Still More About the Legal Status of the Nearest Pacific Islands

Howard Newcomb Morse
STILL MORE ABOUT THE LEGAL STATUS OF THE NEAREST PACIFIC ISLANDS

By

HOWARD NEWCOMB MORSE*

After the publication of the first two installments of my series of works on the legal status of the nearest Pacific islands in the October, 1951 and the January, 1952 issues of the Dickinson Law Review respectively, the question of the sovereign jurisdiction of the group of eight islands off the coast of southern California arose as a collateral issue in the case of California v. United States, the co-called tidelands case, in testimony taken at hearings held in Los Angeles by Master in Chancery William H. Davis of the Supreme Court of the United States. On March 26, 1952 the Los Angeles Herald and Express commented as follows: "Out of previous testimony concerning the waters between the islands off the southern California coast grew an out-of-court question: What will happen to Santa Catalina, San Clemente and other islands if the Supreme Court rules against the State of California and limits the State's jurisdiction to shore lands and very little else? . . . If the Supreme Court upholds the Department of Justice claims, will Catalina, now a part of Los Angeles County, become federal? That's one of the knotty problems growing out of the hearing before Master William H. Davis." Subsequently, the press carried accounts of testimony taken at these hearings which revealed that some geologists believe the group of eight islands once formed part of the mainland of California. Ironically, 256 years earlier all of California itself was thought by some to constitute one huge island. It appeared as such on a map drawn by S. Sanson, the cartographer to the King of France, and published by Hubert Jaillot of Paris.

In 1949 a Los Angeles geologist and petroleum engineer, drilling for a syndicate of California operators, discovered 15 inches of good oil sand on the 62,696 acre Santa Rosa Island. San Miguel Island, which today is occupied by the United States Coast Guard, was originally named Isla de la Posesion. The name of the Island was changed to Juan Rodriguez Island in honor of Juan Rodriguez Cabrillo when the great Portuguese navigator and explorer in the service of His Catholic Majesty of Spain died on the Island on January 3, 1543. The United States Coast Guard today also occupies Anacapa Island. The United States Navy today occupies San Nicolas Island, the 50,000 acre San Clemente Island and a small part of Santa Cruz Island. The comparatively large size of the island group can best be grasped by considering the fact that the three islands of Santa Rosa, Santa Cruz and San Clemente constitute a combined acreage of 165,756 acres. The nearest proximity of any of the group of eight islands to the mainland of California is approximately twenty-eight miles. No one could obtain title to property on any of the

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Statue of Cabrillo, discoverer of California. Legend has it that he is buried on San Miguel Island.

This statue stands at Point Loma, near San Diego.
eight islands by prescription unless the concept of ownership necessary for the possession to be founded upon is a concept of ownership under Mexican sovereignty.

On May 22, 1839 Juan A. Alvarado, Governor *ad interium* of the Department of California, issued a conveyance to the 52,760 acre Island of Santa Cruz dated July 20, 1838 to Captain Andres Castillero of San Andres Chalchicomula, Mexico. On April 13, 1852 Castillero filed his petition, which was claim no. 176, under the Act of March 3, 1851. This grant was confirmed by a decree of the Board of Land Commissioners at San Francisco on July 3, 1855, by the District Court of the United States for the Southern District of California at Los Angeles in case no. 340 at its December, 1856 Term, and by the Supreme Court of the United States at its December, 1859 Term in the case of *United States v. Castillero*. A United States patent to Santa Cruz Island was issued to Castillero on March 21, 1867 and was recorded in the General Land Office of the United States in vol. 6, pp. 325-343. This patent was recorded on February 22, 1869 in the official records of Santa Barbara County, California in Patents vol. A, pp. 34-44.

The present ostensible owners of record of the major part of Santa Cruz Island are Edwin L. Stanton and his wife Evelyn C. Stanton, who on August 4, 1948 issued to themselves a conveyance, which was recorded on August 11, 1948 as per book 793, page 496 of the official records of Santa Barbara County, making themselves tenants in common. On January 1, 1938 Edwin L. and Evelyn C. Stanton issued to themselves a conveyance, which was recorded on March 1, 1938 as per book 428, page 11, establishing themselves as joint tenants. On April 10, 1937 the Santa Cruz Island Co. issued to Edwin L. Stanton a deed, which was recorded on April 22, 1937 as per book 396, page 36, making Edwin L. Stanton and his wife tenants in common. The Santa Cruz Island Co., a California corporation with headquarters at 220 Montgomery Street, San Francisco, was an *alter ego* for the Gherini family of Hillsborough, California—Ambrose, Maria and Ilda. The present purported owners of record of the remaining part of Santa Cruz Island are Ambrose Gherini and his wife Maria Gherini. Maria Gherini acquired her interest on March 18, 1930 by deed, which was recorded on September 13, 1932 as per book 269, page 365, from Edmund A. Rossi and his wife Beatrice Brandt Rossi, Robert D. Rossi and his wife Nellie Mahoney Rossi, Esther Rossi, Olga Rossi, Beatrice Torrens (formerly Beatrice V. Rossi), Aimee Rossi, Albina Wall (formerly Albina Rossi), Eleanor L. Rossi and Carlo Rossi.

On October 4, 1843 Governor Manuel Micheltorena of the Department of California issued a conveyance to the Island of Santa Rosa to Jose Antonio Carrillo and Carlos Carrillo. On March 23, 1852 Manuela Carrillo de Jones, Alpheus B. Thompson, Francis Alpheus Thompson, Ysabel Thompson, Francisco Carolina Thompson, Hellen Anita Thompson, Charles Alexander Thompson and Alberto Carrillo Thompson filed their petition under the Act of March 3, 1851. This claim

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1 64 U.S. 464 (1859).
was rejected by a decree of the Board of Land Commissioners on November 15, 1853. A personal examination of the actual official records of Santa Barbara County disclosed that the decision of the Board of Land Commissioners was reversed by the District Court of the United States for the Southern District of California at its December, 1855 Term. An appeal by the United States was vacated on February 5, 1857. A United States patent to Santa Rose Island was issued to Manuela Carrillo de Jones and the other seven claimants on October 3, 1871 and was recorded in the General Land Office of the United States in vol. 7, pp. 513-516. This patent was recorded on July 20, 1874 in the official records of Santa Barbara County in Patents vol. A, pp. 202-204.

On July 4, 1846 Pio Pico, Constitutional Governor of the Department of the Californias, issued a conveyance to the eleven-square-league Island of Santa Catalina to Thomas M. Robbins. The American Declaration of Independence anniversary exactly two years later marked the signing of the Treaty of Guadalupe Hidalgo, which ended the Mexican War. On February 3, 1853 Jose Maria Covarrubias, claiming under grant from Thomas M. Robbins, filed his petition under the Act of March 3, 1851. This claim was confirmed by a decree of the Board of Land Commissioners on September 25, 1855 and by the District Court of the United States for the Southern District of California at its December, 1857 Term. The United States dismissed its appeal to the Supreme Court of the United States and as a result thereof the District Court of the United States for the Southern District of California on December 4, 1865 entered an order to the effect that the respective parties had leave to proceed under the decree heretofore rendered as under a final decree. An executive order of the President of the United States on January 26, 1867 gave the United States the right to select twenty acres on Santa Catalina Island at “Catalina Harbor” to be reserved unto the United States for light-house purposes with privilege of ingress and egress. A United States patent to Santa Catalina Island was issued to Covarrubias on April 10, 1867 and was recorded in the General Land Office of the United States in vol. 6, pp. 344-359 and in the official records of Los Angeles County, California in Patents vol. I, pp. 81-89. Covarrubias came to Alta California with the Hijar colonists in 1835.

On April 20, 1919 William Wrigley, Jr. of Chicago ostensibly received a conveyance to most of Santa Catalina Island from the Santa Catalina Island Co. as per book 6868, page 27 of the official records of Los Angeles County. The Santa Catalina Island Co., which is a California corporation with an authorized capital stock of ten million dollars, maintains its headquarters today in the Atwater Arcade Building, 150 Metropole Avenue, in Avalon on Santa Catalina Island. Philip K. Wrigley is the president of this corporation. The corporation, which was chartered as far back as October 16, 1894, was orginally an alter ego for the Banning family of Los Angeles—William L. Banning, Joseph B. Banning, Hancock Banning, Katharine S. Banning, and Anne Ophelia Banning. Philip K. Wrigley and the First National Bank of Chicago, as trustees under the will of William Wrigley, Jr.,
deceased, acquired 108,279 shares of capital stock in the corporation, which together with 460 shares already held by Philip K. Wrigley make a total of 108,739 shares representing, at $50. per share, $5,436,950.00. Just as Santa Catalina Island and the other seven islands off the mainland of southern California are beginning to figure in the present tidelands case of California v. United States in the Supreme Court of the United States so did the Bannings play the principal part in the first tidelands case in the Supreme Court of the United States back in 1916—the case of Banning Co., Mary H. Banning, Lucy T. Greenleaf, Mary H. Morris, Hancock Banning and Pacific Electric Railway Co. v. People of the State of California.\(^2\) The property involved in the case included state tidelands which since 1870 had been within two miles of the city of Wilmington, California and partly within the limits of Wilmington. Phineas Banning was the principal actor in this case, as he was in The People v. Banning Co., Southern Pacific Co., Southern Pacific Railroad Co., Homer S. King, and D. O. Mills.\(^3\) However, Mary H. Banning and William L. Banning played leading roles in The People v. Southern Pacific Railroad Co., Southern Pacific Co., Homer S. King and Mary H. Banning,\(^4\) as did William L. Banning and Joseph B. Banning in The People v. Banning Co.\(^5\) and Hancock Banning and William L. Banning in The People v. Hancock Banning.\(^6\) So when William Wrigley, Jr. purportedly purchased most of Santa Catalina Island in 1919 from the Santa Catalina Island Co. he was really purchasing the controlling interest in Santa Catalina Island from the Banning family.

\(^2\) 240 U.S. 142 (1916).
\(^3\) 166 Cal. 630, 138 p. 100 (1913).
\(^4\) 166 Cal. 614, 138 p. 94 (1913).
\(^6\) 169 Cal. 542, 147 p. 274 (1913).