

Case No. 3,878.
[Hoff. Op. 32.]

DIAZ v. UNITED STATES.

District Court, N. D. California.

March 15, 1858.

LAND GRANTS BY MEXICAN GOVERNORS—ABSENCE OF DOCUMENTARY PROOFS.

[When no expediente or other evidence of the existence of the grant is produced from the archives, or its absence accounted for, and there is no evidence whatever that any of the preliminary steps required by the regulations have ever been observed, and the evidence as to occupation or cultivation by the claimant is unsatisfactory, the claim should be rejected. *U. S. v. Cambuston*, 20 How. (61 U. S.) 59, followed.]

Rejection of the claim of Manuel Diaz.

HOFFMAN, District Judge, rejected the claim of Manuel Diaz to a ranch eleven square leagues (48,823 acres) in Sacramento county, and delivered the following opinion in the case:

The claim of the appellants is founded on a grant alleged to have been issued by Pio Pico, dated Los Angeles, May 18. 1846. No expediente or other evidence of the existence of the grant is produced from the archives, nor is its absence accounted for. There is no evidence whatever that any of the preliminary steps required by the regulations have ever been observed. Henry Cambuston, on whose testimony the claim chiefly rests, swears that he never saw the petition of Diaz. The grant is dated five days previously to that of Henry Cambuston, and is said by the latter to have been conveyed to Diaz by himself. The only evidence of any occupation or cultivation by the claimant, is that of Henry Cambuston. If his statement be true, the promptness shown by Diaz in fulfilling the conditions of his grant was certainly extraordinary. The case, as presented, is almost identical with that of Henry Cambuston, recently determined in the supreme court. [*U. S. v. Cambuston*, 20 How. (61 U. S.) 59.] Under the principles laid down by the court in that case, this claim must be rejected.