

## THE PROCESO

*The Suit before the Council of the Indies brought by the  
Marqués del Valle to restrain the viceroy, Antonio  
de Mendoza, from interfering with his rights  
to the discovery of the new lands.*

*and*

*The Suit brought by the Marqués del Valle against the  
Viceroy for the seizure of one of his ships.*

The documents included in the general file bearing this name constitute a fund of great importance and one which has not been much exploited. Only the first part and a few documents from the others have ever been published. The documents are lumped together in a *legajo* in the *Patronato* numbered 1-1-2/21, but in reality there are two suits included. The first which consists of Part I and some of the documents in Parts III and IX was originally entitled *Proceso del marques del Valle y nuño de Guzman, los adelantados Soto y Alvarado sobre el descubrimiento de la tierra nueva*. It is signed Samano and bears a notation at the top Consejo. Año de 1541. At some later date another title was prefixed in which Lic. Lucas Vázquez de Ayllón was added to the other names and the suit was said to be with the fiscal of his majesty. A note was added about the diary of Diego de Guzmán and a statement that on folio 7 was a map. Part I contains the documents in what we might call a suit in equity seeking an injunction from the Council of the Indies directed to Antonio de Mendoza, the viceroy, not to interfere with the rights of any of the parties to the proceedings. The fiscal represented Antonio de Mendoza on the assumption

that Mendoza was acting in the matter as a representative of the crown. Belonging to this part is the *testimonio* from Mexico of the proceedings initiated by Cortés before the audiencia September 4, Part III and Part IX; documents filed by Guzmán Parts IV, V and VI; the capitulation with Narváez Part VII; and the capitulation with Lic. Vásquez de Ayllón Part VIII. Parts. III and IX are practically identical as far as September 12. From that date on the *testimonio* in Part IX continues the proceedings into October.

Part II is in reality an entirely different suit. The title is as follows: *El rollo de las peticiones y suplicas presentadas sobre el desembargo de la demanda del Marques del Valle y recusacion que puso al virrey*. This contains the charges of Cortés against the viceroy growing out of the seizure of his ship, the *Santo Tomás*. It was begun by Cortés himself in Mexico November 20 before the audiencia and transferred to the Council of the Indies. The documents in the case are filed with the petitions and appear in the same part. Juan de Barrutia intervened November 29, 1540, but otherwise the other parties to the *Proceso* proper did not appear.

The origin of this famous case dates back to the original contract of Cortés for discovery in the South Sea made with the emperor in 1529. I think it is plain that the intention was to confine the operations to the sea, that is, discoveries made by sea. But of course it was impossible to conquer and pacify a country which might be discovered except by landing. At the time that this contract was made Cortés had pushed his discoveries by land up to the present State of Sinaloa, had founded a town named Colima, and divided the province largely into *encomiendas* among his friends and followers. Mines had been discovered and everything was peaceful until Nuño de Guzmán took it into his head to use his position to make an *entrada* into the country on his own account.

He invaded the territory of Cortés, paying no attention to his rights. When Cortés returned from Spain and found these proceedings in full operation he set about constructing a fleet in Tehuantepec to carry his discoveries beyond those of Guzmán. This was the purpose of the Hurtado expedition of 1532 and no doubt that of Becerra of the following year. Cortés never ceased to claim that Hurtado had made discoveries beyond the country claimed by Guzmán and finally set up his rights to the country of the Seven Cities through these discoveries and those of himself on the peninsula of California. Hurtado had two vessels; one of them returned, and he went on with the other which was wrecked or abandoned. He lost his life and those of all his men on what was probably the Fuerte River. No one survived to be able to say just how far he had gone, but Guzmán in the following year sent an expedition under Diego de Guzmán who certainly passed farther north than Hurtado had ever been, reaching the Yaqui River.

This was the state of affairs when Cabeza de Vaca and his companions appeared in Mexico City in the summer of 1536. There is nothing inviting or calculated to arouse any great interest in the north in what he had to say in his printed relation. He reached Spain in the spring of 1537, leaving his companions in Mexico. The Knight of Elvas in his account of the Soto Expedition tells us that Cabeza de Vaca must have said something very different in the court from what was published in his relation. Evidently considerable excitement was aroused and when Hernando de Soto came back from Peru with a very large sum of money for those days obtained from the Atahualpa ransom and other booty, and made a contract with the crown April 20, 1537, for the conquest and pacification of that part of America north of the Rio Palmas previously comprised in the concessions to Pánfilo de Narváez and Lucas Vázquez de Ayllón he had no difficulty

in getting all the recruits he wanted. It is said that many nobles of the court converted their property into cash in order to join him. About the only gold that Cabeza de Vaca told about was from Apalachen, and that appears to have been what Soto was after, although of course it is always possible that in view of his experiences in Peru with walled cities he may have taken some stock in Cabeza de Vaca's story about towns with stone houses farther west.

Soto's contract called for him to depart on his expedition inside of one year, and February 15, 1538, he was in Seville about to leave. December 30, 1537, he had secured a cedula from the queen addressed to Mendoza and Cortés not to enter his territory, and this he filed in the Casa de Contratación on the date above mentioned, and procured certified transcripts. These he sent to Mexico and in August his agent there presented them to both Mendoza and Cortés. As usual they both promised to obey the cedula with exceptions. He also presented one to Coronado September 7, alleging that he was the governor of New Galicia. Coronado denied this and said he knew nothing about the matter. Mendoza was called upon for an explanation and produced a royal appointment for a governor of New Galicia but with the name of the person to whom it was to be given in blank. Not long afterwards, as we know, the blank was filled up with Coronado's name. We see then that Soto had advance information in Spain of what was going to take place. This action put him in a somewhat better position than any of the other contestants, and he and Cortés were the principal protestants before the council about the actions of Mendoza. Guzmán, who had some claims, was without money and involved in heavy litigation with Cortés. He soon disappeared. Alvarado also soon disappeared, probably due to the fact that Mendoza had an interest in his enterprise. Mendoza was represented by the fiscal of the council, apparently on the theory that Mendoza was acting for the crown. This,

however, we know not to have been the fact. He was acting on his own account, but in opposing Cortés Mendoza no doubt had the secret sanction of the court. When the fiscal came to answer the various petitions he declared that none of them had any right to discoveries in the new land as that had been discovered by Fr. Marcos de Niza who had been sent out by the viceroy in the name of the king. This argument was not exactly conclusive, and the council on the insistence of Cortés sent an order to Mendoza not to interfere with the movements of his fleet. Probably a secret order was sent at the same time not to pay any attention to this. Some years later Cortés obtained another order to a similar effect but by this time all interest in the new land had disappeared, and Cortés himself had ceased operations in the South Sea. This is the reason I take it that there was never any final determination of the matter. The suit simply died a natural death.

The case was otherwise, however, with the complaints of Cortés against Mendoza. There was some foundation for these, and the council finally paid some attention to them. The proceedings were, as we would now say, in equity. What Cortés was asking for was practically an injunction to restrain Mendoza from certain acts which if persisted in would result in great pecuniary damage to him, damages which he would be unable to collect in all human probability, just as he had been unable to collect the judgments which he had secured to the amount of over 60,000 ducats in his suits before the council against Salazar and Guzmán. The council finally, on the presentation of a series of direct charges by Cortés, July 6, 1543, sent out a *juez* to take the *visita* of Mendoza, and in this proceeding the complaints of Cortés formed the bulk of the charges against Mendoza.

It is unfortunate that the original files are no longer intact. About 1814, after these documents had been removed from Simancas to Seville, some busybody in the

archives at the latter place had the great idea of forming a new section comprising the discoveries of Spain in the Indies and other related material. *Legajos* in the various suits and in other collections were ransacked for accounts of such discoveries. They were abstracted and placed in a new section called "Patronato", a purely factitious arrangement. Documents were separated from accompanying correspondence which was left behind. Most of the Cortés letters were taken out of their proper files and put in the new section where they bear no relation to each other whatever except a chronological one. The entire *Proceso* was taken out but the corresponding suit against Mendoza was left in *Justicia*. From the *Proceso* itself the relation of Niza was obviously abstracted and put in a separate *Legajo*. The same thing happened to some of the documents in the *legajo* in *Justicia*, and it is not at all unlikely that other documents were taken out of the *Proceso legajo* at the same time.

In order to present the entire litigation the documents have been here reassembled as far as possible, and the *legajo* in *Justicia*, 48-1-1/23, is also inventoried. As I previously explained Part I of the *Proceso* was published in full, with the exception of a few notations, in the *Colección de documentos inéditos relativos al descubrimiento, conquista y organización de las antiguas posesiones españolas de América y Oceanía*. Tomo XV, 1871. This work is referred to as P & C, that is, Pacheco and Cárdenas, who were the two later editors. Previously Navarrete had published some Cortés documents in the *Colección de documentos inéditos para la Historia de España*, Madrid, 1844. Among these figure the memorial of Cortés of September 4, 1539, the *instrucción* to Avallaneda, Cerón, and Galvarro, the petition of June 25, 1540, all taken from the *Proceso*. These were not printed from the originals but from copies made by Navarrete. They are cited under the letters DE. Several afterwards printed in the *Escritos*

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*suelos de Hernán Cortés*, México, 1871, and these are designated with the letters Es.

My photostats of these documents were made in Seville many years ago under the supervision of Miss I. A. Wright. Although many of the documents are folioed, many are not, so she numbered the pages on the backs of the photostats. This has the merit of giving a consecutive arrangement of numbering, and consequently I make use of it. At that time the documents were no doubt in the order given and I presume they may be yet. During a recent access of activity in the archives many of these *legajos* have been renumbered so it is now necessary to use two numbers. Unfortunately I have not a record of the new numbers to these *legajos* and I am therefore obliged to use the old ones.

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The suit of the Marqués del Valle, Nuño de Guzmán, Diego de Guzmán and the adelantados, Don Pedro de Alvarado and Don Hernando de Soto and Lic. Lucas Vásquez de Ayllón with the fiscal of His Majesty over the discovery which they made of New Galicia and the lands of the South Sea. On folio 19 begins the diary written on nine folios which Diego de Guzmán made on his journey, and on folio 7 is the map showing all this discovery, (and that unfortunately does not exist). A second title contains a notation at the top Consejo Año de 1541 and is signed Samano. 1-1-2/21, 9 parts.

## PART I

Petition of Yñigo López de Mondragón in the name of the Marqués del Valle, presented March 1, 1540. Pages 1-2, 3 blank, and 4 with the word *consulta*.

P. & C. XV, 300-2.

Recites his previous efforts to discover the country and asks an order prohibiting others from prosecuting those discoveries and an order to Mendoza to aid him.

Petition of Nuño de Guzmán presented March 1, 1540. Page 5.

P. & C. XV, 302.

Reciting that the new discoveries were made possible by his work in New Galicia and asking a transcript of what others ask. Page 6 that he be heard and this be added to the other petitions.

Petition of Francisco de Avila in the name of Pedro de Alvarado, March 1, 1540. Page 7.

P. & C. XV, 303-4.

Claiming Alvarado's rights under his contract of 1538, saying Niza's news had reached him and asserting that the country discovered by Fray Marcos lay in his territory and asking that Mendoza be ordered to aid him. Page 8 marked *consulta*.

Petition of Juan de Barrutia in the name of Hernando de Soto, presented March 3, 1540. Page 9.

P. & C. XV, 304-5.

Complaining that Mendoza is preparing to send a force to conquer country included in that pertaining to him under his contract and asking copies of any petition of Cortés or other persons. Page 10 marked *Consulta*.

Petition of López de Mondragón, March 3, 1540. Page 11, and 12 blank.

P. & C. XV, 305-6.

Presenting the following documents and asking prompt action:

Auto of possession of Santa Cruz, with map, (original), pages 13-14 (15 blank).

P. & C. XV, 306-8.

Demand made by Cortés on Antonio de Turcios in Mexico, for a testimonio of the proceedings September 4 and 9, 11 and 13, 1539. Pages 17-20.

P. & C. XI, 308-12. (The *testimonio* in Part IIIA.)

Turcios on the 13th agreed to furnish it.

Petition of Guzmán, March 6, 1540. Page 21, (22 blank).

P. & C. XV, 312.

Asking copies of all papers which petition was granted.

Petition of Guzmán, March 6. Page 23 (24 with same order). Presents three documents of proofs, made in Nueva Galicia. Parts 4-6.



P. & C. XV, 312-13.

At bottom an order of the *Consejo* to have copies of all documents provided for other contestants and of others to Guzmán.

Petition of Luis Salido, March 6, in the name of Compostela and San Miguel. Page 25 (26, order to add to the other papers).

P. & C. XV, 313-14.

Repeating Guzmán's arguments and in his favor.

Petition of Yñigo López, March 6, presenting his power of attorney, and the *asiento* with Cortés, and asking copies of writings presented in behalf of Mendoza or by the fiscal. Page 27.

P. & C. XV, 314-15.

Notification to Yñigo López of the other petitions filed. Page 28.

P. & C. XV, 315.

Petition of Yñigo López, March 9, page 29, (30 order of the Consejo to add to the file), requesting he be furnished with copies of the petitions, letters and documents filed in the case by Mendoza, stating that Mendoza had presented writings asserting that he had discovered the new land with some friars and a negro.

P. & C. XV, 315-16.

He also filed the following at the time:

Instructions of Cortés (original) to Juan de Avellaneda, Jorge Cerón, and Juan Galvarro about what they should ask of the king, pages 31-2, (33 cover title).

D E IV, 206-9, P. & C. XV, 316-19, Es XXXVIII.

The instructions were written about September 30, 1539. He says he will send more copious documents by the next ship, meantime wants an order sent by April 1540 to the viceroy, who is raising a force, not to go on with his expedition.

Record of notification to Guzmán March 12, page 34.

P. & C. XV, 319.

Documents filed by Guzmán (all original except Guzmán's *Relación* and Guzmán's Power of Attorney).

Declaration of Pedro de Guzmán before Pedro Maldonado, March 18, 1532, that he was about to set sail, page 37.

Acts of possession of the Isla de Ramos, by Pedro de Guzmán, March 20 or 23, 1532, page 37.

Acts of possession of Diego de Guzmán of Isla de Nuestra Señora, March 25, page 37, of Isla Magdalena March 27, page 38, at Río Santiago July 28, at Río San Miguel, September 29 and at Río Yaquime, October 4, 1533, pages 41-2, (39 blank and 40 cover title).

P. & C. XV, 319-22.

The *Relación* of Diego de Guzmán August 4-December 29, 1533, pages 45-60 (61, 62 blank, 63 cover title, 64 blank).

Guzmán's power of attorney to Sebastián Rodríguez, Madrid, March 15, 1540, pages 65-6.

P. & C. XV, 339-40.

Note of Presentation March 16, page 67.

Petition of Guzmán, March 20, 1540, pages 69-76. A copy ordered by the Council April 5 to the other parties, and an answer demanded. April 12 the various parties were notified, page 76.

P. & C. XV, 341-350.

Guzmán answered all the petitions filed by the other contestants.

Declaration of Juan Fernández de Paredes, an official of Juan de Samano, April 22, registering Juan de Barrutia's powers, page 77, 78 blank.

P. & C. XV, 350-1.

Answer of Juan de Barrutia, April 19, pages 79-80.

P. & C. XV, 351-3.

Notification to the fiscal, April 21, of this and all other petitions. Page 80.

P. & C. XV, 353-4.

Barrutia puts into the record, April 23, the Asiento with Soto, page 81 (82 Blank).

The Asiento of April 20, 1537, pages 83-96, (97 and 98 blank).

P. & C. XV, 354-63.

Petition of Barrutia. He says Soto is in the country and he fears an encounter with the contestants and with the others. He presents some documents April 23, page 99.

P. & C. XV, 363-5.

Notification ordered to the others, page 100, (title 101, 102 blank).

P. & C. XV, 365.

A cédula of the Queen, dated Valladolid, December 30, 1537, addressed to Mendoza and Cortés not to enter Soto's territory, notified to the Casa de Contratación, February 14, 1538, by Soto himself, with proceedings in Seville to make a transcript of this cédula the same day, pages 103-8.

P. & C. XV, 365-9.

Notification of the cédula to Mendoza and Cortés in Mexico, August 9 and August 12, 1538, to Coronado September 7, and some details about his appointment with answers of all three. Cortés answered August 12 asking for a copy to which he would answer. August 26 he answered that he did not know what territory was included in Soto's concession, but that he intended to go on under his contract of 1529. August 28 Sanjurgo, Soto's agent insisted on Cortés' compliance. Coronado said he was not governor of New Galicia but if appointed would obey although he did not know what territory had been conferred on Narváez or Ayllón, pages 108-117, (118, 119-120 blank).

P. & C. XV, 369-76.

*Testimonio* dated September 8, 1538.

Villalobos, the fiscal, answers the petitions May 25 denying rights of all other parties. The discoveries were made by Mendoza in the name of the king, pages 121-2.

P. & C. XV, 376-9.

Notifications to the parties May 25, page 123, (124 title).

P. & C. XV, 379.

Petition of Barrutia, May 26, page 125 (125 notation). Again asks that order to desist be sent to Mendoza.

P. & C. XV, 379-80.

Petition of Barrutia, May 26. Requesting copies of what had been filed by Mendoza or Cortés, page 127, (128 notation).

P. & C. XV, 380.

Statement of Francisco de Avila that he had Alvarado's power of attorney, May 28, and substituted it to Alonso de San Juan, *solicitor de causas en esta corte*, page 129, (130 blank).

P. & C. XV, 380-1.

Barrutia answers Villalobos, July 12, pages 131-3.

P. & C. XV, 381-5.

Notifications, page 134.

P. & C. XV, 385-6.

Yñigo López answers Villalobos August 12, pages 135-6, says Cortés discovered the province of Cíbola and not Mendoza and asks cosmographers to be appointed to settle the matter, and asserts that Cortés has spent 240000 ducats.

P. & C. XV, 386-8.

Yñigo López answers Barrutia, August 12, page 137.

Denies Soto's rights, says his contract is anterior and again asks for cosmographers to be appointed.

P. & C. XV, 388-9.

Council orders copies given to the parties and allows three days for answers, page 138.

P. & C. XV, 389.

Council orders parties November 6 to conclude the case inside of ten days, page 139, with the notifications, (140 blank).

P. & C. XV, 389-90.

Barrutia answers Yñigo López November 29, page 141.

Claiming that the territories where Soto is had been given to Narváez and Ayllón and were excluded from that given to Cortés.

P. & C. XV, 390-91.

Notifications November 29, page 142.

P. & C. XV, 392.

Barrutia presents some documents, December 23, page 143, (144 blank).

P. & C. XV, 392.

*Information* in Havana, November 12, 1539, pages 145-150, (151 blank, 152 title).

P. & C. XV, 392-8.

Cédula given at Espira February 5, 1541, about a complaint of Cortés regarding Ulloa addressed to the Council of the Indies (presented by the Marqués del Valle, March 18, pages 153, (notation 154).

P. & C. XV, 398-9.

Again orders Mendoza not to interfere with Cortés sending forces to Ulloa.

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Marqués del Valle presents the above petition March 18, 1541, page 155 with notifications, another, pages 155-6.

P. & C. XV, 400.

Judgment of the Council, May 13, 1541, pages 157-8 with notifications.

P. & C. XV, 401-2.

Allows thirty days for final proofs of whether Cibola was comprised in the territory allotted to Cortés.

Yñigo López appeals from the judgment pp. 159-60 with notations May 17, and asks for a commission of pilots and cosmographers to pass on the limits of Cortés' asiento.

P. & C. XV, 402-3.

Barrutia answers and says it is not time enough and asks for two years, May 19, pp. 161-2 with notifications.

P & C. XV, 404.

Barrutia complains that the others will not answer, May 27, page 163, (164 blank).

P. & C. XV, 405.

Barrutia accuses the other parties of contumacy May 28, page 165, the others are notified May 31.

P. & C. XV, 406.

Barrutia asks for more time June 3, page 167 (168 blank).

P. & C. XV, 406-7.

Yñigo López protests against the time running and says that parties must be brought from the Indies to testify, June 10, page 169, 170 blank.

P. & C. XV, 407-8.

Yñigo López requests six days for Lic. Puebla whom the Marqués has employed as his lawyer to read the record, page 171.

P. & C. XV, 408.

A note on page 172 — q. se le de.

## PART II

Petition of Yñigo López, June 22, 1540, signed by him and Lic. Doctor Alonso de Buendía, pages 1-3.

Accuses Mendoza of taking away the sails of the *Santo Tomás*

to prevent Cortés from sending aid to Ulloa and of suspending the counting of Cortés' vessels obliging Cortés to come to Spain to seek justice.

Petition of Marqués del Valle, (original) June 25, presented by Yñigo López. Pages 5-9, (10 and 11 are blank, 12 of notations).

D E IV, 209-17, Es XXXIX (The *Memorial sobre agravios*).

Petition of Yñigo López, June 25, pages 13-14 (15 blank, 16 cover).

Reciting the taking of the equipment of Cortés' ships and his pilot Hernando Diaz by Mendoza and asking an order to release him and the ships. He filed the following documents June 22, 1540 in Madrid.

*Testimonio* in Mexico November 25 signed by Turcios.

Petition of Marqués del Valle to the Audiencia, November 20, 1539, pages 17-18. The story of the return of the *Santo Tomás* and the seizure of a negro messenger from it by Pedro de Maldonado, alcalde mayor of Coliman.

Answer of Mendoza, November 24, pages 19-21 (22, 23 blank, 24 cover). Giving his reasons for issuing the orders for no vessel to leave New Spain without his license and especially for refusing Cortés a right to send a ship to aid Ulloa as in the letters of testimony in Mexico the captain of the *Santo Tomás* did not show that he was in need of any.

Alvaro Ruiz in the name of Cortés presents, December 23, power of attorney from Cortés dated November 23, 1537, pages 25-27.

Petition of Ruiz signed Juan Altamirano, pages 27-29. Recites about Cortés raising a force in Guatemala and about the *Santo Tomás*. At this time Cortés was in Vera Cruz about to leave for Spain. Also says has news that Pedro de Alvarado is about to invade Cortés' territory and asks order be sent to him to stay away.

Answer of the Audiencia, page 30, (cover title 32), refusing the license to send ships but agreeing to send order to Alvarado to keep away.

Mendoza's order of September 8, to (certified copy of same day), Villafañe not to allow Cortés' ships to depart, pages 33-34, (35 blank, 36 cover title).

Inventory of Cortés' ships by Villafañe at Tehuantepec, November 28, 1539, pages 36-40.

*Informacion* in Tehuantepec October 21, by Juan de Toledo, alcalde

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mayor of Tehuantepec, pages 41-50, (51 blank, 52 cover). Covers much the same ground as that of Villafañe and reciting Villafañe's proceedings. It contains a declaration of Vicente Lorenzo.

Mendoza's order to Villafañe for no one to leave New Spain, September 1, 1539, pages 53-55, (56 blank).

### Documents filed June 25

Letter of Manuel Alfonso, the pilot, from Guatulco, to Juan de Toledo, November 21, page 57 (58 cover title), about the storm which obliged him to come back. (Original).

Letter of García Ramírez (Original) December 12, from Xuaxaca, to Diego Guinea in Vera Cruz, pages 59-60.

Letter of Diego Guinea (original) to Cortés from Xuaxaca about the ship at Guatulco, November 24, pages 61-62.

Letter of Vicente Lorenzo to Cortés from Mongaras, November 21, pages 63-(64 title).

Letter of Juan de Toledo to Cortés from Tehuantepec November 28, pages 65-66. Speaks of receiving the letter from Manuel Alfonso while in Xala. It contains a notation that it was received in Jalapa December 12.

Letter of Mendoza (original) to Cortés from Xiraltepeque, December 8, pages 67-68 (69 blank, 70 cover title). More or less apologizing for seizing the *Santo Tomás* and ordering the sails and rudder restored.

[The letters just calendared referred to the *Santo Tomás*].

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The Council issues an order, June 25, 1540, to Mendoza and the audiencia not to interfere with Cortés, and orders cédulas sent to them to that effect, page 71, (72 blank).

Villalobos protests against the order, June 25, pages 73-75 (with notation by the Council).

Petition of Yñigo López, June 28, pages 77-81 (with notation to refer to the fiscal). Denies that Fr. Marcos made any discoveries.

Answer of Villalobos, Madrid, July 13, page 81, (82 cover title). Reiterates that Mendoza discovered the new land by Fr. Marcos de Niza and presents the following document:

- Declaration of Marcos de Niza, Mexico, September 2, 1539, page 83, (84 and 85 blank, 86 cover title).  
 [The *Relación* belongs here but is in 1-1-1/20 N° 5 R. 10].
- Petition of Barrutia, Madrid, November 29, 1540, pages 87-88. Complains of the order of the Council of June 25.
- Petition of Marqués del Valle, Madrid, May 18, 1541, page 89, (90 cover title). Asking for the evidence of pilots.
- Petition of Marqués del Valle in Valladolid October 15, 1543, page 91, (92 cover title). Speaks of his accusations against Mendoza and swears to their truth, evidently referring to his petitions of July 6 and 11. Page 91 (92 notations).
- Petition of Marqués del Valle in Valladolid October 24, 1543, page 93, (cover title with a notation—denied). Again asks justice against Mendoza.
- Petition of Alonso de San Juan in the name of Cortés, Valladolid, November 3, 1543, pages 95-96, signed by Cortés (97 blank, 98 cover title). On the same subject.
- Petition of Marqués del Valle, Valladolid, December 1, 1543, page 99, (100 and 101 blank, 102 title, with notation to add to the other papers in the case). On the same subject and asks for the residencia of Mendoza and claims large damages which he fears Mendoza will not be able to pay as in the cases of Salazar and Guzmán against whom he obtained judgment for more than sixty thousand ducats and up to the present has not collected anything.
- Alonso de San Juan, in the name of Cortés, undated, pages 103-104. Asks immediate restraining orders be sent to Mendoza as ships are about to sail for New Spain.
- Alonso de San Juan, Valladolid, March 8, 1544, page 105, (106 cover title), answering an order of the Council to present more facts inside of three days, and says ample testimony has been given.
- The Council's order, Valladolid, March 15, 1544, to comply with the cédula of June 25, 1540 and remit the rest to his majesty, page 107 (108 and 109 blank, 110 cover title).
- Petition of Marqués del Valle, page 111, asking determination of the two suits against Mendoza. At the bottom is a decree of the Council, Valladolid, October 23, 1544, probably the date of the letter.



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PART III

Documents filed by López de Mondragón March 3, 1540

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Proceedings before the audiencia beginning September 4, 1539 [*Testimonio* dated September 12).

Petition of Marqués del Valle, September 4, pages 1-7.

D E IV, 201-6, Es XXXVII (*Memorial sobre que no se le embarace el descubrimiento*).

Cortés' Documents, pages 7-86

Investigation in Antequera in the name of Cortés by Francisco Casas before Sebastián de Grijalva July 7, 1533, about Hurtado's voyage, page 7.

- 1) Power of attorney of Cortés to Francisco Casas dated Tehuantepec February 10, 1533, pages 7-10.
- 2) Petition of Casas, pages 10-14.

Presents ten interrogates

- 3) The interrogatories, pages 14-19.  
Answers in Antequera, July 7, 1533, by the following witnesses who had been with Hurtado.
- 4) Miguel Marroquín, pages 20-23.
- 5) Hernando Darias de Saavedra, pages 23-26.
- 6) Juan de Saavedra, pages 26-29.

Contract between Cortés and Juan Rodríguez de Villafuerte, November 4, 1531, pages 30-33.

DE, III, 416-19.

Instructions to Diego Hurtado de Mendoza, pages 33-44.

DE IV, 167-75.

Register of the arms of Hurtado May 26, 1532, pages 43-46.

Muster of Hurtado's men, June 21, 1532, pages 46-52.

[The above three were copied in 1539 from Cortés' records of 1534 as certified to at the end of the Instruction].

Act of possession of Santa Cruz, May 3, 1535, pages 53-55.

DE IV, 190-2.

Cédula to Cortés, November 5, 1529, pages 55-60.

Cortés exhibits his powers, May 10, 1535 in Santa Cruz, pages 60-61.

Cédula of Carlos V and Juana, July 6, 1529, appointing him captain-general, pages 61-65.

Capitulation with Cortés, Madrid, October 27, 1529, pages 66-84.

Acta in the ship *San Miguel*, June 29, 1532, by Hurtado, page 85.

Acta in the ship *San Miguel*, May 29, 1532 by Hurtado, page 85-86.

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Proceedings in the audiencia, September 9, 1539, pages 86-7.

Marqués del Valle presents a petition, September 9, 1539, and presents a document, page 87.

A petition of Juan Altamirano, asking a certified copy of a provision of the king, August 21, 1535, page 88, to which the audiencia consents, page 88.

Cédula to the audiencia, March 1, 1533, pages 89-98.

More proceedings of the audiencia, September 11, 1539, pages 98-99.

Lic. Benavente, the fiscal, answers, going over Cortés' expeditions. September 11 he filed some papers, stating that Cortés had not complied with his contract, pages 99-106.

Part of the instructions to the new audiencia issued July 12, 1530, to notify Cortés that within one year he had to build his fleet and in two more must make sail. If not, capitulation void, pages 107-108.

Notification to Cortés, January 10, 1531, page 108.

Cortés' letter of July 26, 1539, from Cuernavaca, to Mendoza, about Fr. Marcos de Niza, page 109.

Cortés' letter of August 6, 1539, from Cuernavaca, to Mendoza, about Niza, pages 110-112.

Audiencia Mexico, September 11, 1539, auto about verifying signature of Cortés to these letters, page 112.

Answered that he had written them, page 113.

More proceedings September 12.

Relation of Coronado September 12, about Cortés sending a fleet to Santa Cruz, pages 114-116.

Notation — no response.

End of *testimonio*, page 117.

Signed by Turcios.

PART IV

Documents filed by Guzmán, March 6, 1540

An investigation in Compostela, December 10, 1535, about the condition of the country where the Marqués del Valle lives.

Petition of Diego de la Peña, December 10, 1538. Testimony before Diego de la Peña.

Guzmán's power to Luis Salido, April 26, 1533, pages 1-4.

Salido's substitution to Peña, November 21, 1538, pages 5-6.

The investigation. The interrogatories not given, only the answers. Guzmán was present and conducted the investigation before Pedro Ruiz de Haro.

Luis de Baeza testified, December 10, he said the country was called Tarsis, pages 7-11.

Francisco Muñoz, pages 12-16.

Alonso de Cevallos, pages 16-22.

Hernán Rodríguez, pages 23-31.

Juan de Samaniego, pages 31-32, testifies about what he heard from Juan de Jaso and Jorge Cerón, (33-35 blank, and 36 with title — Probanza ad perpetuam, etc.)

All printed in P. & C., XVI, 5-37, as Probanza ad perpetuam rei memoriam sobre la tierra del Marqués del Valle.

PART V

*Testimonio* filed by Guzmán in Madrid, March 6, 1540, of an investigation before Francisco Vásquez de Coronado in Compostela, December 7, 1538, about Cortés' visit to New Galicia.

Diego de la Peña's petition, pages 1-2.

Fifteen interrogatories, pages 2-7.

Guzmán's power to Luis Salido, pages 7-14 (pages 9 and 10 are out of place, they should be pages Nos. 27 and 28).

Peña presents his witnesses, page 15.

Gaspar de Brizeño, pages 16-21.

Salvador Martel, pages 21-25.

Melchor Vásquez, pages 26-29.

Christóval de Oñate, pages 29-33.

Signature of Coronado and certification, page 34.

PART VI

*Testimonio* filed by Guzmán in Madrid, March 6, 1540, of an investigation in Compostela December 31, 1538, before Juan de Samaniego, alcalde, by Francisco de Villegas in the name of Guzmán.

Petition of Villegas, teniente de gobernador, por Nuño de Guzmán.

Five interrogatories to be asked of Juan Fernández de Híjar of Purificación about two guns which Cortés took away from him, pages 1-2.

Power of attorney to Villegas by Guzmán, October 3, 1538, in Mexico, pages 2-6.

Híjar's answers, page 6.

Certification, page 7, (8 notation Probanza ad perpetuam, etc.)

All published in P. & C., XVI, 539-547.

PART VII

Capitulation with Pánfilo de Narváez, Granada, December 11, 1526, 17 pages.

One printed in P. & C., XVI, 67-87, also in XXII, 224-45.

PART VIII

Juan de Barrutia's petition, March 31, 1541, asking for a copy of the capitulation with Ayllón, 1 page, cover title, 1 page with notation that it be granted.

Capitulation with Lic. Lucas Vásquez de Ayllón, Valladolid, June 12, 1523, pages 3-15.

PART IX

Documents presented by López de Mondragón, June 22, 1540.

*Testimonio* and autos between the Marqués del Valle and the fiscal of his majesty over the country newly discovered . . . Presented October 10, 1539, to his agent in Mexico. The first 151 pages are the same as contained in the *Testimonio* of September 12, Part III. Up to that date a transcript was taken in view of the

evident fact that a vessel was about to sail for Spain. The proceedings, however, continued before the audiencia.

Petition of Marqués del Valle, September 24, answering the fiscal and asking the audiencia not to interfere with his expedition, and filing a document, pages 151-157.

Letter of Mendoza to Cortés, June 27, 1536, pages 157-158.

The audiencia orders the fiscal to answer, pages 158-159.

Fiscal answers October 1, pages 159-163.

Proceedings in the audiencia, page 163.

Petition by Marqués del Valle, filed October 1, but prepared August 26, concerning the proclamation of Mendoza of August 24, that no one should leave Mexico by sea or land, pages 164-166.

Proclamation of the viceroy of August 24, certified to September 20, pages 166-171.

Proceedings in the audiencia in which an order was issued to place the petition in the files, pages 171-172.

Marqués del Valle presents another petition October 2, and request that the letter of Mendoza be returned to him, page 172.

The audiencia orders the letter returned, page 173.

The audiencia orders a transcript made of the record October 9, and the certification follows signed by Antonio de Turcios, October 9, page 173.

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El Marqués del Valle con el visorrey de la Nueva España Don Antonio de Mendoza, sobre la residencia que pide se le mande tomar. This set of documents belongs to the *Visita* in 48-1-1/23, but in reality it forms part of the action taken by Cortés in 1543, and is a continuation to that extent of Part II of the *Proceso*. The *Visita* documents are extensive but the documents listed below are preparatory only and have nothing to do with the *Visita* proper beyond a letter of the *Visitador*, Lic. Tello de Sandoval of 1547, and an accompanying *testimonio* which are here out of place. There are other documents in the file also out of order, but I think it better to retain the order in which they now appear in the *legajo*.

Petition of Marqués del Valle, July 6, 1543, pages 1-6, (one blank

and one a notation of date of filing). There is also a copy in 1-1-2/16, N<sup>o</sup> 2, R 52.

Icaz., *Documentos*, II, 62-71 (From Prescott's Muñoz copy).  
Es. XLI.

Cuevas, *Cartas de Hernán Cortés*, Seville, 1916, XXXIII. (Ascribed to the year 1542).

This is the famous petition in which Cortés brought forward his charges against Antonio de Mendoza. These were almost identically those, among others, which were made against Mendoza in the *Visita*. Petition of Marqués del Valle, July 11, 1543, Valladolid, again asking that a *Juez de residencia* be sent out to New Spain, page 9, (10 and 11 blank, 12 of notations).

A copy possibly in 1-1-2/16, N<sup>o</sup> 2 R 51 of 5 leaves.

Printed in Dr. C. Pérez Bustamante's *Don Antonio de Mendoza*, Santiago, 1928, Doc. XVI.

[The interpolated Tello de Sandoval documents, pages 13-16].

Thirty-five interrogatories to certain residents of New Spain then in Spain signed and presented by the Marqués del Valle, together with four supplemental ones also signed by him and thirteen more unsigned. The document bears a notation that it was presented in Valladolid July 19, 1544, but the 1544 is an obvious error for 1543, as will be seen by the later documents, part II, pages 1-12.

Printed in Bustamante's *Mendoza*, Doc. XIV.

Marqués del Valle presents the names of some witnesses in Valladolid July 11. The matter was referred to Lic. Salmerón and on the same day he ordered the witnesses named by Cortés to be notified. On the same day Francisco Téllez was notified and Juan de Nájera took the oath. On the 21st Andrés de Barrios and Juan Cano and Miguel Díaz de Aux were notified. On the 22d Diego de Zárate was notified, on the 23d Andrés de Tapia, and on the same day Juan Cano and Diego de Zárate took the oaths. On the 28th Andrés de Tapia took the oath. August 18, Martín Ruiz de Monjarás was notified, and was sworn the same day, pages 13-14.

The Marqués del Valle presents four more witnesses July 27. On the 20th of August Francisco de Lerma took the oath, and on the 22d Miguel Díaz de Aux. August 27, Juan de la Peña took the oath, and on the last day of the month Francisco Rodríguez

THE PROCESO

Santos, canónigo of the Cathedral in Mexico and mayordomo of Zumárraga, page 15.

The Marqués del Valle presents three more witnesses, September 1, canónigo Santos, Juan de la Peña and Francisco de Porras, page 16 (17 cover title).

The Marqués del Valle presents a holograph petition September (?) requesting that five enumerated questions be asked Lic. Loaysa who had been one of the *oidores* in New Spain, pages 18-19. Reproduced in facsimile in the writer's *Spanish Voyages to the Northwest Coast of America as Appendix I*.

Printed in Bustamante's *Mendoza*, Doc. XVIII.

The answers by the witnesses are contained on pages 17-21 of Part I and 22-41 of Part II. Peralmíndez Cherino's in Part I are dated Nov. 20, 1544.

Those of Part II, pages 22-141, are as follows:

Juan de Nájera, 22-33, undated.

Francisco Téllez, 34-39, July 20, 1543.

Andrés de Barrios, 40-48, July 21.

His answer to Question 33 is printed in Bustamante's *Mendoza*, Doc. XIII.

Diego de Zárate, 49-54, undated.

Andrés de Tapia, 55-70, undated.

Juan Cano, 70-76, undated.

Martín Ruiz de Monjarás, 76-84, undated.

Francisco de Lerma, 84-98, undated.

Miguel Díaz de Aux, 99-105, undated.

Juan de la Peña, 106-111, undated.

Francisco Rodríguez Santos, III-118 (119-22 blank), undated.

Francisco de Porras, 124-133, undated.

Lic. Francisco de Loaysa, 133-141, undated including the special ones requested by Cortés.

HENRY R. WAGNER.

San Marino, California.

