CASE NO.

250

NORTHERN DISTRICT

AGUA PUERCA

AND FRANCAS GRANT

RAMON RODRIGUEZ. ET AL.

CLAIMANT

LAND CASE 250 ND 68 pgs.

209

Dup

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 209.

Ramon Rodriguez et al, CLAIMANTS.

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Agua Fuerca and Jaunecas."

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, *that on this* thirteenth *day of* April, *Anno Domini One Thousand Eight Hundred and Fifty=*two, *before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;*

The Petition of Ramon Rodriguez et al. *for the Place named* "Agua Puerca & Trancas." *was presented, and ordered to be filed and docketed with No.* 209 *and is as follows, to wit;*

(Vide page 3 *of this Transcript.)*

Upon which Petition the following subsequent Proceedings were had in their chronological order, to wit;

San Francisco May 27' 1852.

In Case no. 209. Ramon Rodriguez et al. for the place named "Agua Puerca," the depositions of William Bocle and Joseph S. Majors, witnesses in behalf of the claimants, taken before Commissioner James Wilson, were filed:

(Vide pages 4 & 5 of this Transcript.)

San Francisco November 28' 1854.

Case no. 209, on motion of the Counsel for the claimants, with the consent of the U. S. Land Agent, was ordered to be placed at the foot of the 3d. Class cases on the Trial Docket.

San Francisco January 8' 1855.

In the same Case the deposition of Manuel Castro, a witness in behalf of the claimants, taken before Commissioner Alpheus Felch with documents marked

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"Exhibit No. 1. S. F." annexed thereto, was filed:
(Vide page 7 of this Transcript.)

Case No. 209 was submitted without argument and taken under advisement by the Board.

San Francisco Jan. 30' 1855.

In the same Case Commissioner Alpheus Felch delivered the opinion of the Board rejecting the claim:
(Vide page 21 of this Transcript.)

v.

And the following order was made, to wit:
(Vide page 24 of this Transcript.)

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To the Honorable the Board of Commissioners for the adjudication of California Land Claims —

Petition.

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Ramon Rodriguez and Francisco Alviso, native Californians, respectfully showeth;

That Governor Micheltorena granted to them in the year 1843 a certain tract of land in Santa Cruz County, in the State of California, called Ulpna pueco and las Tomcas, bounded as described in the petition and original grant herewith produced, and contains about one league more or less — That your memorialists have been in the peaceable enjoyment of said land ever since the date of the grant and that they know of no person or persons who pretend or want pretend to question their right and title to the said described land.

Therefore your memorialists pray your honorable Board to cause a patent in fee to issue to them for the said tract or parcel of land, in virtue of the authority vested in your honorable board by the act approved 3d. March 1851 —

And your memorialists will ever pray &c.

John Parrott.
Atty for Claimant.

Filed in Office April 30th 1852.
Geo: Fisher,
Secy

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No 209.

Office of the Board of Land Commissioners for California.
San Francisco May 26 1852.

Deposition of William Bode –

On this day before me James Wilson one of the Commissioners for ascertaining and settling private land claims in California, came William Bode, a witness produced in behalf of the claimants Roman Rodriguez and Francisco Alviso whose petition is No 209. on the docket of said Commissioners, and after being duly sworn testified as follows –

The Law Agent of the United States was duly notified and attended.

William Bode a witness produced and examined at the request of the claimant deposes and says: –

My name is William Bode I have lived in California about twenty nine years, I have for the greater part of the time been living at the Mission of Santa Cruz – I am well acquainted with Roman Rodriguez and Francisco Alviso, I have know them about twenty six years – I know they claimed a grant from Governor Micheltorena of a tract of land called Haro Agua Puerca de los Franceses, in the year 1843, that since that date they have been in undisputed possession of the same, have stock on it, houses and fences. – I do not know if they ever received judicial possession – The land or extent of the grant I do not know but it may be a little more than one league – I know they have occupied the land and have had peaceable and undisputed possession over

peaceable and undisputed possession

1247

5-

since the grant was given them.

Rodriguez and Alviso built their houses on said rancho immediately after they got the grant of the land, they put their cattle on at the same time and have occupied the same ever since.

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In answer to Interrogatories by Geo: W. Cooley Esqr Law Agent U. S. The Deponent says:—

The Rancho called Navotis immediately on the sea coast. It was once claimed by the Mission of Santa Cruz and occupied by the Mission for pasturing stock. The Mission took their stock all off about 1836 or 1837. There was no lands cultivated on said rancho until quite recently, within a year or two. before that time it had been occupied generally for pasturage.

William his X mark Bode.

May 26 1852.
Subscribed and sworn to before me
James Wilson.
Comr.

Filed in Office May 26 1852.
Geo: Fisher.
Secy

Deposition of Joseph L. Majors.

No 209.

Office of the Board of Land Commissioners for California.
San Francisco May 26th 1852.

On this day before me James Wilson, one of the Commissioners for ascertaining and settling private land claims in the California, came Joseph L. Majors a witness

produced in behalf of the claimants Roman Rodriguez and Francisco Alviso, whose petition is No 209, on the docket of said Commissioners, and after being duly sworn testified as follows—

The Law Agent of the United States was duly notified and attended—

Joseph L. Majors a witness presented by claimant, deposes and says; viz;—

My name is J. L. Majors, I have lived in California eighteen years, and for the greater of part of the time at or near the Mission of Santa Cruz— I am well acquainted with Roman Rodriguez and Francisco Alviso— I have known them since 1835— I know they obtained a grant of land from General Micheltorena some time in 1843, called Ano, that the rancho contains about one league more or less, that judicial possession, that, I know of, was not given but Rodriguez and Alviso did build on the Rancho a house and put stock on the same, they have always been respected in their right and have never heard of any person claiming or pretending to claim any portion of the land.

I live near to the petitioners Rodriguez and Alviso, I know that they built their houses on said rancho immediately after getting the grant within one year and they put occupants in their houses at the time and put their cattle on the rancho aforesaid and have continued to have occupants in their houses and cattle and stock on their said rancho ever since—

Interrogatories by Geo: W. Cooley Esqr

Interrogatories by Geo. W. Crosby Esq.

8725

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San Agust U. States.
Defendant says:—

The Rancho now prayed for by the petitioners lies immediately on the sea coast— The lands of which this rancho is a part was formerly claimed by the Mission of Santa Cruz— There was stock on the lands belonging to the So Mission and it was occupied for that purpose by said Mission up as late as 1836 or 1837. The last stock of the Mission which was upon this Rancho as I think was taken away by the Administrator of the Mission in the year 1837, as I now remember—

J. L. Majors—

May 26 1852.
Subscribed and sworn to before me
James Wilson.
Comr.

Filed in Office May 26th 1852.
Geo: Fisher
Secy

Deposition of Manuel Castro.

209.

United States Land Commission.
San Francisco Jan. 8 1855.

On this day came before Commissioner Alpheus Felch, Manuel Castro a witness in behalf of the claimant Ramon Rodriguez, in case No 209, who, after being duly sworn deposed as follows, his evidence being interpreted by the Interpreter of the Board—

Questions by Genl. James Wilson, Attorney for claimant—

1 Question. Please state your name, age

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and place of residence?
Answer.

My name is Manuel Castro, my age thirty three years, and residence Monterey County, California.

2d Question.

Are you acquainted with the handwriting of Manuel Micheltorena and Manuel Jimeno? If yea, please look on the document now here presented to you and marked Exhibit No 1. with the initials A. T. and which was filed in the case April 30 1852 and state whether the signatures thereto are the true and genuine signatures of said Micheltorena and Jimeno respectively?
Answer.

I am acquainted with the handwriting of both the persons named and have seen them both write. The signatures of said document are their true and genuine signatures. The body of the document is in the handwriting of Francisco Arce.

Manl Castro.

Mr McKune, the Law Agent was present at the taking of this deposition.

Subscribed and sworn to before me this Eighth day of January, 1855.

Alpheus Felch.
Commissioner.

Filed in Office Jan. 8 1858.
Geo: Fisher.
Secy

2. 9

Espediente Promovido por el ciudadano Ramon Rodriguez en Solicitud del parage conocido con el nombre de el Agua Puerca y las Francas.

324.

Sello tercero un peso.
Habilitado provicionalmente por la Aduana Maritima del puerto de Monterrey en el departamento de las Californias para el año de mil ochocientos cuarenta y tres.

Micheltorena. Manuel Castañares.

(Seal) Exmo. Sor. Gobr.

Monterrey Oct. 26 de 1843. Roman Rodriguez y Fran.co Alviso Mejicanos por ollendo previamente á la nacimiento y vecinos de la parte 1.a poseedora y lo que Villa de Branciforte ante V.E. unas merese para evacuarlo con el debido respeto y como

Micheltorena. unas. halla lugar en dere-

-echo representan y dicen: que en las inmediaciones de Sta Cruz halla un terreno conocido con el nombre de Agua puerca y las Trancas: de cuyo sitio acom-
-pañan el diseño: este fué concedido á Fra. Dona Maria Buelna hace siete ó ocho años: y teniendo los esponentes un numero bastante de agua ganado vacuno y caballar con que cubrir dicho sitio, encu de Justicia poder denunciarlo como baldio por hallarse en absoluto abandono el tiempo mencionado q. hace le fué concedido a su referido dueño. Por tanto A. V.E. rendidamente Suplican se sirva mandar tomar las averiguaciones q. juzgue necesarias al efecto y si fuesen de conformidad espedirles el titulo de propiedad que Solicitan de lo que recibirán gracia y merced Jurando no ser de malicia y lo necesario.
Como. Monterrey. Octre 25 de 1843.

Roman Rodriguez.
Fran.co Alviso.

Como dispone el Exmo. Sor. Gobernador dirijase la presente instancia a Da Maria Gloria Buelna para que conteste sobre el contenido en ella y con-
-cluido que sea, buelva para cumplir con lo demas que previene el superior decreto de fha. de hoy.

Manuel Gimeno.

Como apoderado en el presente asunto de Dona Maria Gloria Buelna hago presente al Gobierno que el terreno que se ha denunciado puede concedase-
-les á las personas que lo pidan pr que mi poderante

Pero tollamos a mas de plan.

la decirte del derecho que tiene a dho. terreno pr. no poderlo ocupar y en fé de bondad lo firmó con dos testigos de asistencia.

Monterrey. 31. de Obre. de 1843.

John Rodrick. Jorge Allen.

Jorge Kinlock.

Exmo. Sor. Gobernador.

Segun manifiesta Da. Maria Gloria Buelna, desistiendo del derecho que tenia, al terreno que se habia concedido parece que no hay inconveniente ninguno para que se les trasfiera el dominio á los señores que lo denuncian, siempre que lo considere V. E. conveniente.

209-Dup

Monterrey. 31 de Obre. de 1843.

(Seal) Manuel Jimeno.

Monterrey. Octe. 31 de 1843.

Practicados los informes antecedentes y en vista de lo que resulta practíquese como opina el S. Srio del Despacho de este Supremo Gobno. Departamental.

Micheltorena.

Monterrey 3. de Nbre. de 1843.

Vista la peticion con que da principio este Espediente los informes que preceden y la renuncia del otro de Da. Gloria Buelna con todo lo demas que se tuto presente y ver convino de conformidad con las leyes y reglamentos declaro á Ramon Rodriguez dueño del terreno que solicita. Líbrese el correspondiente despacho, tomese razon en el libro respectivo.

Office of the Surveyor General of the United States for California.

I John C. Hays, Surveyor General of the United States for the State of California and as such having in my office and in my charge and custody a portion of the Archives of the former Spanish and Mexican Territory or Departamento of Upper California, by virtue of the power vested in me by law, do hereby certify that the seven preceding and hereunto annexed pages of tracing paper numbered from one to seven inclusive exhibit a true and accurate copy of a certain document now on file and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially and caused

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my seal of office to be affixed at the City of San Fr.co
this ninth day of January. 1855.

John C. Hays.
U. S. Surveyor Gl for California.

Filed in Office. Jany. 9th 1855.

Geo. Fisher. Secy.

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Record of Proceedings had by the citizen Ramon Rodriguez soliciting the place known by the name of El Agua Puerca y las Tedancas—

(324)

Translation of Espediente

Stamp Third, — One Real —

Provisionally authorized by the Maritime Custom House of the port of Monterey, in the Department of the California, for the year eighteen hundred and forty three—
Micheltorena. Manuel Castañares.

(Seal)

Monterey Oct 26th 1843.

Let the Secretary of Despatch report after having previously heard the first party in presence and taken other information which he may think necessary to give his report—
(Sigd) Michelt.a

Most Excellent Governor.

Roman Rodriguez and Francisco Ulrich, Mexicans by birth and residents of the town of Branciforte before your Excellency with due respect and in the best form of law appear and say; that in the neighborhood of Santa Cruz there is a tract of land known by the name of Agua Puerca y las Tecancas, the sketch of which they herewith present; this tract was granted about seven or eight years ago to Sra D.a Maria Buelna, and your petitioners having a sufficient number of neat cattle and horses wherewith to occupy said tract they think they have a right to denounce it as vacant, as it has been absolutely abandoned since the time it was granted—

Therefore they humbly beseech of

your Excellency, that your Excellency be pleased to take the information which you may think necessary to the purpose; and if satisfactory that you be pleased to issue to them the title in full property which they ask, in which they shall receive a favor, swearing that it is not malice as necessary—

Monterey Oct 25th 1843.

(Signed) Roman Rodriguez—
(Signed) Franco Ulvisio—

As ordered by the Most Excellent Governor, let the foregoing petition be referred to Da Ma Maria Buelna in order that she may reply in relation to its contents, and this being done let it be returned to comply with the order of the superior decree of this date.

(Signed) Manuel Jimeno.

As Agent in the present business of Da Ma Maria Buelna, I make it known to the Government that the tract of land which has been denounced, may be granted to the person who solicit it, in as much as my principal renounces whatever right she may have to said land, not being able to occupy it; and in testimony of truth I sign it with two witnesses of my assistance.

Monterey Oct 31st 1843.

(Signed) Jorge Allen.

(Signed) John Rodgerick.
(Signed) Jorge Renlock.

Most Excellent Governor

As Da Maria Maria Buelna says that she renounces her right to the land which had been granted to her, it seems

that there is no obstacle whatever to grant the property to the gentlemen who denounce it, provided your Excellency should consider it proper.

Monterey Oct 31st 1843.

(Seal) (Signed) Manuel Jimeno.

Monterey Oct 31st 1843.

The foregoing information having been had and in view of the result let it be done as the Secretary of Despatch of this Supreme Departmental Government thinks —

(Signed) Michelt.

Monterey Nov 2d 1843.

Having seen the petition with which this (Espediente) record of proceedings begins, the foregoing reports and the renouncement of her right of Dª Mª Ularia Buelna, with whatever else was thought proper to be seen in conformity with the laws and regulations I declare Ramon Rodriguez owner of the tract of land which he solicits. Let the corresponding despatch be issued & let due note of it be taken in the respective book.

I George Fisher, Secretary to the Board of U. S. Land Commissioners to settle private land claims in the State of California, do hereby certify that the foregoing is a true and correct translation of a fac simile traced copy of an Espediente filed in Case No 209, on the docket of said Board, Ramon Rodriguez, et al, claimants for the place called Cañada Puerca de las Tecaias, which Espediente is filed Jan. 9 1855 —

In testimony whereof I have hereunto signed my name at Office in

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the city of San Francisco, Cal, this 9th of January 1855 — Geo: Fisher. Secy.

Filed in Office Jan. 9 1855 Geo: Fisher. Secy

1. 17

Sello tercero un peso.

Habilitado provicionalmente por la Aduana Marítima del puerto de Monterrey en el Departamento de las Californias para el año de mil ochocientos cincuenta y tres.

(Seal) Micheltorena. Manuel Castañares.

Manuel Micheltorena General de brigada del Ejército Mejicano, Ayudante General de la plana Mayor del mismo, Gobernador Comandte General é Inspector del Departamento de las Californias.

Por cuanto los ciudadanos Roman Rodriguez y Francisco Arriso, han pretendido para sus beneficios personales y el de sus familias el paraje conocido con el nombre de Agua Puerca y las Ranchas colindante con el Arroyo de las Ranchas, con el agua puerca, con el mar y con la Sierra: practicadas previamente las diligencias y averiguaciones consecuentes segun lo dispuesto por leyes y reglamentos: usando de las facultades que me son conferidas á nombre de la Nacion Mejicana he venido en conceder les el terreno mencionado, declarando les la propiedad de él por las presentes letras sujetandose á la aprobacion de la Excma. Junta Departamental y á las condiciones siguientes.

1ª Podran cercarlo sin perjudicar las servidumbres; lo disfrutarán libre y esclusivamente, destinandolo al uso y cultivo que mas les acomode; pero dentro de un año fabricaran casa y estará habitada.

2ª Solicitaran del Juez respectivo que le dé la posecion Jurídica en virtud de este despacho por el cual se demarcaran los linderos en cuyos límites, se pondrán á mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

3ª El terreno de que se hace donacion es de un sitio de Ganado Mayor poco mas ó menos segun esplica el diseño respectivo. El Juez que diere la posecion lo hará medir conforme a ordenanza quedando el sobrante que resulte á la Nacion para los usos convenientes.

4ª Si contravinieren a estas condiciones perderán su derecho al terreno y será denunciable por otro.

En consecuencia mando que teniendo les de

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de título el presente y tenerlo por firmé y valedero se tome razon de él en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en Monterrey á dos de Noviembre de mil ocho cientos cuarenta y tres.

Manuel Jimeno. Ro. Manl Micheltorena

Queda tomada razon de este despacho en el libro respectivo a f. 2. del libro de este año.

Jimeno.

Filed in Office. April. 30th 1852.

Geo. Fisher. Secy.

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Third Stamp, One Dollar.

Provisionally authorized by the Maritime Custom House of the port of Monterey in the Department of the Californias for the year 1843.
Micheltorena. Manuel Castañares.

C.
Translation of Grant B.

250 ND
PAGE 20

Maritime Custom House of Monterey.

Manuel Micheltorena Brigadier General of the Mexican Army, Adjutant General of the staff of the same, Governor, Commander General and Inspector of the Department of the Californias.

Whereas citizens Roman Rodriguez & Francisco Alviso have solicited for their personal benefit and that of their families the tract of land known by the name of Agua puerca y las Tranças, bounded by the Arroyo de las Tranças, by the agua puerca, by the sea and by the Sierra (ridge of mountains) having previously taken the legal steps and investigations by virtue of the in conformity with the provisions of the laws and regulations; by virtue of the powers conferred on me in the name of the Mexican I have thought proper to grant them the above mentioned tract of land, declaring unto them the property thereof by these present letters, subject to the approval of the Most Excl the Departmental Junta, and under the following conditions —

1st. They may fence it without prejudice to the existing roads and servitudes, they will enjoy it fully and exclusively, appropriating it to the use or cultivation which may best suit them; but within one year they shall build a house, and it shall be inhabited —

2nd. They shall petition the respective judge to give them the juridical possession in virtue

of this patent, by whom the boundaries shall be marked out, at the limits of which, besides the land marks, they shall plant some fruit trees or wild ones of some usefulness —

3rd. The land of which donation is made consists of one square league (un sitio de ganado mayor) a little more or less, as explained by the respective sketch. The judge who may give the possession shall have it measured according to ordinance, the surplus which may result, remaining to the nation for its convenient purposes.

4th. If they contravene these conditions they will forfeit their right to the land and it shall be denounced by any other person.

Consequently I order that this patent serving them as a title, and being held as firm and valid, be entered in the corresponding book, and be delivered to the interested parties for their own security and other ends.

Given in Monterey on the 2nd of November 1843.

Manuel Micheltorena.

Manuel Jimeno
Secy.

This patent has been entered in the corresponding book folio 2. on the book of the present year.

Jimeno —

Filed in Office April 30th 1852.

Geo: Fisher.
Secy

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Roman Rodriguez Vol.
vs
The United States.

For the place called Agua Puerca y las Trancas in Santa Cruz County containing one square league of land —

Opinion of the Board delivered by Comr Felch.

A grant of the land is presented and proved, made to the petitioners by Governor Micheltorena under date of November 2 1843. No approval by the Departmental Assembly appears to have been obtained.

Neither of the grantees ever lived on the place, and the proof shows that no cultivation was made on the premises until quite recently and long since the cession of the country — It was occupied with cattle by their servants —

The grant is of one square league of land a little more or less with reference to the map annexed to the Expediente, and juridical measurement is required to segregate it from the premises defined in the grant. The grantees failed to obtain the juridical measurement, and no specific portion of land has been assigned to them. The map renders no aid in the matter; for although the exterior boundaries within which the square league might be taken are clear enough, there is no scale of distances or other indication of the quantity contained in these limits — It may contain one square league or fifty. We find nothing in the documents or map to give us any knowledge on the subject. The proof contained in the depositions does not supply the defect. None of the witnesses are interrogated as to the boundaries of the Rancho or as to the limits of the land claimed by the grantees where their cattle ranged, and

none of them give the quantity contained within the limits mentioned in the grant. A confirmation with the description of the premises granted as asked by the petitioners might for anything disclosed in this record, cover twenty instead of one square league of land. The ~~burden~~ burden of proof is on the claimant in such cases to show, either first, that he procured the assignment to him by the proper officer of the quantity of land granted with proper metes and bounds according to the condition of the title paper under which he claims, or, secondly, that the entire premises described in the grant as the area within which he might make his location, contained a quantity of land not exceeding that conceded to him. In this latter case there could be no surplus, and therefore the measurement might be dispensed with.

Under these principles, uniformly applied by the Commission, the claim of the petitioners is found wanting in the necessary proofs to sustain it; and an adverse decree must be entered.

Rejected.

Filed in Office Jan 30 1855.
Geo: Fisher. Clk
Dicy

219.

Decree

Roman Rodriguez. Sal.
vs
The United States.

In this case on hearing the proofs and allegations it is adjudged

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by the Commission that the claim of the petitioner is not valid, and it is therefore decreed that their application for a confirmation thereof be denied.

Alpheus Felch
R. Aug. Thompson } Commissioners

Filed in Office Jan. 30 1855.
Geo: Fisher,
Secy

and it appearing to the satisfaction of the Board that the lands hereby adjudicated are situated in the Northern District of California it is hereby ordered that two transcripts of the Proceedings and of the decision in this case and of the plans and evidence upon which the same are founded be made out and duly certified by the Secretary one of which transcripts shall be filed with the Clerk of the U S District Court for the Northern District of California and the other delivered unto the Attorney General of the United States

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims in the State of California.

I, Geo. Fisher — Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing Twenty four — pages, numbered from 1 to 24, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office in Case No. 209, on the Docket of the said Board, wherein Ramon Rodriguez, et, al, are the Claimants, against the United States, for the place known by the name of Agua Puerca y Tranquas —

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this Twenty first — day of July A. D. 1855, and of the Independence of the United States of America the ~~seventy~~ eighteenth.

Geo. Fisher.

By

U. S. DISTRICT COURT,

Northern District of California.

No. ~~250~~ 250

THE UNITED STATES,

vs.

Ramon Rodriguez, et, al—

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 209.

Filed, July 21st 1855

J. A. Monroe,

Clerk

No 209

UNITED STATES DISTRICT COURT,
Northern District of California.

San Francisco, March 8th 1855

ON this day, before W. H. Chevers a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came José de la Cruz Rodriguez, a witness produced on behalf of the Claimants

in Case No. , being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 209 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being interpreted by J. J. Papy, a sworn interpreter

PRESENT: D. D. Gregory, Esq. Counsel for Claimants and the U. S. Dist. Atty. by A. Blackwell, Esq.

QUESTION 1st BY Claimants.

What is your name, age, and place of residence.

Answer.

José de la Cruz Rodriguez. 30 years of age, in Santa Cruz County, Cal.

Question 2d.

Are you acquainted with the tract of land situated in Santa Cruz County Cal. called "Agna Puerco, y las Vacas" and claimed by Roman Rodriguez, and Francisco Alviso.

Answer.

I know said tract.

Question 3d

State the boundaries of said Rancho, and how you know them.

Answer.

Said tract is bounded on the North, by the Sierra, or mountains, on the South, by the Ocean. On the East, by the Cañada of Agua Puerco, and on the West, by the Cañada de las Tunas. I know those are the boundaries of the Rancho, because I was born within a few miles of this tract, and have passed over it frequently. From North to South, it is about a league, and from East to West, a little more than one league.

Question 4th.

Has the said Rancho been occupied, by whom, when, and state the general character of such occupation.

Answer.

In March 1844, it was first occupied by Roman Rodriguez, to wit, Co. Alvizo. They, at this this time built corrals, and houses, and they lived on it for two years, after that time Roman Rodriguez hired two men to stay upon it and to take care of the place. It has remained in the possession of the Claimants ever since. When they first went upon it they cultivated 5 or 6 acres of land, and raised beans, pumpkins, Mutton, Mellons

Cross examined.

Question 1st.

Have you any other means of ascertaining the correctness of the boundaries you have described

than those you have already stated,
Answer.
My information was derived from having passed frequently over the land, and hearing people say those were the boundaries.

José de La Cruz Rodriguez

Sworn to, and subscribed
this 8th day of March, 1855
before me
W. H. Chevers
U. S. Com'r.

It is hereby stipulated that the foregoing deposition be considered as evidence in the above entitled cause, and as though the transcript & notice had been regularly filed before the taking of said deposition.
8th March 1855.
San Francisco.

A. Russell
Asst. U.S. Dist. Atty &c
D. S. Gregory
Atty for Claimants

No. 250

U. S. Dist. Court.

The United States,

-ads-

Roman Rodriguez, et al.

Deposition of J. de la Cruz Rodriguez

Filed July 21. 1855.

by Ohlmers,
Deputy.

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UNITED STATES DISTRICT COURT,
Northern District of California.

San Francisco, March 8th 1855

ON this day, before W. H. Chevers a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Hiram D. Scott, a witness produced on behalf of the Claimants in Case No. , being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 209 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — ~~his evidence being interpreted by a sworn interpreter~~

PRESENT: D. S. Gregory, Esq. Counsel for Clmts, and the U. S. District Attorney by Andrew Glassell, Esq.

QUESTION BY Claimants.

What is your name, age, & place of residence?

Answer.

Hiram D. Scott, 31 years of age, in Santa Cruz County, California.

Question 2d.

Are you acquainted with the rancho claimed in this case, called "Agua Puerco, y las Trancas." If yes, where is it situated, and what are its boundaries.

Answer.

I am acquainted with said rancho. It is situated in Santa Cruz County, California. It is bounded on the East, by the arroyo called "Agua Puerco," on the ~~North~~ West, by the Cañada called

"Las Trancas," On the South by the Sea, and on the North by the Mountains.

Question 3d.

How much land is embraced in these boundaries.

Answer.

About one leagne.

Question 4th.

State whether the said Rancho has been occupied since you have known it, and if so, by whom, and in what manner.

Answer.

It has been occupied ever since I have known it, which was in 1852. I lived on it, and took care of Rodeigue cattle, and cultivated a portion of it.

Cross examined.

Question 1st.

What are your means of ascertaining the above to be the boundaries of said Rancho.

Answer.

The adjoining rancho owners told me those were the boundaries.

Question 2d.

What are your means of ascertaining the quantity of land embraced within those boundaries.

Answer.

None, only by my judgment from living on it, and passing over it very often. I have no interest whatever in the event of this Claim.

Sworn & Subscribed this 8th March, 1858, before me
W. H. Chaves
U. S. Com'r

Hiram D. Scott

It is hereby stipulated that the foregoing deposition of Hiram D. Scott shall be considered as evidence in this case, the same as though the transcript & notice had been regularly filed, before said deposition was taken

San Francisco.

8th March 1859.—

A. Wassell —
Acting U.S. Dist. Atty &c
D.S. Gregory,
Atty for claimants —

No:— 250 —

U. S. Dist. Court,

The United States,

— ads —

Roman Rodriguez, et al.

Deposition of Hiram D. Scott,

Filed July 21. 1855,

by Chevers,

Deputy.

(2)

Ramon Rodriguez
& Francisco Alviso
appellants
vs
The United States
appellee

In the United States District Court for the Northern District of California.

Claim for the place called "Agua Puercas y las Tracas" situate in Santa Cruz County —

To the Clerk of the
Said U. S. Dist. Court —

Please take notice that the said appellants intend to prosecute an appeal to the said United States District Court, from the decision of the Board of United States Land Commissioners to ascertain & settle private land claims in California, rejecting the claim of the said appellants — the transcript

No 250

N. D. Dist. Court.

The United States.

vs

Ramon Rodriguez, et als.

Notice of Appeal.

Filed Sept 25, 1855,
by Chevers
Deputy.

(3)

To which said order and decree the said Claimant prays an appeal to the 21st day of July A. D. 1855.

D. C. Hagner
Atty for Appellant

Ordered this 25th Sept 1855.

UNITED STATES DISTRICT COURT,
Northern District of California.

Ramon Rodriguez, et al,
vs.
The United States.

250 ND
PAGE 37

San Francisco, Nov 27, 1855.

ON this day, before John C. Monroe, a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Cornelio Perez, a witness produced on behalf of the Claimants, in Case No. 250, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 209 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows—his evidence being interpreted by DeWitton Palmer, a sworn interpreter

PRESENT: D. S. Gregory, Atty for Claimants, and The U. S. Dist. Atty. by A. Glassell, Esq.

QUESTION BY Clts. Counsel,

What is your name, age, and place of residence,

Answer.

Cornelio Perez 44 years of age, and live in Santa Cruz County, Cal.

—2d—

Are you acquainted with the tract of land called "Agua Puerca" "y las Tranpas" in Santa Cruz County, If you, state its boundaries, and the quantity of land within its boundaries.

Answer.

I know said tract of land, It is bounded by "Las Tranpas" on one side, "Agua Puerca" on another, by the Sea, on another, and by the hills or mountains on the other, There is about one & one half leagues of land between "Las Tranpas" and "Agua Puerca"

and about one league or less between the sea, and the mountains.

3d

State whether or not said rancho has ever been occupied, if yea, by whom, when, and the character of such occupation.

Answer.

It has, by Roman Rodriguez, since 1843. His family lived there two years, viz 1843, and 1844. He occupied the place with horses, and cattle, and had his employees on the place, and cultivated a portion of said rancho, and still continues so to do.

Cross examined by A. S. Dist. Atty.

What were your means of information as to what you have testified to.

Answer.

I was born, and brought up in that County. Every two or three months I passed by the place, I have often left horses on the place to pasture. When they commenced to occupy the place, I was there, and helped to cut the wood for, and to make the corral. I have no interest whatever in the event of this suit.

his
Cornelio × Peres.
mark

Sworn to & subscribed before me this 27th November, 1853.

Wm. H. Thomson.
U. S. Comr.

No 250

N. S. Dist. Court.

Ramon Rodriguez, et al,

— vs —

The United States,

Deposition of Cornelio Perez,

Filed Nov. 27, 1855,
J. Chevers
Deputy,

(4)

Roman Rodriguez
& Francisco Alviso
Appellants
vs.
The United States
Appellee

To the Honorable
The District Court of
the United States, for
the Southern District
of California

No 250. (Land Commission docket 209), for the place called "Agua Puerca y las Tranquas"—

The petition of Roman Rodriguez and Francisco Alviso, the above named appellants respectfully shews, that heretofore, to wit, on the thirtieth — day of April A.D. Eighteen Hundred and fifty two, they filed with the Board of United States Land Commissioners to ascertain and settle private land claims in California; their petition in writing, praying for a confirmation of their claim to a certain tract of land situate in the County of Santa Cruz State aforesaid, & in the said Southern District of California; said tract of land containing about one league of land, more or less, and being known as "Rancho Agua Puerca y las Tranquas"— for a more full description of which said tract of land, and of your petitioners title thereto, reference is now made to the said petition and to the transcript of the proceedings of said case, had before the said Commissioners—

And your petitioners further shew, that after hearing said petition with the proofs, and the argument of Counsel thereon, the

said Board of Commissioners, did, on the thirteenth day of January A.D. Eighteen Hundred and fifty five, reject the said claim of your petitioners and decide the same & the title of your petitioners for the said land to be invalid:- that on the twenty first day of July last past, a transcript of the record, of the said cause, was filed with the Clerk of this Court, which said transcript bears the date last aforesaid, by virtue of which by force of the Statutes in such case provided, an appeal was effected to this Court - that on the twenty fifth day of September - A.D. Eighteen Hundred & fifty five your said petitioners filed in this Court, a notice of their intention to prosecute said appeal -

Wherefore your petitioners pray that the said decision of the said Board may be reviewed and reversed, and that this Honorable Court may confirm their title to the said tract of land.

D. S. Gregory
Attorney for Appellants.

No 250.

United States Dist Court
Northern Dist. California

Roman Rodriguez et al.
Appellants
vs.

The U. S. — Appellee

Petition for Rehearing.

Filed Nov. 30. 1855.

J. Chaves
Deputy

(57)

D. S. Gregory.
Atty for Appellants

The District Court of the United States, Northern District of California

The United States
ads
Ramon Rodriguez et al
Appellants.

No. 250

The United States by their Attorney deny the validity of the title set out in the Petition of the said Appellants and pray that the decision of the Board of Commissioners be affirmed: and that the said claim be declared and decreed to be invalid

A. Gluisell
Asst U. S. Dist. Atty

No. 250

U.S. Dist. Court

The United States
vs.
Ramon Rodriguez
et al

Answer

Filed March 28, 1856,
Chas. Devany
Deputy.

(6)

250 ND
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Classell

Roman Rodriguez et al
appellants
vs.
The United States,
appellee

In the United States District Court for the Northern District of California

Stated Term,
February 18. 1857.

Case, Docket no. 250 — Transcript no 209 — Rancho "Agua Puerca y las Francos" —

The above entitled cause coming on to be heard at a stated term of this Court, on appeal from the decision of the Land Commissioners to ascertain and settle private land claims in California under an act of Congress approved ~~approved~~ March 3rd A.D. 1851. on a transcript of the proceedings had before said Commissioners and of the evidence on which said decision was based, which said transcript has been duly filed in this Court, & upon further evidence taken in said cause, in this Court;

It is therefore considered, ordered adjudged and decreed by the Court that the said decision of the said Commissioners rejecting the claim of said appellants

for the land mentioned and described in said transcript, be and the same is hereby reversed, annulled and set aside. And it is further ordered, adjudged & decreed by the Court, that the title of the said appellants Roman Rodriguez & Francisco Alviso, for the said land so described, a copy of which said title is contained in the said transcript, is a good and valid title.

The Land of which confirmation is hereby made is of the extent of one square league, a little more or less; is known as the Rancho "Agua Puerca y las Trancas" & is situated in the County of Santa Cruz & State aforesaid, and is bounded on the South by the Pacific Ocean, on the North by the Sicarras, on the East by the "Arroyo Puerca" and on the West by the "Cañada de las Trancas", reference for further description to be had to the grant and sketch (diseño). copies of which are also contained in said transcript.

Ogden Hoffman
U. S. Dist Judge

This decree is correct.

Wm Blanding
Dist Atty

No 250.

N. S. Dist. Court.

Roman Rodriguez d.c.
appellant
vs
The United States
appellee.

Recd.
Filed February 18, 1857.
W. A. Overall,
Deputy

D. J. Gregory
atty for appellant

At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the City of SAN FRANCISCO, on Monday the second day of August in the year of our Lord one thousand eight hundred and fifty ~~seven.~~ eight.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
v.
Ramon Rodriguez
and Francisco Alvias.

No: 250

In this case on application of P. Della Torre, Esq, it is ordered that an appeal in behalf of the United States from the final decision of the Court, rendered in said Court at the December, 1856, term, be and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions and proceedings in the said cause be sent to the Supreme Court of the United States without delay; and the appellants are ordered to serve the usual citation according to law.

Ogden Hoffman
U. S. Dist Judge

250

United States District Court, Northern District of California.

The United States

vs.

Ramon Rodriguez et al

ORDER.

granting appeal

Filed August 2, 1858,

W. H. Chevers

CLERK.

By

DEPUTY.

United States of America,

To Ramon Rodriguez & Francisco Alviso,

Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden in Washington on the first Monday in December next, pursuant to an order of appeal granted on the second day of August A.D. 1858, by the District Judge of the District Court of the United States for the Northern District of California, in a certain suit wherein the United States are plaintiffs and you are defendants on appeal, to show cause, if any there be, why the decision in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal at San Francisco, this second day of August in the year of our Lord one thousand eight hundred and fifty eight.

Ogden Hoffman
U. S. Dist Judge

250

U. S. District Court

The United States
v.
Ramon Rodriguez.

Citation.

Service of copy within citation by U. S. Marshal admitted this 4 Oct AD 1858.

Edw Fenley
Atty for Claimant

Filed Oct 4 1858
W. ~~D.~~ Chenes,
Clerk

San Francisco, Aug 3, 1858.

I hereby specially deputize Wm. E. L. Williams to serve the within citation by copy, on R. C. Gray Esq Attorney for appellees, in person, and return the original to me.

E. Walker
Wm. E. L. Williams
U. S. Marshal

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the City of San Francisco, on Monday the fourth day of October in the year of our Lord one thousand eight hundred and fifty-eight.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
v.
Ramon Rodriguez et al

No. 250.

In this case on motion of Edward Stanly Esq, it is Ordered that he be substituted as attorney of record in place of D. S. Gregory Esq of Monterey.

250

UNITED STATES DISTRICT COURT,

Northern District of California.

The United States

vs.

Ramon Rodriguez et al.

Order substituting as atty of Record, E. Stanly Esq.

Filed Oct 4th 1858

W. H. Chevers

CLERK.

By

DEPUTY.

Towne & Bacon, Printers, 125 Clay Street, corner Sansome.

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Wednesday the Second day of March in the year of our Lord one thousand eight hundred and sixty-four.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,
v.
Ramon Rodriguez, et al,

No 250,

And now at this day, comes W. H. Sharp, Esq. U. S. Attorney, and presents the Mandate of the U. S. Supreme Court affirming the decree of this Court, in the above entitled cause, and moves that the same be filed, whereupon it is ordered by the Court that the same be filed, and made a part of the records of this Court in the above entitled cause.

No. 250.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States,

v.

R. Rodriguez, et al,

Order to file Mandate U. S. Supreme Court,

Filed March 2, 1864

W. H. Cleveland,
Clerk.

UNITED STATES OF AMERICA, SS.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the District Court of the United States, for the Northern District of California

greeting:

Whereas, lately, in the District Court of the United States, for the Northern District of California before you, in a cause between Ramon Rodrigues and Francisco Alviso, appellants, and the United States, appellees, the decree of the said District Court was in the following words, viz:—

"It is therefore considered, ordered, adjudged and decreed by this Court, that the said decision of the said Commissioners rejecting the claim of said appellants for the land mentioned and described in said transcript, be and the same is hereby reversed, annulled, and set aside; And it is further ordered, adjudged and decreed by the Court, that the title of the said appellants, Roman Rodriguez and Francisco Alviso, for the said land so described, a copy of which said title is contained in the said transcript, is a good and valid title. The land of which confirmation is hereby made, is of the extent of one square league, a little more or less, is known as the rancho "Agua Puerca y las Francas", and is situated in the County of Santa Cruz and State aforesaid, and is bounded on the South by the Pacific Ocean, on the north by the Sierras, on the east by the Arroyo or Puerca", and on the west by the Cañada de las Francas. Reference for further description to be had to the grant and sketch, (diseno,) copies of which are also contained in said transcript."

as by the inspection of the transcript of the record _____

_____ of the said District

Court, which was brought into the Supreme Court of the United States, by virtue of an appeal

agreeably to the act of Congress, _____

_____ in such case made and provided, fully and at large appears.

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and fifty nine the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel: On consideration whereof, it is now here ordered, adjudged and decreed by this Court that the decree of the said District Court in this cause be and the same is hereby affirmed. — 20 Feb.

You, therefore, are hereby commanded that such further proceedings be had in said cause,

as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding:

Witness the Honorable Roger B. Taney Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and fifty nine.

~~COSTS OF~~

~~Clerk~~ $

~~Attorney~~ $

~~Fees~~ $

Wm. Thos. Carroll

~~Clerk of the Supreme~~ Clerk of the United States.

250.

No. 120, December Term, 1859.

MANDATE

SUPREME COURT UNITED STATES.

U. States vs Rodriquez et al

Filed March 2. 1864.
W. A. Cheever,
Clerk.

No. 250.

In the West. Dist. of the U. States for the Northern District of California

Rodriguez & Alviso
v. on appeal
The United States

The prayer of the petitioners in this case was denied by the Board of Commissioners upon the following grounds.
1st. Non occupation by the grantees. until a very recent period
2. No segregation by judicial measurement of the quantity of land designated.
3d No proof as to the boundary or quantity of land embraced in the claim
Upon an examination of the case I find all these objections met and answered by the testimony subsequently taken the witnesses. I de la Peña Rodriguez. Camila Pérez & Hiram H. Scott. also taken since the decree of the Commissioners — show that as early as 1843. the land claimed was occupied by the claimants & one of them had his family living on it had horses & cattle on it & cultivated it, & that there was no subsequent abandonment. That the tract of land is well defined.

& the boundaries will be sufficiently traceable that the boundaries designated do not include a quantity exceeding that claimed & specified.

The whole sum to be fully earned by the returning which is referred to & the decision in the Fremont case

S B Stacy
for Mr Gregory
Atty for Claimants.

No 250.

Rodington & ols

v.

Phil States.

Cubery

Ramon Rodriguez
vs
The U. S

The claim in this case was rejected by the Board on the grounds 1st that there was no proof of occupation & cultivation 2d no juridical measurement or possession. 3d no proof of the boundaries or of the quantity of land included in the claim — These objections have been met by additional testimony taken in this Court. Jose de la Cruz Rodriguez deposes that he was born within a few miles of the Rancho — that its boundaries are well known — that they are on the North the Sierra on the East the Cañada of Agua Dulce, on the South the Ocean & on the West the Cañada de las Tranceas — He also swears that in March 1844 which was about 5 months after the grant, it was occu

pied by Rodriguez & Alviso the grantees – That they built houses & corrals and lived upon it for 2 years after that time and that it has remained in their possession ever since – Cornelio Duez testifies to the same effect – and Miriam L. Scott ~~de~~ not only ~~deposes~~ testifies to the general ~~dly~~ recognised boundaries of the tract called "Agua Puerca y las Tranceas" but states that the land contained within them is about a league – no question ~~was~~ appears to have been made before the Board as the authenticity of the grant and the case has been submitted to this Court without argument ~~on~~ the part of the U. S –

The ~~limits~~ boundaries of the tract as sworn to by the witnesses are the same as those mentioned in the grant – and the quantity of land contained within appears to correspond with sufficient exactness to ~~that given~~ mentioned in the condition viz one leagues

a little more or less "as explained by the sketch" — I think therefore that the claim should be confirmed according to the boundaries mentioned in the grant and as shown on the map —

Feb. 18. 1859.

48 Nº 250

U. S

285

Ramon Rodrigues

Simon

250 ND
PAGE 67

L.C. No.	Grantees	Claimants	Quantity	Location
320	Jose Castro	R. B. Neligh	1 leagues	San Joaquin R.
560	do	Patrick Breen	1000 Varas	Monterey Co
652	do	B. S. Lippincott	11 leagues.	San Joaquin R.
693	do	Jose Castro et al	11 leagues	do
11	Juan Jose Castro	J. S. Polack et al	Yerba B. Island	San F. Bay
94	Juan Jose & Victor Castro	Juan Jose & Victor Castro	11 leagues	Contra Costa
132	Jose Antonio Castro	Jose Ma. Sanchez	1½ leagues	Monterey Co
747	do	Juan Rios et al	11 leagues	Stanislaus R.
587	Jose Ciburcio Castro	J. P. Leese	2 leagues	Monterey Co.
541	M. Escobar	Jose Castro	2 leagues	do

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims in the State of California.

San Francisco, July 21st 1855.

J. A. Monroe Esq.
Clerk of the U. S. District Court for the
Northern District of California.

Sir;

I herewith transmit you, pursuant to the requirements of the Act of Congress, approved August 31st, 1852, a Transcript of the Record of the Proceedings and of the Decision of this Board, of the Documentary Evidence and of the Testimony of the witnesses upon which the same is founded, in Case No. 209 on the Docket of the said Board, wherein Ramon Rodriguez et al are the Claimant against the United States, for the place known by the name of "Agua Puerca y Tranca".

and request your receipt for the same.

I am, Respectfully,
Your Obt Servant,

Geo: Fisher,
Sy