

**BEFORE THE JOINT COMMISSION
OF THE UNITED STATES AND
MEXICO. IN THE MATTER OF THE
CLAIM OF THE LOWER CALIFORNIA
COMPANY: MEMORIAL & EXHIBITS**

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Before the Joint Commission of the United States and Mexico. In the matter of the claim of the Lower California Company: Memorial & Exhibits by Various

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VARIOUS

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CLAIMS COMMISSION
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BEFORE THE JOINT COMMISSION

OF THE

UNITED STATES AND MEXICO.

IN THE MATTER OF THE CLAIM OF THE

LOWER CALIFORNIA COMPANY.

MEMORIAL & EXHIBITS.

(SONORA SUBREY.)

BARLOW, LAROQUE & MACFARLAND,
Attorneys.

NEW YORK:
EVENING POST STEAM PRESSES, 41 NASSAU STREET.

1870.

To the Honorable William H. Wadsworth and Don Francisco Gomez Palacio, composing the Joint Commission of the United States of America and the United States of Mexico :

In the matter of the claim of the "The Lower California Company," a corporation specially chartered and organized under the laws of the State of New York, before the Mexican and American Joint Commission.

The Memorial of the above-named claimants respectfully alleges and shows to this Honorable Commission as follows :

That heretofore, and on or about the 14th day of August, A.D. 1856, the Supreme Government of the Republic of Mexico, by its Secretary for the Department of Fomento, made and entered into a contract with the commercial house or firm of Jecker, Torre & Company, then residing and doing business in the city of Mexico, whereby the said Jecker, Torre & Company, undertook and agreed to make a reconnaissance, exploration, and survey of all the public lands in the State of Sonora ; and the said Supreme Government undertook and agreed as a consideration for said services to cede and give to the said Jecker, Torre & Co., upon the faithful performance of the said contract on their part, one-third part of all the said public lands ; which said contract was afterward, and on or about the 19th day of December, in the same year, authenticated in due form of law, and in presence of witnesses, before Don Ramon de la Cueva, National Public Notary, Don Manuel Orozco, official Mayor of the Department of Fomento, appear-

ing in behalf of said Supreme Government, and Jecker, Torre & Co. appearing in person. That the said contract, is in the words and figures following, to wit :

“First.—The house of Jecker, Torre & Co. binds itself to send to the State of Sonora one or more scientific commissions with the object of reconnoitering all the vacant lands, surveying them, making detailed and general maps of them, and making the most exact descriptions which shall be possible, of their climate, productions, and advantages for commerce or agriculture.

“Second.—The said house binds itself to inform the Ministry of Fomento of the day on which the operations of reconnoissance commence; and to communicate to it frequently the progress which is being made; and to transmit to it a copy of the general and detailed maps which are made, and of the scientific descriptions made by the engineers composing the commission or commissions.

“Third.—Within three years, counted from the date of this contract, the reconnoissance and scientific description of all the vacant lands in the State of Sonora shall be completed. This period having expired, the house of Jecker, Torre & Co. shall, except in cases of superior force, lose the right to the contract, and shall moreover pay to the Supreme Government the sum of ten thousand dollars, which shall immediately be guaranteed to the satisfaction of the Ministry of Fomento; retaining their rights and shares in the portion of vacant lands which may have been reconnoitered, mapped, and described,—even when the survey remains pending, by reason of the proceedings or delays of whatsoever civil or military authority or tribunal of justice.

“Fourth.—All the expenses of the reconnoissance, exploration, survey, &c., which are incurred, shall be solely and exclusively for account of the house of Jecker, Torre & Co., without

its being able at any time to demand any sum whatever from the Supreme Government for those expenses.

"Fifth.—Of all the vacant lands which there are in the State of Sonora, and which may be mapped in conformity with this contract, two third parts belong to the said Supreme Government, which shall remain at perfect liberty to cause their alienation by the means which it may deem most convenient: the house of Jecker not enjoying any other preference than that of the same price in case of sale, for which purpose due notice shall be given to it. The other third part shall be the full and absolute property of said Jecker, Torre & Co.

"Sixth.—The two third parts of the lands belonging to the Government shall be of equal quality to that which corresponds to the house of Jecker, Torre & Co.

"Seventh.—The Supreme Government shall issue the appropriate orders to the civil and military authorities of the State of Sonora, that they may aid the enterprise with all their authority in the exploration and survey of the vacant lands lying in said State.

"Siliceo.

"Jecker, Torre & Co.

"Mexico, August 14, 1856."

That on the 1st day of January, 1857, the mercantile firm of J. B. Jecker & Co. became the successors of the said firm of Jecker, Torre & Co., and vested with all the assets, rights, and interests of the last named firm, including their interest in the contract aforesaid.

That on or about the 9th day of March, 1857, the said J. B. Jecker & Co. made and executed a certain agreement or instrument in writing, with Antonio Escandon, Manuel Payno,

and J. B. G. Isham, the latter an American citizen, whereby the said Escandon, Payno, and Isham were made interested in the aforesaid contract, to the extent of one-quarter each; and the said Isham was authorized and empowered by all the parties in interest, to appoint the scientific commission therein named, and also to dispose of one-third of the territory to be acquired under said contract, for the purpose of procuring funds necessary for carrying the same into effect, a copy of which said agreement or instrument in writing is hereto annexed, marked "Exhibit No. 1."

That in the month of March, 1857, the said Supreme Government made and issued a certain decree concerning the appointment of Special Judges, for the survey of the public lands of Mexico, a copy of which decree is hereto annexed, marked "Exhibit No. 2," and that subsequently, in pursuance of said decree, Licenciado Don Antonio Maria Vizcayno, was appointed Special Judge, for the Survey of the State of Sonora.

That on or about the 9th day of May, 1857, the said J. B. G. Isham appointed a commission for making the said survey, the personnel and duties of which are set forth in a certain instrument in writing, made and executed by and between the said Isham and certain officers of said commission; a copy of which said instrument in writing is hereto annexed, marked "Exhibit No. 3."

That after the appointment and organization of said commission as aforesaid, and on or about the 15th day of June, 1857, the said J. B. Jecker & Co., Escandon, Payno and Isham, made and executed a certain letter of attorney, or instrument in writing, in which Charles P. Stone, the chief of said commission, was authorized and empowered to dispose of one half the rights and territory secured by the said contract

(if necessary), for the purpose of raising means for the rapid prosecution and completion of said survey ; a copy of which said letter of attorney is hereunto annexed, marked " Exhibit No. 4."

That on or about the 1st day of November, 1857, the said Charles P. Stone, acting on behalf of the said Jecker, Escandon, Payno and Isham, made and entered into an agreement with James E. Calhoun, William Neely Thompson, P. Della Torre, Tully R. Wise, and William M. Lent, wherein they, the said Calhoun, Thompson, Della Torre, Wise and Lent, agreed to advance and furnish certain funds for the use of said commission, in such amounts and at such times as the said chief of commission might require ; it being therein further provided, that in case default should be made in furnishing such funds in manner aforesaid, the said Stone should be at liberty to declare the said agreement and all rights secured thereby, forfeited, by making a solemn protest to that effect, and notifying the said parties thereof ; a copy of which said agreement is hereto annexed, marked " Exhibit No. 5."

That on or about the 11th day of February, 1858, the said William Neely Thompson, William M. Lent, P. Della Torre, and Tully R. Wise, in and by a certain indenture, bearing date on that day, sold and conveyed all their right, title and interest in the contract aforesaid, to the said James E. Calhoun ; a copy of which indenture is hereto annexed, marked " Exhibit No. 6."

That notwithstanding the covenants and agreements aforesaid, on their part to be kept and performed, the said James E. Calhoun, William Neely Thompson, William M. Lent, P. Della Torre, and Tully R. Wise, neglected and refused to furnish the necessary funds for the uses and purposes of the said

commission, according to the terms of their aforesaid agreement; and having so neglected and refused, the said Charles P. Stone, in pursuance of the provisions of the said agreement, made and issued a solemn protest declaring the said agreement as well as the rights of the said Calhoun, Thompson, Della Torre and Lent, and each of them, thereunder, forfeited and void, and gave the said parties due notice thereof; a copy of which said protest is hereunto annexed, marked "Exhibit No. 7."

That by reason of the premises aforesaid, all the rights and interest secured by said contract with the Mexican Government, reverted to and became the sole property of the said J. B. Jecker & Co., Antonio Escandon, Manuel Payno and J. B. G. Isham.

And the said claimants further allege and show that shortly after the organization of the said commission, the said Charles P. Stone, chief thereof, visited Washington, where he had interviews with the President of the United States, the Secretary of State and the Secretary of War, to whom he explained the nature of the said contract, in order that the large party of engineers, surveyors, chainmen, and other employees might not be mistaken for a filibustering or hostile expedition, and misunderstanding arise; and that all these high officials expressed satisfaction at the step in advance taken by the Mexican Government, in undertaking the survey of its public lands, and also promised the said chief of commission all the aid from the United States Government which would be consistent with international propriety. The said chief of commission then proceeded to New York, where he purchased a portion of the material and instruments necessary for making said survey, after which he sailed for San Francisco, California, in September, 1857.