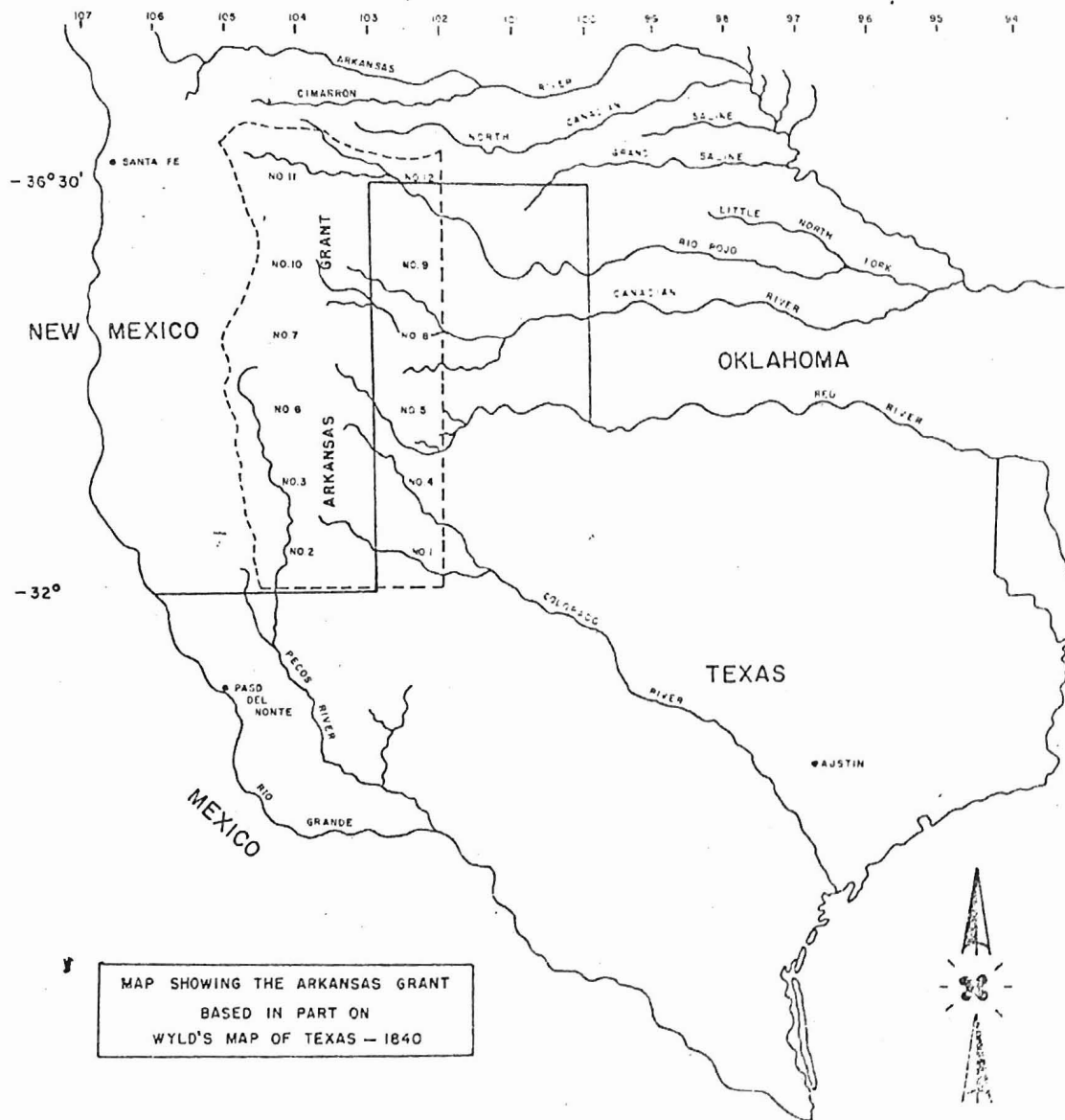


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## THE UNA DEL GATO GRANT

In the late part of December, 1838, Joaquin Valdez, one of the few early attorneys in New Mexico, was retained by Salvador Vernal and Tomas Lopez, residents of the Pueblo of Jemez, to prepare a petition seeking a grant covering a tract of land located on the east side of the Rio Colorado at the place known as Una del Gato. After drafting the petition, Valdez gave it to Juan Pablo Madrid for delivery to the governor of New Mexico. On the last day of 1838, Madrid entered the Governor's Palace at Santa Fe and presented the petition to Governor Manuel Armijo. After reading the petition, Armijo directed Madrid to return on the following day for his answer. When he returned, Armijo handed him a decree which granted the land to the petitioners and directed the Alcalde of Abiquiu, Manuel Garcia de la Mora, to survey the grant and deliver legal possession of the premises to Vernal and Lopez. Upon receiving the grant, the grantees presented themselves to Garcia and requested him to perform the formalities necessary to complete their title. Garcia met the grantees on the Pueblo of Santa Cruz on January 25, 1839, and they all proceeded to the grant where



Garcia surveyed the lands that the grantees had requested in their petition, which were described as being bounded:

On the north, by the Tinajo Hill and the Cola del Aguila; on the east, by a straight line drawn between Tinaja Hill and the Malpaisos Hills; on the south, by the Chico and Malpaisos Hills; and on the west, by the hills bordering the Rio Colorado.

Following the completion of the survey, Garcia delivered legal possession of the grant to Vernal and Lopez.

Governor Armijo's decree together with a copy of the Act of Possession were sent to Armijo. After being satisfied that the grant did not conflict with the vested rights of any third party, Armijo approved the actions of the Alcalde.

While the grantees did not move to the grant, they used it continuously as a pasturage for their livestock between 1839 and 1841. Vernal and Lopez, joined by their respective wives, sold and conveyed the grant to Antonio Matias Gomes on August 27, 1841, for a consideration of "three hundred goats, a Navajo blanket, a gray mule, a yoke of oxen, and seventy-five silver dollars." Gomes took immediate possession of the land, built a cabin, and commenced farming a portion of the valley lands. He also pastured some goats and burros on the adjoining hills. Shortly after General Stephen Watts Kearny conquered New Mexico, the Indians forced Gomes to vacate the premises. The continuous hostility

of the Indians prevented him from reoccupying the premises at any time prior to his death at Anton Chico on September 19, 1858. Gomes' son and sole heir, Jesus Maria Gomes y Lopez, tried to pasture livestock on the grant but was driven off about eight or nine months after his father's death.<sup>1</sup>

Manuel A. Otero subsequently acquired the entire grant from Gomes' son. Otero petitioned<sup>2</sup> Surveyor General James K. Proudfit on May 29, 1874, seeking the recognition of the grant. In a short opinion dated July 13, 1874, Proudfit found the grant to be genuine and recommended its confirmation to the legal representatives of the original grantees.

A preliminary survey of the grant was made in 1877 by Deputy Surveyors John T. Elkins and Robert G. Marmon, which showed that it contained approximately 600,000 acres. A dispute arose over whether the line from Tinaja Hill (Laughlin's Peak) should run in a northeasterly direction to Sierra Grande, which was the most northerly of the Malapais Hills or in a southeasterly direction to the Don Carlos Mountains which were

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<sup>1</sup>S. Exec. Doc. No. 2, 43rd Cong, 2d Sess., 10-16 (1874).

<sup>2</sup>The Una del Gato Grant, No. 94 (Mss., Records of the S.G.N.M.).

the most southeasterly of the Malpais Hills. If the latter was the case, then the grant would be more "pie shaped" and contain substantially less acreage. The dispute caused the Surveyor General to reject the survey on the ground that the Deputy Surveyors had not followed his instructions and a resurvey was ordered. However, before the survey dispute could be settled, a more serious problem arose.

It seems that prior to the execution of the Elkins & Marmon Survey approximately fifty homesteaders had located within the Una del Gato Grant. On July 8, 1877, Lewis Kingman, a local resident, wrote his friend, H. M. Arms, informing him that title to his small tract of patented land conflicted with the Una del Gato Grant, which, in his opinion, was fraudulent. Kingman asserted that Tom Catron and Senator S. W. Dorsey were behind the scheme to secure the recognition of the "fraudulent claim". Arms forwarded the letter to Assistant Commissioner of the General Land Office, William M. Evarts, and requested him to assist him in protecting his interests. Arms' letter touched off a full scale investigation into the validity of the grant by Surveyor General Henry M. Atkinson. At the investigation it was shown that a number of obvious material alterations had been made on the grant papers. For instance, the dates on the

stamped paper had been changed from 1821 and 1835 to 1839. The phrase "Viva El Rey" had been changed to "Viva El Dios." The word "Majestad" had been altered to read "Mandato" and "Sapato" to "Traspaso." A number of changes had been made after the grant papers had been recorded in Colfax County. The Colfax records showed the deed by Vernal and Lopez to Gomes as being dated on December 27, 1839, and the grantors' wives were Maria Josefa Baca and Maria Manuella Gomes, while the wives signing the deed which later was filed in the Surveyor General's Office were Chipita Baca and Tomacita Baca, and it was dated August 27, 1841.

The claimants did not attempt to explain the variances in the deed but stated that Garcia apparently had made the changes on the grant papers. Continuing, they stated that it was possible he had used "old forms" to prepare the papers and then made the changes when he realized the language referring to the king was not appropriate for a grant from Mexico. Four witnesses for the protestants testified that the signatures and rubrics affixed to the grant papers were forgeries since they did not compare favorably with other signatures and rubrics known to be genuine. The claimants answered this objection by showing that Armijo's signature and rubric varied

greatly at times when he was either "mad" or "intoxicated" and, since the grant was dated on New Year's Day, he might have been intoxicated when he signed the grant. They could not explain why Armijo's approval certificate was not shown on the copy of the grant paper recorded in Colfax County. The high point of the investigation came when witnesses for the protestants testified that in 1872 Gomes had tried to sell the Una del Gato Grant together with another grant located in Colorado, which was commonly known as the Sapata Grant, to a number of people in Santa Fe. The protestants then introduced a certified copy of a decree of the District Court of Costilla County, Colorado sentencing Jesus Maria Gomes to three years in prison for forgery. Witnesses testified that he had been tried and convicted of forging the grant papers in connection with the Sapata Grant. In his Supplemental Report<sup>3</sup> to Congress dated January 6, 1879, Atkinson stated that the record of his investigation furnished "clear and indisputable evidence of the fraudulent character of the grant."

Confronted with such unfavorable evidence, its claimants had no alternative but to request the Secretary of Interior to dismiss the proceedings. Shortly thereafter

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<sup>3</sup>Ibid.

the lands were "thrown open for settlement." In a letter to Atkinson, Dorsey stated:

As for myself, I want nothing more to do with land grants. I have been able to get all the experiences in that line I want in a short time, and were it not for the money I have invested in improvements on this grant, it would receive no further attention from me. The whole thing, from the time I first had to do with it, has proved most harrassing as well as most expensive. I blame no one and find fault with no one except myself.<sup>4</sup>

After the reservation of the lands covered by the Una del Gato Grant was lifted, the area was homesteaded by a large number of settlers, who made valuable and expensive improvements upon the land. Thus, there is no foundation for Surveyor General George W. Julian's scurrilous statement that after the forgery of the Una del Gato Grant papers had been exposed, Dorsey decided:

... to avail himself of the Homestead and Pre-emption laws. This he could not legally do, because the land was reserved; but the Commissioner of the General Land Office was touched by his misfortune, and in defiance of law ordered the land to be surveyed and opened to settlement. Mr. Dorsey, who was already in possession of thousands of acres of the choicest lands in the tract, at once sent out his squad of henchmen, who availed themselves of the forms of the Pre-emption and Homestead laws, in acquiring pretended titles which were conveyed to him, according to arrangements previously agreed upon.<sup>5</sup>

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<sup>4</sup>Ibid.

<sup>5</sup>Julian, "Land Stealing in New Mexico," 145 The North American Review, 27-28 (1887).

## THE CORPOS CRISTO GRANT

Benjamin Hodges, an illiterate resident of Dodge City, Kansas, caused a letter to be written to Commissioner of the General Land Officer S. M. Stockslager on October 15, 1888, seeking the recognition of a grant allegedly made to his great grandfather Corpus Cristo by the King of Spain in 1678 as a stock ranch. Stockslager referred this matter to Surveyor General George W. Julian. Thereafter, Hodges wrote numerous letters to Julian asking prompt action on the claim. The grant supposedly covered 400 square leagues or 696,960 acres of land and was described as follows:

Commencing at a point eight (8) miles south and one and a half (1-1/2) miles West of the City of Raton, New Mexico; thence East thirty (30) miles; thence South thirty (30) miles; then West thirty (30) miles; and thence North thirty (30) miles to the place of beginning.

Hodges filed an affidavit of heirship tending to connect himself to the original grantee and alleged that the testimonio of the grant had been destroyed when his father's house at Meir, Mexico, had been burned during the Mexican Revolution. He claimed that he had peaceful possession of the premises as a "stock ranch" until 1886, when a number of homesteaders settled upon portions

of the grant.

Hodges' attorney, Levi L. Dysert of Shanes Crossing, Ohio, wrote Surveyor General E. F. Hobard on November 2, 1889:

... I would most respectfully ask that said Claim be entered upon the private land claim docket and that you give it your earliest consideration. I am satisfied that Mr. Hodges annoyed your predecessor, Mr. Julian, with unnecessary letters. But said Hodges is an uneducated half breed Spaniard and appears to think every thing in the matter should be accomplished in a few days. I have frequently and repeatedly told him to wait till he had the claim in proper shape for adjudication then it would be heard in its proper time. I am his legal attorney in the matter with fee contract properly signed and acknowledged, but still his pretended friends is having him write to your office in regard to the matter trying to make him believe that he is about to be sold out in the matter or that the United States government will cheat or defraud him out of his claim, his pretended friends gets about \$5.00 for every letter they write to your department for him. When you want any evidence in the case please inform me and I will try to supply the same. I am satisfied there is merit in this claim and hope you may give it your early consideration. Please let me hear from you soon...

Since no action had been taken on the claim, by the Surveyor General's Office, Hodges filed suit<sup>1</sup> against the United States on April 9, 1892, in the Court of Private Land Claims. In his petition he stated that Corpus Cristo had been granted a thirty-mile square tract of land located near the south west corner of

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<sup>1</sup>Hodges v. United States, No. 48 (Mss., Records of the Ct. Pvt. L. Cl.).



Colorado, on June 22, 1668, by Cortez, Pizarro and Maximiliano. He further alleged that the grant had been recognized and revalidated by Governor Juan Ignacio Flores Magallon on May 31, 1715, subject to the consent of the Taos Indians, and on June 15, 1715, the Alcalde of Taos delivered possession of the grant without objection from the Indians. He also alleged that Inspector General Juan Paetez Hustedo, on November 24, 1724, examined and approved the grant. The government filed a motion on February 11, 1892, asking the court to dismiss the action on the ground that Hodges had failed to comply with Rule 2 of the Court, which required the filing in the clerk's office, of the original grant papers or an account of the reason why they could not be produced. In response to this motion, Hodges filed a Spanish instrument and the following translation thereof as his muniment of title:

June 22, 1668

Cortez Pizarro

Maximiliano We give the grant of these 11 leagues to Corpus Cristo and his heirs from this date. We officials are witnesses from this date that we give the grant to Corpus Cristo of the land by good consent. That he may establish a ranch in order that the country may be quieted down. And for this we record the grant in Spain.

Cortez, Pizarro  
Maxisimiliano  
Corpos Cristo

The case was set for trial during the April, 1894, term of court. When the case came up for trial, the government's attorney pointed out that while the plaintiff had contended the grant had been made by the King of Spain, none of the granting officials had ever been on the Spanish Throne. He also asserted that the plaintiff's muniment of title appeared to be a forgery and that the Archive of New Mexico indicated that Juan Paez Hurtado and not Juan Paetez Hustedo had been Inspector General of New Mexico in 1724. Confronted with this evidence, counsel for the plaintiff caused the suit to be dismissed<sup>2</sup> and withdrew Hodges' title papers.

In the report<sup>3</sup> on the case to the Department of Justice, the government's attorney, Matthew G. Reynolds, justified his failure to bring criminal proceedings against Corpus by stating:

Plaintiff is a very simple man and has been imposed upon by designing persons and probably "pettifogging lawyers."

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<sup>2</sup> Journal 64 (Mss., Records of the Ct. Pvt. L. Cl.).

<sup>3</sup> Report of the United States Attorney dated June 8, 1894 in the Case Hodges v. United States (Mss., Records of the General Services Administration, National Archives, Washington, D.C.), Record Group 60, Year File 9865-92.

## THE MAXWELL GRANT

In a vividly worded petition dated January 8, 1841, Guadalupe Miranda and Carlos Beaubien, two of the most prominent residents of Santa Fe, petitioned Manuel Armijo, Governor of New Mexico, on January 8, 1841, seeking a grant covering the following described tract of land:

Beginning at a point on the summit of the hill below the junction of the Rayado River with the Colorado River; thence easterly in a direct line to the first hills; thence in a northerly direction and parallel with the Colorado River to a point opposite its confluence with the Una del Gato River; continuing in a northerly direction along the same hills to the summit of the table land; thence northwesterly along said summit to the top of the mountain which divides the waters of the rivers running towards the east from those running to the west; thence in a southerly direction along said mountain to the intersection of the first hill south of the Rayado River; thence easterly following the summit of said hill to the place of beginning.

As justification of their request, Miranda and Beaubien stated:

That of all the departments in the Republic, with the exception of the Californias, New Mexico is one of the most backward in intelligence, industry, manufactories, etc., and surely few others present the natural advantages to be found therein, not only on account of its abundance of water, forests, wood and useful timber, but also on account of the fertility of the soil, containing within its bosom rich and precious metals, which up to this time, are

useless for the want of enterprising men who will convert them to the advantage of other men, all of which productions of nature are susceptible of being used for the benefit of society in the department as well as in the entire republic, if they were in the hands of individuals who would work and improve them. An old and true adage says, that "what is the business of all is the business of none"; therefore, while the fertile lands in New Mexico, where, without contradiction, nature has proven herself more generous, are not reduced to private property, where it will be improved, it will be of no benefit to the department, which abounds in idle people, who, for the want of occupation, are a burden to the industrious portion of society, while with their labor they could contribute to its welfare, and honestly comply with their obligations. Idleness, the mother of vice, is the cause of the increase of crimes which are daily being committed, notwithstanding the severity of the laws and their rigid execution; the towns are overrun with thieves and murderers, who, by this means alone, desire to procure their subsistence. We think it a difficult task to reform the present generation, accustomed to idleness and hardened in vice. But the rising one, receiving new impressions, will easily be guided by the principles of purer morality. The welfare of a nation consists in the possession of lands which produce all the necessities of life without requiring those of other nations; and it cannot be denied that New Mexico possesses this great advantage, and only requires industrious hands to make it a happy residence. This is the age of progress and the march of intellect, and they are so rapid that we may expect, at a day not far distant, that they will reach even us. Under the above conviction we both request your excellency to be pleased to grant us a tract of land for the purpose of improving it, without injury to any third party, and raising sugar beets, which we believe will grow well and produce an abundant crop, and in time to establish manufactories of cotton and wool, and raising stock of every description.

Three days later, Armijo donated the requested lands to the petitioners in order that they might make any

proper use of it which the law allowed. For some unexplained reason, the grantees waited two years before applying to the Alcalde of Taos for the delivery of legal possession. On February 22, 1843, Alcalde Cornelis Vigil, together with his attending and instrumental witnesses, proceeded to the grant where he met the grantees.

The party then proceeded to survey and monument the boundaries of the grant in accordance with the description contained in the grantee's petition. The field notes of the survey contain the following description of the grant:

Commencing on the east side of the Colorado River, a monument was erected; from whence, following in a direct line in an easterly direction to the first hills, another mound was erected at the point thereof; and continuing from south to north on a line nearly parallel with the Colorado River, a third mound was erected on the north side of the Chico Rica or Chacuaco Mesa; thence turning towards the west, and following along the side of the said table land of the Chacuaco to the summit of the mountain, where the fourth mound was erected; from thence following along the summit of said main ridge from north to south to the Cuesta del Osha, one hundred varas north of the road from Fernandez de Taos to the Laguna Regra, where the fifth mound was erected, from thence turning again to the east towards the Colorado River, and following along the southern side of the table lands of the Rayado and those of the Gonyalitos, on the eastern point of which the sixth mound was erected; and from thence following in a northerly direction, I again reached the river on its western side, where the seventh and last mound was erected opposite the first.

Following the completion of the survey, Vigil performed the customary ceremony for the delivery of legal posses-

sion which he described as follows:

I took them by the hand, walked with them, caused them to throw earth, pull up weeds and show other evidences of possession....

The grantees promptly formulated plans for the colonization of the grant but were prevented from proceeding with the project when Governor Mariano Chaves issued a decree dated February 27, 1843, which suspended the grant. It seems that within a few days after the issuance of the grant, Antonio Jose Martinez, the Cura of the Pueblo de Taos, protested the grant on the grounds that Beaubien was a foreigner and, therefore, was not entitled to hold an interest in the land and also that the grant appropriated most of the pasture and hunting lands belonging to Pueblo de Taos. Beaubien appealed the suspension to the Departmental Assembly on April 13, 1844. He informed the Assembly that while he had been born in Canada, he had become a naturalized Mexican citizen and a resident of New Mexico. He accused Martinez of maliciously misstating the facts and asserted that while Martinez had stated the grant covered a large number of leagues, it did not "exceed fifteen or eighteen." He also denied each of the other allegations contained in the protest. The Departmental Assembly considered the matter during its regular session held on April 15,

1844, and finding the statements made by Martinez to be untrue set aside the suspension decree of February 27, 1843. This decision was based in part on an affidavit signed by eleven residents of the Pueblo of Taos wherein they certified that the grant did not contain any lands used as pasturage or hunting grounds by the inhabitants of Taos. The affidavit further stated that notwithstanding the statements made by Martinez they were of the opinion that the establishment of a colony on the grant would be very beneficial to the interior settlements. The benefits specifically mentioned were that the proposed colony would (1) afford protection from the Indians, (2) employ a great number of "idlers," (3) relieve overcrowded conditions, (4) ease the problems caused by a scarcity of irrigation waters, and (5) afford safe pasturage for livestock during times of war with the Navajos. On April 18, 1844, Armijo, who in the meantime had been reappointed as governor, authorized Miranda and Beaubien to proceed with the establishment of their colony. The grantees immediately occupied the grant and started cultivating the land. Kit Carson stated that later in the year a number of houses had been built along the banks of the Cimmaron River and that a number of large fields had been planted with corn, beans, and pumpkins. He estimated that about 200 acres were under

cultivation and some 15,000 head of stock were being pastured on the grant.<sup>1</sup>

When General Stephen Watts Kearny conquered New Mexico in 1846, Miranda fled southward with Governor Armijo. He finally settled at El Paso del Norte, where he became a highly influential political figure. Beaubien, however, elected to stay in Taos and became an American citizen.

On February 23, 1857, the grantees presented their claim to Surveyor General William Pelham for confirmation. After investigating the matter, Pelham on September 17, 1857, found the grant to be good and valid according to the laws and customs of Mexico, and therefore, recommended that Congress confirm title to Guadalupe Miranda and Charles Beaubien.<sup>2</sup> By an act<sup>3</sup> passed on June 21, 1860, Congress confirmed the grant as recommended by Pelham.

Meanwhile, in a pathetic and heart-rendering letter dated February 24, 1858, Guadalupe Miranda wrote his old friend and co-owner of the grant:

Circumstances place men in different positions, sometimes favorable and at other unfavorable. In the

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<sup>1</sup>H. R. Report No. 457, 35th Cong., 1st Sess., 245-256 (1858).

<sup>2</sup>H. R. Report No. 321, 36th Cong., 1st Sess., 256-257 (1860).

<sup>3</sup>An act to confirm certain private land claims in the Territory of New Mexico, Chap. 167, 12 Stat. 71 (1860).



latter condition I find myself, and my circumstances are such as to oblige me to do that which at other times I would not do. Thrust out from my country, a portion of my property abandoned, and the rest for a year and months at the disposition of my enemies, my resources have been reduced to such a degree that today, in order to maintain my numerous family, I find myself obliged to dispose of that which remains to me... So, if you do not wish to purchase my part, then I will sell to another....<sup>4</sup>

Charles Beaubien did not purchase Miranda's interest, but his son-in-law, Lucien B. Maxwell, did on April 7, 1858, for a total consideration of two thousand seven hundred forty-five dollars. Charles Beaubien died on February 10, 1864. Thereafter, Maxwell systematically purchased the balance of the grant from Beaubien's heirs. Maxwell paid less than fifty-three thousand dollars for the entire grant.<sup>5</sup>

Maxwell prospered as a result of his extensive operations on the grant. He built a magnificent and palatial home at Cimarron where he entertained in a grand and lavish style. During the height of his power and wealth, he lived as a virtual feudal lord with utter disregard of the expense of the necessities and comforts of life.<sup>6</sup>

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<sup>4</sup>Keleher, Maxwell Land Grant, 40-41 (1964).

<sup>5</sup>Ibid., 42-44.

<sup>6</sup>1 Anderson, History of New Mexico, 180 (1907).

On June 28, 1869, Surveyor General T. Rush Spencer was directed by Commissioner of the General Land Office to survey the grant pursuant to the act of June 21, 1860. However, he was cautioned to give particular attention to the true locus of the exterior boundaries of the grant since their description in the testimonio were somewhat vague. Continuing, the Commissioner stated that as near as he could determine the grant included a much larger area than the maximum of twenty-two leagues which the Mexican governors were empowered to grant. Maxwell protested these instructions and appealed the matter to the Secretary of Interior, who, on December 31, 1869, held that since the maximum amount of land which could legally be granted an individual under the colonization laws of Mexico was eleven leagues, it could be presumed that Congress intended to confirm the grant for an area no greater than eleven leagues to each claimant.<sup>7</sup> This decision undoubtedly influenced Maxwell in reaching a decision to sell the grant. On April 13, 1870,<sup>8</sup> Maxwell, joined by his wife, Inez B. Maxwell, sold nearly all of the lands covered by the grant to the Maxwell Land Grant & Railway Company for a total consideration

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<sup>7</sup>The Miranda and Beaubien Grant, No. 15 (Mss., Records of the S.G.N.M.).

of one million fifty thousand dollars.<sup>8</sup>

In connection with the sale, a private survey of the boundaries of the grant was made by W. W. Griffin between the months of May and September, 1870. The survey showed that instead of containing less than eighteen leagues, as originally presumed, the grant actually covered an area in excess of twenty-five hundred square miles, or approximately two million acres. Though a private enterprise and unofficial a copy of the plat and field notes of this survey were filed in the General Land Office, for the information of the government as to the exact location of the exterior boundaries of the grant. Following the sale of the grant, the new owners continued to manage the estate as if there was no question over the title to all of the lands contained in the Griffin Survey.

The General Land Office, as a result of the decision in the Tameling case,<sup>9</sup> decided in 1877 that it was obligated to establish the official boundaries of the grant and to issue a patent for all of the lands covered thereby. Surveyor General Henry M. Atkinson was in the process of ordering an official survey of the

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<sup>8</sup>A Deed Records 146, (Mss., Records of the County Clerk's Office, Raton, New Mexico).

<sup>9</sup>Tameling v. United States Freehold & Emigration Co., 3 Otto (93 U.S.) 644 (1874).

grant when the claimant recommended the adoption of the Griffin Survey in order to avoid the added expense of a new survey. The Surveyor General declined on the grounds that he did not think that it would be proper to adopt a private survey and also he had some questions as to whether Griffin had properly located the northern and eastern boundaries of the grant. The Commissioner of the General Land Office, J. A. Williams, concurred with Atkinson and directed him to employ "a capable and disinterested deputy who has had no connection or business transaction referable to the interests of the owners of the grant either in surveying for them or purchasing lands falling within the grant, so that the deputy selected will be free from any bias or undue influence in the lawful execution of the survey." Thereafter, the Surveyor General entered into a contract with Deputy Surveyors John T. Elkins and Robert G. Marmon for the survey of this grant. This survey was made in the autumn of 1877 and a patent based thereon was finally issued on May 9, 1879, for 1,714,764.94 acres.<sup>10</sup>

Meanwhile, gold was discovered in the vicinity of Mount Baldy and violent disputes occurred when the proprietors of the grant tried to keep prospectors and

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<sup>10</sup>The Miranda and Beaubein Grant, No. 15 (Mss., Records of the S.G.N.M.).

settlers off the land. Strong anti-grant sentiment developed and the leaders of the element convinced the Attorney General of the United States that suit should be instituted to set aside the patent to the grant on the grounds that Elkins and Marmon had falsely, fraudulently, and deceitfully surveyed the land in such a manner as to include a large area not covered by the original concession. A bill in equity was filed in the United States Circuit Court in Colorado on August 25, 1882, alleging that in 1877 Stephen B. Elkins, President of the Maxwell Land Grant & Railway Company, conspired with his brother, John T. Elkins, and Robert G. Marmon, the official surveyors of the grant, to cheat and defraud the United States out of land by running an incorrect survey. In this action, the government sought to recover the 265,000 acres covered by the grant which were located in the State of Colorado. A similar action was instituted in the United States Circuit Court in New Mexico to recover the New Mexican portion of the grant. It was agreed that the New Mexico case would be governed by the final decision in the Colorado suit. The cases were sensational, not only because of the value of the land involved, but also for the reason that some of the most prominent and influential men in

New Mexico and Colorado were implicated in alleged fraudulent activities which were international in nature and gigantic in proportions.

By the time the case came to trial, the government had softened its allegations as to fraud and based its case on two principal propositions. First, the original grant could not exceed twenty-two leagues and there was no process of evolution by which the grant could be legally expanded to cover the princely domain described in the patent to the grant. Second, through error and mistake the surveyors had run the north line of the grant through Fishers Peak, which was the highest peak in the area and situated some seven miles north of the New Mexico-Colorado boundary, when, in fact, the north line should have run along the summit of the Raton Mountains, which were located near the common boundary between New Mexico and Colorado.

The Circuit Court found the first question was controlled by the Supreme Court's decision in the Tameling Case,<sup>11</sup> which declared that the confirmation of the act of June 21, 1860,<sup>12</sup> was equivalent to a grant de novo

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<sup>11</sup>Tameling v. United States Freehold & Emigration Co., 3 Otto (93 U.S.) 644 (1874).

<sup>12</sup>An act to confirm certain private land claims in the Territory of New Mexico, Chap. 167, 12 Stat. 71 (1860).

of the entire tract. In connection with the second question, the Court found that although the surveyors may have made an error in judgment in locating the description contained in the grant and had run their survey lines so as to include a large tract of land which may not have been covered by the grant, the patent could not be set aside. The Court noted that the General Land Office, a branch of the Executive Department, has the responsibility of passing upon the correctness of surveys of the public domain. Therefore, before the courts could set aside a patent, clear proof of wrong-doing or mistake must be established. It contended that the sanctity of contracts justified such a doctrine, and the good faith of the government required it. As a result of these findings, the court dismissed the government's suit.<sup>13</sup> The government appealed the case to the United States Supreme Court which completely exonerated the Commissioner of the General Land Office, the Surveyor General, and Deputy Surveyors Elkins and Marmon by holding there was not the slightest evidence that they had been governed by any fraudulent or improper motives in their acts in regard to the sur-

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<sup>13</sup>United States v. The Maxwell Land Grant Co., 26 F. 118 (C.C.D. Colo. 1886).

veying of the grant or that they had shown any favoritism towards the grantees in connection with the ascertaining of its boundaries. Continuing, the court held that in a proper case the court could set aside or correct a patent when it was clearly shown that it had been obtained through fraud or mistake; however, in this case the government had utterly failed to prove its allegations.<sup>14</sup> The government, being dissatisfied with the decision, promptly filed a motion for rehearing on the grounds that it had new and material evidence. The court granted the motion and set the matter down for argument on May 12, 1887.

At the rehearing:

The arguments of both sides of the case were restricted in point of time, and were wanting in no element of ability, industrious research or clear apprehension of the principles involved...<sup>15</sup>

On May 27, 1887, the court handed down its decision which held that it was entirely satisfied that the grant, as confirmed by Congress, was valid; that the survey and the patent were entirely free from fraud on the part of the grantees or those claiming under them; and that its decision could not be otherwise.<sup>16</sup>

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<sup>14</sup>United States v. The Maxwell Land Grant Co., 121 U.S. 325 (1887).

<sup>15</sup>United States v. The Maxwell Land Grant Co., 122 U.S. 365 (1887).

<sup>16</sup>Ibid.



The ink was hardly dry on the rehearing opinion of the Supreme Court, which in unmistakable terms cleared all parties connected with the grant from the allegations of conspiracy and fraud contained in the government's bill, when malcontented Surveyor General George W. Julian published a venomous article<sup>17</sup> in the North American Review attacking the Beaubien and Miranda Grant as an "astounding piracy of the public domain." This article so aroused the ire of the New Mexico Bar Association that it determined to do something about settling the private land claim problems of the Southwest. At its annual meeting held at Santa Fe on January 6, 1890, the Association recommended that Congress create a special tribunal to investigate and determine the extent of all unconfirmed private land claims in New Mexico, Colorado, Arizona, Utah, and Nevada.<sup>18</sup> On March 3, 1891, Congress responded by passing an act creating the Court of Private Land Claims. Thus, the problems raised by this famous grant motivated the final solution of one of the most interesting but difficult legal problems encountered in the Southwest.

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<sup>17</sup>Julian, "Land Stealing in New Mexico," 145 North American Review, 25-26 (1887).

<sup>18</sup>Report of the New Mexico Bar Association, 29 (1890)..

## THE ARKANSAS GRANT

The inability to pacify the wild nomadic tribes, who ringed its northern frontiers, prompted Spain to embark upon a series of barbaric wars in an effort to exterminate them. This policy created such a spirit of vengeance that the Apaches and Comanches frequently raided deep into Texas, New Mexico, and Nueva Viscaya plundering and destroying haciendas, stealing livestock, and kidnapping women and children. As a result of these incursions, the mission system in Texas was almost destroyed. To protect its interior from these savage inroads and at the same time promote the development of the public domain, the newly independent government in Mexico under Emperor Agustin de Iturbide passed the Colonization Law of January 4, 1823.<sup>1</sup> This concept was continued notwithstanding the overthrow of the Iturbide government and the repeal of his Colonization Law. On August 18, 1824, the new government passed the National Colonization Law.<sup>2</sup> While the National Coloniza-

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<sup>1</sup>Gammel, The Laws of Texas, 27-30 (1895).

<sup>2</sup>Rockwell, A Compilation of Spanish and Mexican Law, 451-453 (1851).

tion Law established certain general limitations and guide lines, it directed each state to enact a local colonization law governing the colonization of the public lands located within its boundaries. The State of Coahuila and Texas passed its Colonization Law on March 24, 1825.<sup>3</sup> Article 8 of this law provided:

The projects for new settlements in which one or more persons offer to bring at their expense one hundred or more families shall be presented to the government, and if found conformable with this law they will be admitted, and the government will immediately designate to the empresarios the lands where they are to establish themselves, and the term of six years within which they must present the number of families they contracted for, under the penalty of losing the rights and privileges offered in their favor in proportion to the number of families which they fail to introduce, and the contract totally annulled if they do not bring at least one hundred families.

Except for certain special circumstances, each married colonist could acquire one labor of agricultural land and twenty-four labors of pasture land or a total of one league. The empresario, as compensation for his services, was to receive five leagues and five labors of land for each one hundred families he settled under his contract. The state law repeated the restrictions contained in the federal law which prohibited any one person from holding more than eleven leagues of land and the granting of land within an area of twenty

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<sup>3</sup>1 Gammel, The Laws of Texas, 125-133 (1895).

leagues of the boundary of a foreign nation.

Stephen Julian Wilson, a native of North Carolina who was residing in Mexico City, was one of the empresarios to take advantage of this law. He petitioned the Governor of Coahuila and Texas on May 15, 1826, seeking a grant bounded as follows:

Beginning at a land mark established where the 32nd degree of North Latitude intersects the Meridian of the 102nd degree of Longitude, West of London, this point being the southwest corner of the grant applied for by Colonel Rueben Ross; thence west on the parallel of 32nd degree of Latitude to the eastern boundary of New Mexico; thence north, with the boundary of New Mexico; thence north, with boundary line of the State of Coahuila and Texas and New Mexico to a point twenty leagues south of the Arkansas River; thence east to the Meridian of the 102nd degree of Longitude, being the western boundary of the land of Colonel Rueben Ross; and thence south to the place of beginning.

Twelve days later, Governor Ignacio Arispe granted the requested tract to Wilson upon, among others, the condition that he settle two hundred families on the premises within a period of six years.<sup>4</sup>

Sometime prior to November 15, 1826, Wilson sold a half interest in the grant to Richard Exter, a British merchant and husband of Maria Dolores Soto y Saldona, who was a member of a prominent Mexico City family and retained Alexander Le Grand to survey the grant. Le

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<sup>4</sup>Translation of Empresario Contracts, 102 (Mss., Records of the General Land Office, Austin, Texas).

Grand departed from Vera Cruz aboard the Boston Packet on December 13, 1826, and arrived at New Orleans thirteen days later. He organized a large surveying expedition and proceeded to the grant in the spring of 1827. He arrived at a point located approximately twelve miles southwest from the present town of Garden City, Texas, which he established as its southeast corner on June 27, 1827.<sup>5</sup> Instead of surveying the out boundaries of the grant, Le Grand divided it into two tiers of six sections. Each of the twelve sections was approximately one hundred miles wide and fifty miles long. Sections 1, 4, 5, 8, 9, and 12 were located in the eastern tier

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<sup>5</sup>The intersection of 32nd degree of Latitude and the 102nd Meridian is located about 25 miles northwest of the point Le Grand established as the southeast corner of the grant. However, it should be remembered that he located this point by a limited number of observations and undoubtedly did not have the modern equipment necessary to accurately locate this remote point. It also should be noted that this was the first survey made in West Texas and Le Grand did not have any known reference points to tie or connect to in order to check his work. One author is of the opinion that the southeast corner was located in the vicinity of the 98th Meridian. Estep, "The Le Grand Survey of the High Plains--Fact or Fancy," 29 New Mexico Historical Review 88 (1954). Another believes it was located in Throckmorton County, Texas. Dickson, Speculations of John Charles Beales in Texas Lands, 11 (Mss., Masters Thesis, University of Texas, 1941). But a comparison of the natural objects, especially the creek and river crossings, with a topographical map of the area shows that the beginning point is located at the point mentioned above.

of sections. Le Grand actually surveyed each boundary of the eastern tier of sections except the south line of Section 1 and the east line of Section 9. The east line of Section 9 could not be surveyed because it was impossible to survey across the Palo Duro Canyon. The northeast corner of the grant was located about ten miles north of Sunray, Texas. Le Grand allegedly measured the distance from the northeast corner to the Arkansas River and found it to be 55 miles; however, it is somewhat doubtful that he actually ran this particular line. The distance is actually about 80 miles! Therefore, it would appear that as a result of his error in locating the southeast corner about 25 miles southeast of the intersection of the 32nd parallel and 102nd Meridian, his calculations were off by that distance. Notwithstanding these two errors, it is obvious that Le Grand actually surveyed most of the boundary lines of the six sections located in the eastern half of the grant for most of the natural objects mentioned in his passing calls are located.<sup>6</sup> He noted that the Arkansas River ran a

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<sup>6</sup>Estep notes "it is almost exactly 355 nautical miles from the intersection of the 102nd Meridian and the 32nd parallel to the point where the 102nd Meridian crosses the Arkansas River! This distance of 355 miles, however, might have been easily determined. Since the geological coordinates of the upper Arkansas had been established and published a number of years before, and ... the distance from a fixed point on the Arkansas to

course west  $10^{\circ}$  north and to comply with the call fixing the north boundary 20 leagues from that river, he surveyed the north boundary west  $10^{\circ}$  north from the northeast a distance of about 177 miles. This brought him to the base of Sierra Obscura. At this point winter overtook the party and an eight inch snow prevented Le Grand from reaching the summit of the mountain separating the Rio Grande and Pecos River Valleys and the east boundary of New Mexico.<sup>7</sup> Le Grand re-traced his steps to the center line of the grant and then proceeded south 100 miles in order to obtain a cursory check on the location of the mountains and eastern boundary of New Mexico

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the 32nd Meridian could have been readily calculated by formula. This Le Grand may have done. Estep, "The Le Grand Survey of the High Plains--Fact or Fancy," 29 New Mexico Historical Review 89-90 (1954). It should be noted in this connection that Le Grand could not have calculated the numerous passing calls contained in his field notes. These passing calls prove that he was on the ground and considering the adverse working conditions confronting him and the surveying equipment available at that date, it is surprising to find his work to be so accurate.

<sup>7</sup>Robert L. Lindsay, "Attorney and Title Expert," states, "As to what constituted the eastern boundary or limits of New Mexico in 1832 has been a question of more or less difference of opinions among men not familiar with all the facts and history of this remarkable land grant. I have given a great deal of thought and study to the subject... and summing it all up, I am satisfied in my own mind that the  $104^{\circ}30'$  of west Longitude from London is the true and rightful boundary as it existed in 1832 between the States of Coahuila, Texas, and the Province of New Mexico. Lindsay, Digest and History of the Beales-Royarella Land Grant, 5-6 (1899). Wislizenus, Memoir of a Tour to Northern Mexico, 22 (1848).

prior to proceeding to Santa Fe and mailing his report to Exter and Wilson.<sup>8</sup>

Exter died at sea while enroute to England on June 18, 1829, and under the terms of his will his interest in the grant was devised to his widow and minor daughter, Anita. On August 3, 1830, Dr. John Charles Beales married Exter's widow and promptly took over the management of both Exter's estate and the grant. A few months after his marriage, Beales went to New York City where he organized the Arkansas and Texas Land Company for the purpose of developing the premises and fulfilling the conditions contained in the grant. Exter's half interest was conveyed to the company on April 27, 1831. The company immediately commenced an intensive promotional campaign in an effort to obtain the necessary 200 colonists prior to the May 27, 1832 deadline.<sup>9</sup>

When it became obvious that the quota could not be reached in the United States, agents were sent to England. However, the mild receptions of the company's

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<sup>8</sup>Kennedy, Texas: The Rise, Progress and Prospects of the Republic of Texas, 176-191 (1925); 29 New Mexico Historical Review 141-153 (1954). An extract of Le Grand's Report was published in the Daily National Intelligencer, July 8, 1829.

<sup>9</sup>Estep, "The First Panhandle Land Grant," 36 The Chronicles of Oklahoma, 362-363 (1959).



recruiting program coupled with the problems raised by Wilson's untimely death in the spring of 1832, caused Beales to realize that it would be impossible to timely fulfill the grant conditions. Therefore, Beales turned his efforts to obtaining a new concession covering the same land. In order to accomplish this he entered into a partnership with Jose Manuel Royuela, a resident of Saltillo, Mexico, and the two petitioned the Governor of the State of Coahuila and Texas asking for the Empresario Grant covering the same lands and "upon the same conditions as it was formerly given to the late Stephen Julian Wilson, whose term of six years is about to expire, on the twenty-sixth of May in this year, without the conditions of the grant having been fulfilled, in consequence of the death of the grantee."<sup>10</sup> Permission to settle two hundred foreign colonists on the requested land within a six year period was granted to the petitioners on the next day subject to, among others, the following conditions:

1. The contract expressly stated that it was issued pursuant to both the general and state colonization laws.
2. The understanding that the state reserved unto itself "the right of property over all the surplus lands which shall remain of this grant, after lying

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<sup>10</sup> Translation of Empresario Contracts, 194 (Mss., Records of the General Land Office, Austin, Texas).

- off those which belong to the Empresarios and their settlers, according to the laws of that behalf provided."
- 3. The Colony was to be regulated by the person appointed by the state government, "to allot the respective settlements or possession, and he shall duly observe the laws on Colonization in force throughout the State, the general law... and likewise the instructions to Commissioners which have been appointed by the Honorable Congress, taking special care to afford protection within the limits of the colony, to such persons only as shall be approved by said Empresarios."<sup>11</sup>

It is not known whether Royuela was joined as a petitioner merely to lend dignity to the request or whether indirectly he had a bona fide interest but had tired of the project. Be that as it may, he conveyed his interest in the grant to Beales on October 11, 1832, and the partnership was dissolved.<sup>12</sup> Shortly thereafter Beales returned to New York where he organized the New Arkansas and Texas Land Company for the purpose of colonizing and settling the grant. He conveyed also one half of the grant to the company, which subdivided the forty-five million acres covered by the grant into 11,200 shares of 4,017 acres each. The stockholders of the original company could exchange their stock for an equal amount in the new company. Anyone holding stock could locate

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<sup>11</sup>Ibid.

<sup>12</sup>Anon, The Arkansas Grant, 24 (1901).

it and receive the land represented thereby. There is no evidence that any of the stock was located or that any actual colonization of the grant took place prior to the outbreak of the Texas Revolution.<sup>13</sup> Whatever Beales' plans for the fulfillment of the conditions of the grant may have been, they were upset as a result of Texas' gaining its independence from Mexico. On December 14, 1837, Texas passed a law which declared that all empresario contracts ceased on March 2, 1835, and all vacant lands located within their boundaries became the property of the republic.<sup>14</sup>

Several petitions were presented on Beales' behalf seeking the confirmation of the grant by the Republic of Texas. When no action was taken on these petitions, he petitioned Queen Victoria, as a British subject, asking her to intervene on his behalf. He stated he had gone to a great deal of trouble and expense in connection with the grant and would have fulfilled its conditions if the Texas Revolution had not prevented him from so doing. He pointed out that notwithstanding the fact that he personally sympathized with Texas'

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<sup>13</sup>Anon, New Arkansas and Texas Land Company Documents 21 (1833).

<sup>14</sup>1 Gammel, Laws of Texas, 1413 (1895).

position, his allegiance to the British government prevented his participation in the revolution.<sup>15</sup> He bitterly complained of the acts of the Republic of Texas which cancelled the empresario grants and prevented aliens from suing the sovereign. He assured the queen that he would complete his contract if Texas would let him. In conclusion, he asked the queen to take measures to cause his rights to be reinstated and "assert the honor and dignity of the crown of England."<sup>16</sup> On two occasions Charles Elliott, the British Charge d'Affairs to Texas, brought the matter to Secretary of State Anson Jones' attention. Elliott stated the termination of the contracts seemed unjust and unless the facts set forth by Beales were refuted or a satisfactory explanation given, the Texas government must realize "that his Majesty's government would be fully authorized to take the necessary steps for enforcing the just claims of

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<sup>15</sup>In this connection it should be noted that on July 12, 1836, the President Ad Interim of the Mexican government wrote Beales stating that he had been advised of the "judicious and circumspect course" which Beales had taken in employing his influence to allay the disturbances and sustain order and the obedience due to the general government and in correcting public opinion through the medium of the newspapers in the United States. He also stated that Beales was a "good citizen" and exhorted him to continue in the "defenses of the just cause of the nation..." Interstate Land Company v. Maxwell Land Company, 139 U.S. 569 (1891).

<sup>16</sup>Telegraph and Texas Register, April 10, 1844.

Her Majesty's subjects."<sup>17</sup> On September 19, 1843, Jones noted that Beales had not settled any families on the grant, and based on his previous conduct, doubted that he would have satisfied the conditions even if there had been no revolution. Therefore, he recommended that Beales appeal to the Texas Legislature or courts for redress if he had been wronged.<sup>18</sup> Beales failed to pursue either of the recommended courses of action. He undoubtedly realized that even if he were able to secure the necessary legislative permission to sue the sovereign, the Texas Courts probably would not grant any relief since his title obviously was inchoate. The refusal of the Texas Legislature to act on the previous memorials presented on his behalf clearly indicated that he could expect no relief from that forum.

Meanwhile, the British intervention into a strictly domestic affair raised a furor in Texas. The Austin City Gazette pointed out that Great Britain had no right to represent Beales, an expatriate British subject who had become a naturalized Mexican citizen, and at the same time enjoy the protection of the British

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<sup>17</sup>Adams, British Diplomatic Correspondence Concerning the Republic of Texas, 157-161 (1918).

<sup>18</sup>Ibid., 1130-1135.

government.<sup>19</sup> In October, 1843, the British Charge d' Affairs conceded that the evidence in support of the claim was insufficient and until it could be better sustained, Great Britain would not press the matter.<sup>20</sup>

Little, if any, further action was taken by Beales prior to 1870 to obtain the recognition of his claim to the lands covered by the Arkansas Grant. In the spring of 1870 Beales sent an agent, Benjamin P. Williams, to New Mexico to oversee his property. Williams wrote Beales on June 23, 1870, and reported that he had taken up residence at the San Augustine Ranch, which was located on the grant. On July 5, 1870, Williams, as Beales' attorney, petitioned<sup>21</sup> the Surveyor General's Office seeking the confirmation of the grant under the provisions of the act of July 27, 1854.<sup>22</sup> However, before any action was taken on the claim, Williams was

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<sup>19</sup>Austin City Gazette, July 15, 1840.

<sup>20</sup>Worley, "The Diplomatic Relations of England and the Republic of Texas," 9 The Quarterly of the Texas State Historical Association, 9 (1907).

<sup>21</sup>The Arkansas Grant, No. F-100 (Mss., Records of the S.G.N.M.).

<sup>22</sup>An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes, Chap. 103, 10 Stat. 308 (1854).

killed at his home in El Paso, Texas, by the police while attempting to arrest him on December 7, 1870, for the murder of Judge Gaylord Clarke.<sup>23</sup> Beales must have been unaware of the filing of the claim for he never retained any one to prosecute it and, therefore, it was not investigated or acted upon by the Surveyor General's Office.

Meanwhile, Beales turned to the United States Congress for relief. Between 1870 and 1882 numerous petitions, bills and memorials were presented to the Congress seeking the recognition of the claim, but no affirmative action was taken.<sup>24</sup>

Following Beales' death on July 25, 1878, title to the grant passed under his will to Anita Exter, James A. G. Beales, and Adelaide K. Jaffray.<sup>25</sup> On November 17, 1886, they conveyed the grant to Newton B. Childs for \$250,000.00.<sup>26</sup> Childs in turn sold it to the Inter-state Land Company, a Colorado corporation, on November 23, 1886, for the same consideration.<sup>27</sup>

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<sup>23</sup>MacCallum, The History of St. Clement's Church, 42-43 (1925).

<sup>24</sup>S. Misc. Doc. No. 14, 46th Cong., 3d Sess., 108, 567 (1881); and H. R. Misc. Doc. No. 213, 53d Cong., 2d Sess., 47 (1896).

<sup>25</sup>Anon., The Arkansas Grant, 26-27 (1901).

<sup>26</sup>Ibid., 28-29.

<sup>27</sup>Ibid., 30

In 1888 a boundary dispute arose between the Inter-state Land Company and the Maxwell Land Grant Company, which had been issued in 1841 to Guadalupe Miranda and Charles Beaubien by the then governor of New Mexico, Manuel Armijo, and subsequently confirmed and patented by the United States. In an effort to establish its title to this disputed land, the Inter-state Land Company instituted an equity suit in the United States Circuit Court of Colorado on January 20, 1888, to restrain the Maxwell Land Grant Company from prosecuting certain ejectment suits which it had brought against a number of tenants of the Inter-state Land Company. The Inter-state Land Company alleged that the Maxwell Land Grant was void because at the date it was made there was no law in existence authorizing its issuance and the confirmation and patenting of the grant by the United States was a mere quit claim which in no way affected its rights. Continuing, the bill alleged that a valid grant had been issued to Beales and Royuela in 1832 covering the lands in question, and the performance of the condition requiring the introduction and settlement of two hundred foreign families on the grant within six years had been prevented by the outbreak of the Texas Revolution. In answer the Maxwell



Land Company filed a demurrer in which it contended that the grant merely designated a large tract within which Beales and Royuela could settle colonists and obtain title to certain amounts of land as prescribed by law. The court sustained the demurrer, stating:

...It seems to me clear that the grant in controversy was not intended to be, and was not, a conveyance subject to defeasance, but that it amounted only to a designation and setting apart of the tract as a tract within which the petitioners could establish a colony in conformity to the colonization law, and upon such establishment obtain title to a fixed quantity of land within the tract. As there is no pretense that one was ever established, no title to anything ever passed. It follows that the complainant holds nothing by virtue of the so-called grant...<sup>28</sup>

The plaintiff appealed this decision to the United States Supreme Court. In a decision dated April 6, 1891, the Supreme Court affirmed the Circuit Court's decision in the case and held:

The mere fact that the word "grant" is used many times in them [the grant papers] sometimes apparently in its general and unrestricted sense of a conveyance of the title, ought not to be permitted to outweigh other parts of the instrument which clearly negative that idea... This grant ... means just what the law says it may mean, and was simply a designation of a tract within which the petitioners might establish a colony. It of itself passed title to no portion of the land to them.<sup>29</sup>

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<sup>28</sup>Inter-state Land Company v. Maxwell Land Grant Company, 41 F. 275 (C.C.D. Colo. 1889).

<sup>29</sup>Inter-state Land Company v. Maxwell Land Grant Company, 139 U.S. 569 (1891).

The Supreme Court's decision settled the question of the validity of the Arkansas Grant for all practical purposes. However, since the suit involved only the lands in conflict between the Arkansas and Maxwell Grants and the United States was not a party to the litigation, the ghost of this grant still haunts lands located in four states--Texas, New Mexico, Oklahoma, and Colorado.