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Washington, D. C.

October 17, 1892.

The Commissioner of
Indian Affairs,
Washington, D. C.

Sir:-

Some time ago my attention was called to the condition of a company of Indians living on the edge of the San Fernando Grant in Los Angeles County, California, and I was asked to take such steps as I might find possible and advisable in order to secure to them lands of which they had been unjustly deprived.

Upon examining into the case I found that these people were the remaining members and descendants of the band or village to whom Manuel Micheltorena, Governor of California, granted one league of land May 3rd, 1843, the record of which, together with the expediente, is to be found among the Archives of the United States Surveyor General's Office in San Francisco. A copy of the expediente is herewith enclosed.

Further investigation shows that these people had lived in quiet and undisturbed possession of the land called for in the grant, for many years - that in 1846 Governor Pio Pico made a grant of the Ex Mission of San Fernando to Eulogio de Celis, in consideration of \$14,000 - and that when, after confirmation of the claim which was filed with the Commission to settle the private land Claims in California, asking for confirmation of a grant

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of thirteen of fourteen leagues - a survey of the San Fernando Ranch was made, not only was the one league belonging to these Indians included, but about 50,000 acres of adjoining lands, to which other Indians, as well as whites and Mexicans, had valid claims under then existing grants.

My attention was more particularly called to these cases by Mr. J. Alexander Forbes, Keeper of Mexican Archives in the United States Surveyor General's Office at San Francisco, California, who assured me that he could furnish the records of grants to Indians covering this entire property which has now passed into the hands of the successors to the grantees of the Ex Mission San Fernando Ranch, the boundaries of which had been so permanently extended and spread out as to include more than double the quantity of land originally granted.

Further examination showed that not only had these Indians lived quietly and peaceably on the tract granted to them by Michel-torena, but that Rojerio, the Chief or Capitan, had, up to 1854, paid State and County taxes regularly upon the land.- that in 1886 under color of legal process they were removed entirely from the land and have ever since been kept out of possession.

These Indians are extremely poor and are unable to stand the expense of an action in the Courts to maintain their legal rights. The Commission appointed in 1852 to ascertain and settle the private land claims in Southern California was specifically instructed

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by the 16th section of the Act of Congress to which it owed its existence, as well as by the instructions from the General Land Office, to examine into and report upon the rights of the Indians of California to their lands and the title by which they held them.

It is evident that the 16th section of the Act of Congress was intended to relieve the Indians, who by their ignorance of law and the American customs have but small chance of retaining any of their possessions were they made subject to the same rules and penalties that were established for whites and Mexicans from the forfeiture clause of the Act which established a two year limit, within which time it was necessary to present all claims to the Commission, under penalty of the land being restored to the Public Domain for failure to make such presentation of the Claim.

The fact that the Commission failed to comply with the provisions of the 16th section of the Act of Congress and the instructions of the Interior Department in this respect - and at the present time no record of any report upon the claims of the Indians can be found in the Interior Department or in the Surveyor General's Office at San Francisco - should not be allowed to in any way militate against the interests and rights of the Indians, but their case is at the present time in such condition that it seems to be impossible to re-establish them upon their lands within the outside boundaries of the San Fernando Ranch as long as the grant owners remain in their present position.

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To overcome the legal disabilities under which the Indians seem to be at present, it is necessary to have the patent issued in 1873 cancelled and annulled. If this can be accomplished the Indians will be put upon an equality with the grant owners before the courts, provided the 18th section of the Act of Congress creating the California Board of Land Commissioners is held to exempt the Indians from the necessity of presenting their claims to the Commission, and there seems to be no reason for placing any other construction upon it.

The grant was originally made for fourteen leagues. In the presentation of the claim to the Commission all that was asked for was thirteen or fourteen leagues and the Commission and courts had no jurisdiction to confirm to the grantees more than that quantity. As patented, the grant includes something over 116,000 acres, or more than 26 square leagues.

At the time the patent for this immense property was issued, and at the present time, not one monument or call of the survey could or can be found or located upon the ground. No surveyor can go on the land and find a single landmark or monument that can be identified and established as a point from which to work in the endeavor to relocate the land which is covered by the patent. It is evident that at the time this patent was issued it did not definitely designate any particular tract of land and it is hard to see how any Court could fail to hold that it is and was void because of

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its uncertainty. - see Carpenter vs. Montgomery - 13 Wall - 480 -
Scull vs. U. S. - 98 U. S. 410.

The principle that the Courts have jurisdiction to set aside a patent in order to give relief to one who is innocently and irreparably injured by its issuance, is well established and clear. It is a very different case from that of the Maxwell Land Grant or that reported in U. S. vs Hancock, 133 U. S. 193 - as in both of these cases the only object of the action was to recover to the United States land claimed to have been fraudently included within the surveyed limits of the grants. In neither of these cases was there any claim of interest, other than that of the United States, jeopardized, and the decision of the Courts was simply that the United States was bound by the action of its officers within the scope of their duty - but only in so far as that action affected only the interests of the United States and only where the rights of third persons were not jeopardized.

It seems to be necessary, in order to establish the claims of
these Indians, to have a decision as to the effect of the 16th Section of the Act of Congress creating the Commission to ascertain and settle the private land claims in California, in order that the Indians may not be put out of Court for their failure to present their claims, and that an action should be brought in the United States Court to cancel the patent for the Rancho Ex Mission of San Fernando in Los Angeles County California, on the grounds of fraud, mistake, uncertainty, and that it conflicts with and includes lands

of the Indians, their rights to which cannot be re-established while the patent is in force and which claims are now in a precarious condition, owing to the failure of the California Land Commission to comply with the express provision of the Act of Congress which created it, as well as the express instructions of the Interior Department.

It is clear that by reason of the palpable neglect of its officers, the United States owes to these people the duty of using every means within its power to right the wrong under which they have suffered for so long a time, and I have the honor to request that you will recommend to the Honorable Secretary of the Interior that the necessary proceedings for the cancellation of the patent issued January 8th, 1873, to Eulogio de Celis for the Ex Mission of San Fernando in Los Angeles County California, be instituted.

Very respectfully,

Frank D. Lewis.