CASE NO.
254
NORTHERN DISTRICT

THREE SUERTES OF LAND,
IN SAN JOSE GRANT
The widow and heirs of
Anastasio Chabolla
CLAIMANT:

LAND CASE 254 ND 306 pgs.

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 777.

The Widow and Heirs of Anastasio Chabolla CLAIMANTS

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Three Quartes of land in San Jose."

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* Second day of March, *Anno Domini One Thousand Eight Hundred and Fifty-*three, *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 The Widow & Heirs of Anastasio Chabolla, *for the* ~~Place named~~ Three Suertes of land in San José, *was presented, and ordered to be filed and docketed with No.* 999 *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 January 9th 1855.
Case no. 999, Widow & Heirs of Anastasio Chabolla for three Suertes of land in San José, was ordered to be placed at the foot of the 4th Class cases on the Trial Docket.

San Francisco January 23 1855.
Case no. 999 was submitted under the Rule of March 21st 1854.

San Francisco January 30 1855.
In the same Case Commissioner R. Aug. Thompson delivered the Opinion of the Board rejecting the claim;
(Vide page 5 of this Transcript.)
And the following order was made, to wit:
(Vide page 7 of this Transcript.)

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To The Commissioners appointed to
investigate and Report Land Claims

To The Commissioners appointed to investigate and settle Private Land Claims in California

Maria Josefa Higuera, widow of Anastasio Chabolla, and Angel Maria Chabolla, José Antonio Chabolla, Fernando Chabolla, Facundo Chabolla, Maria Antonia Chabolla, Juana Chabolla and Policarpio Chabolla, represent,

That about the 1785 a grant was made by authority of the King of Spain to Mariano Daez, one of the original founders or settlers of the Pueblo of San Jose of a track of land in said Pueblo, containing three suertes of which he took possession and which he occupied without interruption until his death.

That about the year 1801 he died leaving no children but a widow Micaela Daez who continued to live upon the land, and at length conveyed it to one Rafael Soto who conveyed it to Anastasio Chabolla about the year 1830.

That the said track of land lies within the limits of the City of San José in the County of Santa Clara, and is bounded and described as follows viz; Commencing at the North east corner of Block 1. Range 1. North of the Base line, at the intersection of Santa Clara and First Streets, thence running in an easterly direction along Santa Clara Street, a distance of about four hundred varas, to the land known as the Salt Petre land or a line nearly parallel with the line of First Street, to the line known as "Romeros old line", thence westwardly along said line which runs along what is now known as St James Street to the Canado or small

ravine which lies west of first street, thence southwardly along said Canada or small ravine, following its windings to the place of beginning - the Streets and Blocks herein mentioned being referred to according to their designations on the Map or Plan of said City of San José

That in the year 1852, the said Anastasia Chabolla died leaving a widow, the Petitioner Maria Josefa Higuera and seven children, the other petitioners above named who are his only heirs.

That at the time he purchased said tract of land from Rafael Soto the said Chabolla was married to the Petitioner Maria Josefa Higuera, and she is entitled to an undivided half interest therein.

That in consequence of the length of time which has elapsed since the date of said Grant, and of the conveyances hereinbefore stated, the originals therefore have been lost or distroyed, and it is not in the power of the petitioners to produce them or copies of them.

That in support of their claim they rely upon the said grant and conveyances, the contents of which they will prove, and upon the long continued possession of those under whom they claim. They pray the confirmation of their title to said tract of land according to their respective interests, the said Maria Josefa Higuera claiming an undivided half interest therein and the other petitioners jointly the remaining half interest.

A. P. Crittenden,
Atty for Claimants

Filed in Office March 2, 1853,
Ose. Fisher Secy.

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No 777 Widow & Heirs of Anastasio Chabolla vs The United States } Claim for three Suertos in San José

Opinion by Commissioner R. Aug Thompson

No proofs are offered in support of this claim it is therefore rejected.

Rejected.

Filed in Office

Geo. Fisher Secy.

Widow and Heirs of Anastasio Chabolla vs The United States.

In this Case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said Petitioners 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

Geo. Fisher Secy.

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And it appearing to the satisfaction of this Board that the land hereby adjudicated is situated in the Northern District of California it is hereby Ordered, that two Transcripts of the proceedings and of the Decisions in this case, and of the papers 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 United States District Court for the Northern District of California, and the other be transmitted to the Attorney General of the United States.

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Office of the Board of Commissioners,

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

I, George 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 Seven — pages, numbered from 1 to 7, 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. 77 on the Docket of the said Board, wherein The Widow and Heirs of Anastasio Chabolla are — the Claimant S against the United States, for the place known by the name of "Three suertes of land in San Jose" —

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~~ eightieth.

Geo: Fisher

Sig

U. S. DISTRICT COURT,

Northern District of California.

No. 254 — 254 E

THE UNITED STATES,

ND

vs.

The Widow and Heirs of Anastasio Chabolla.

TRANSCRIPT OF THE RECORD

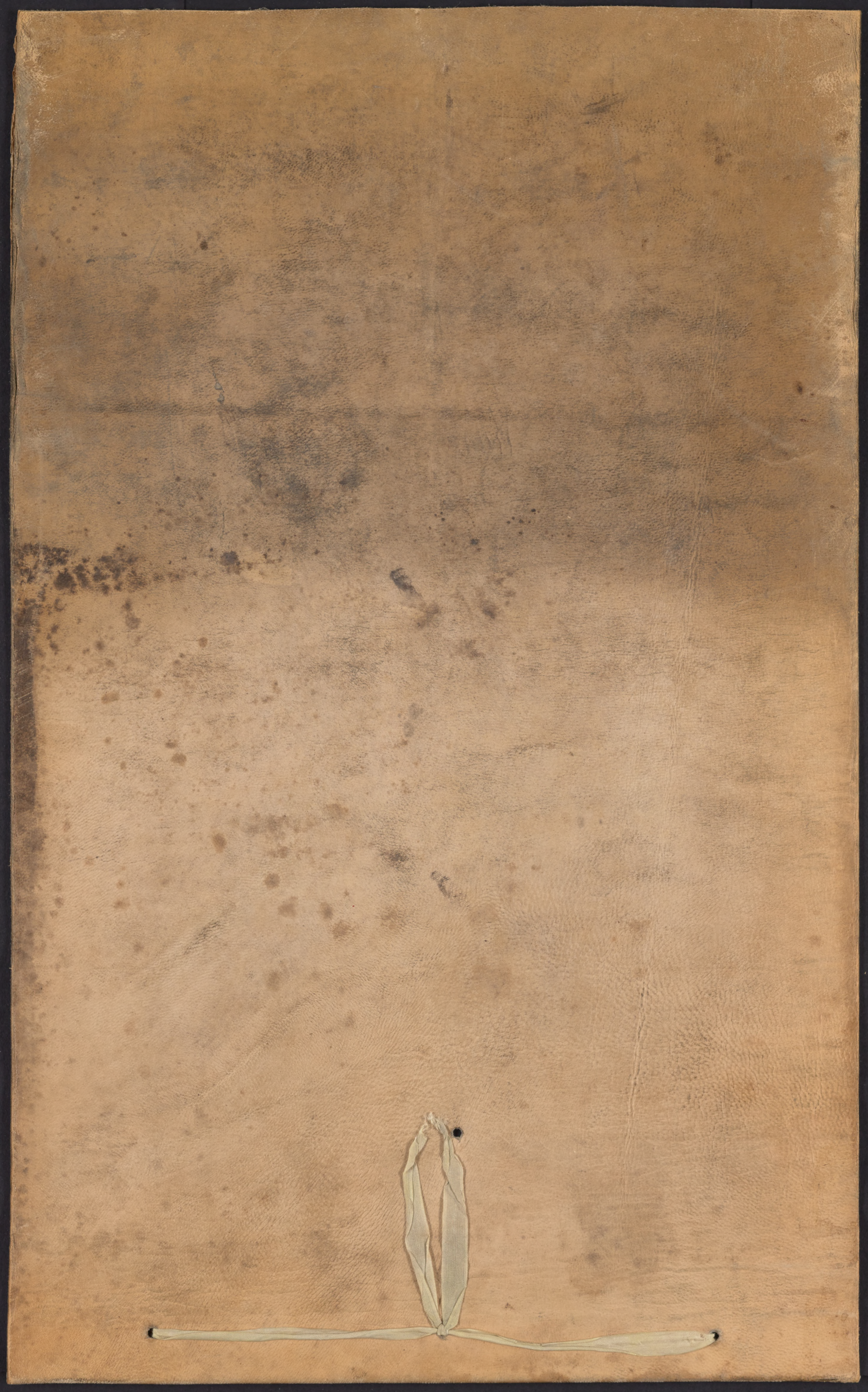
FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 111

Filed, July 21st 1855

J. A. Memm, Clerk



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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 21st day of April in the year of our Lord one thousand eight hundred and fifty-six,

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

On motion of A. Glassell, Esq. Acting U. S. Dist. Attorney, and it appearing to the satisfaction of the Court that the transcripts in the following cases have been filed in this Court for more than six months, that in the said cases the Board of Commissioners to ascertain and settle private land claims in the State of California, from which the said cases have been appealed to this Court, rendered their decisions respectively rejecting the claims therein ~~therein~~ set up by the Claimants, and that the proper notices of intention to appeal have not been filed in the said Causes, or any of them within the time limited by law, to wit, x x x x

x x x x x x x x x x

The Widow & Heirs of Anastacio Chabolla, vs. The United States,

x x x x x x x x x x

It is therefore ordered that all, and singular the said Cases be, and they are hereby dismissed, and struck from the Docket of this Court.

No. 254.

United States District Court, Northern District of California.

The Widow & Heirs of Anastasio Chabolla,

vs.

The United States.

Order dismissing case.

Filed April 21, 1856

John A. Benson,

Clerk.

by W. H. Chevers

Deputy.

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United States of America

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

The Widow and heirs of
Anastacio Chabolla deceased
vs
The United States.

Case No 254.

State of California
Santa Clara County

Maria Ygnacia Chabolla being sworn states that she is the daughter of Anastacio Chabolla deceased late of Santa Clara County - and that she is one of the petitioners and claimants in the above entitled cause lately pending in the District Court of the United States for the Northern District of California - that she is over of the age of Sixteen years - That in the year 1852 her said Father departed this life leaving as his heirs her Mother and brothers and sisters named as claimants in the petition filed in this cause - That the petitioners and claimants in said cause claim to be and as she verily believes are in law and equity the owners of the parcel of land set forth and described in the petition filed in said

cause - that as she is informed and verily believes her said Father occupied and possessed the said premises many years upon his death as the owner and proprietor thereof that her said Father obtained the said land by purchase of one Soto, who bought of one Micala Saez who was the widow and heir at law of one Saez who was the original grantee of said premises from the King of Spain some time about the year 1785 as she is informed and verily believes. This affiant states that if permitted to do so by the Honorable Court she is advised that she will be able to produce evidence clearly tending to establish the foregoing facts. That there is not any adverse claim whatever to said premises founded upon any grant purporting to be made by any of the former Governments in California. That some time after the death of her said Father one John Yontz took out letters of administration upon his estate in the Probate Court of Santa Clara County and the said Yontz as Administrator caused to be filed in the Board of U.S. Land Commissioners to settle private land claims in California a petition in the name of this affiant and her Mother and brothers and sisters claiming a confirmation of said land which said petition appears in the transcript of said cause now on file in this Court. That this affiant and

her said Brothers and Sisters were young and their Mother was ignorant and unused to legal proceedings and relied wholly upon the said Party as said Administrator to conduct said proceedings but that said Party neglected to offer in the said Board of U. S. Land Commissioners any proof whatever of the validity of said claim and the same was accordingly rejected by said Board for the want of proof. That the transcript was filed in the Honolulu Court but the said Party neglected to give or cause to be given any notice of appeal whatever as required by the Act of Congress and for that reason the said cause was dismissed in the Honolulu Court during the Month of April last.

This affiant avers that these matters all occurred by reason of the neglect of said Party and without the knowledge of this affiant or that of her Co-claimants so far as she knows & believes. That since the filing of said petition before said Board of Commissioners Maria Josefa Chabolla the Mother of this affiant and one of the petitioners and claimants upon said Board has departed this life leaving the other claimants therein the sole heirs at law of their said Father deceased as aforesaid. That this affiant is advised and she verily believes that the claim in this cause is highly meritorious and constitutes

almost the only property of any value which has descended to her and her Brothers and Sisters from their said Father.. That said cause has been dismissed without any fault or neglect upon her part she being ignorant of the situation of said cause until very recently.. Wherefore she prays this Honorable Court that the order dismissing said appeal be vacated and set aside and she be permitted to file notice of appeal according to law. Nunc pro tunc and that she be permitted to amend the petition herein by striking out the name of her said Mother Maria Josefa Chabolla deceased as aforesaid and that this affiant be permitted to offer proof in this Honorable Court in support of the said claim.. And further this affiant saith not.

her
Maria Ignacia x Chabolla
mark

Sworn to and subscribed before me this 15th day of November 1856.

Arthur W. Thompson
Notary Public

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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 Tuesday the 18th day of November, in the year of our Lord one thousand eight hundred and fifty-six

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
vs.
The Widow & Heirs of
Anastasio Chabolla. Dec'd

Case No. 254.

On hearing the Affidavit of Maria Ygnacia Chabolla one of the Claimants in this Case, and with the consent of the United States District Attorney,

Ordered that this Case be restored to the Calendar of Land Causes, and the Claimants have leave to file Notice with the Clerk of this Court of intention to prosecute an Appeal from the decision of the Board of Land Commissioners nunc pro tunc.

Ogden Hoffman
U. S. Dist Judge

I consent to the above order.
Nov 18. 1856.

Wm Blanding
U. S. Dist Atty.

254 D.

United States District Court, Northern District of California.

The United States

vs.

The Widow & Heirs of Anastasio Chabolla.

Case No 254.

Transcript No. 777.

Order to restore Cause to Calendar

Filed Nov 18. 185[illegible]

J. A. Munroe,

Clerk.

J. H. Chaves

Deputy.

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In the U. S. District Court holden in & for the Northern District of Califor=nia

Maria Josefa Chabolla
Angell Maria Chabolla
Jose Antonio Chabolla
Fernando Chabolla
Vincenzo Chabolla
Maria Ygnacia Chabolla
Maria Juana Chabolla
& Nicanpio Chabolla

Claimants & Appellants

vs

United States

Defendants & Appellees

No 254 On Appeal

To the Hon: the U. S. District Attor=ney of the Northern District of Cali=fornia:

Sir:

You will please take notice that the United States Land Commission to ascertain & settle priv. land claims in the State of California having rendered its de=cision in the above case designated on the Docket of said Com=mission as No. 777 against the claim and title of the said Claimants to the place set out & described in their petition & them filed in the said Land Commission, and being three merites of land in the former Pueblo and present City of San Jose, and refe=rence to said petition whereby

No. 254. 3.

Maria Josefa Chabolla
et al
Claimants & Appts

vs

United States
Defendant & Appee

Notice of Appeal
No. 254

Filed Nov. 21, 1856,
Chas. S.
Deputy

254 ND
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now for a more explicit recognition of their claim — Notice is hereby given that it is the intention of Claimants appellants to prosecute their appeal from the decision of this Court.

Gray & Wallace
& Pinckney
Attys for
the Claimants

Apl. 21 1856

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

The United States
Appellees
vs
Angell Maria Chabolla
et al

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 title be decreed to be invalid.

Wm Blanding
Dist Atty

No. 254, 5.

The United States

ads

Angell M. Chabolla
et al

Answer

Filed Dec: 2. 1856,
M. A. Chenes,
Deputy Clerk.

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W Blanding
D. Atty U.S.

In District Court of United States of North America, holden in & for the Northern District of California. Hon: Ogden Hoffman Judge:

Angell Maria Chabolla
Jose Antonio Chabolla
Jose Fernando Chabolla
Jose Jacinto Chabolla
Maria Ygnacia Chabolla
Maria Juana Chabolla
& Policarpia Chabolla } Appellants

vs } Case No 234

United States Appellee

On Appeal from Board of United States Land Commissioners —

The Petitioners above named Angell Maria Chabolla, Jose Antonio Chabolla, Jose Fernando Chabolla sometimes

styled Fernando Chabolla, Jose Facundo Chabolla sometimes styled Facundo Chabolla, Maria Ygnacia Chabolla sometimes styled Maria Antonia Chabolla, Maria Juana Chabolla, & Policarpia Chabolla, complaining to this Honourable Court respectfully represent:

That they are the only children and heirs at law of Anastacio Chabolla Deceased ~~formerly~~ who whilst living was a resident of the State of California & County of Santa Clara, and also of their mother Maria Josefa de Higuera Chabolla who was during the lifetime of the said Anastacio his lawful wife. That during the lifetime of the said Anastacio and at the time of his death, he was possessed as the owner of three mortes of land situate in the former & present City of Pueblo of San Jose, in the Northern District of the State of

California, and bounded and described as follows viz: Beginning at the North East Corner of Block One (1) Range One (1) North of the Base line at the intersection of Santa Clara & First Street — thence running in an Easterly direction along Santa Clara Street a distance of about four hundred (400) varas to the land known as the Salt Petre land — thence on a line nearly parallel with the line of First Street to the line known as Romero's Old line thence westwardly along said line which runs along St. James' Street to the Cañada or small ravine which lies west of First Street — Thence Southwardly along this Cañada or small ravine following its meanderings to the place of beginning: And that ~~at the time of~~ on the death of the said Chacotacio their father he having died intestate

the said land descended to your petitioners and their said Mother Maria Josefa de Higuera Chabolla, who has since the death of the said Anastacio viz in the month of June 1835 departed this life likewise intestate — and whose portion of the said land descended as aforesaid to her from the said Anastacio, on her death descended to your petitioners.

That your Petitioners together with their said mother filed & presented to the Board of United States Land Commissioners to ascertain and settle private land claims in the State of California their petition praying a confirmation of their title to the said land on the 2nd: of March 1853, that the presentation of the said claim to the said Board was entitled to the admin=

ministrator of the Estate of the said Anas=
tacio Chabolla, most of your petitioners
being infants at the time and such of
them as were of age being too poor
to attend to the presentation thereof
themselves, the same was ~~was~~ neglected
and although abundant proof could have
been adduced to satisfy the said Com=
=missioners of the validity of their
said claim to the said land, no testimony
whatsoever was offered in support
thereof, and the same was therefore
on the 30th: of January: 1835 rejected
by the said Board of Land Commission=
=ers, and that the transcript of the
record of this claim before the said
Board (and being on their said Dock=
=et Case No 777) was duly filed in
the Clerk's Office of this Court on
the day of in the year

1855, and that thereafter viz on the day of 1856 your petitioners filed their notice of their intention to prosecute their ap=peal from the said decision of the said Board of Land-Commission=ers to this Court in accordance with the stat=ute in such case made & provi=ded: That for a more full and complete derangement of their said title to the said land herein claimed they refer to their said petition to the said Board of United States Land Commissioners:

Wherefore your Petitioners, in tender consideration of the premises pray that the Decision of the said Board reje=cting their said claim to the said land may be reversed ~~[illegible]~~, and the claim

of your Petitioners to the said land be confirmed by this Honorable Court and the same decreed to be a valid claim: And as in duty bound Your Petitioners will ever pray &c

Wm. J. Wallace
& Wm. Matthews
Attys: for Claimants
& Appts.

No. 254. 4

Angell Maria Chabolla
et al:
vs } On appeal
United States

Filed Dec: 3 1856.
N. H. Chevis
Deputy.

Petition to United
States District Court

I acknowledge
service.
Pratt Blanding
Dec 3. 1856. US Dist Atty.

Case No: 254

In the United States District Court holden in & for the Northern District of California

Heirs of Anastacio Chavolla Decd:
Appellants

vs

United States
Respondents

Case No: 234

To the Hon Wm Blanding
U. S. Dis: Atty:

Sir:

You will take notice that the Appellants in the above entitled cause will take the depositions of Maximo Martinez, Robert Livermore, Sebastian Peralta, Manuel Pinto, Jose Fernandez, Pedro Davisson, Antonio Muñoz, Pedro Chavolla, Antonio Chavolla, Davis Divine, E. P. Reed, & James Alex^r Forbes, before Wm H. Chevers United States Commissioner, at his office in the City of San Francisco on the 26th of Feby 1857, between the hours of ~~[illegible]~~ 9 O'Cl' A. M. and 5 O'Cl' P. M. And that said examination will be continued from day to day

if necessary to make the same, and that the said witnesses will be brought before the Court if needed by process of the said Court.

W.m J. Wallace
& W.m Mathews
Attys. for
Appellant

Feb: 17. 1857

Filed 19 Feb 1857
W. H. Chevalier
Clerk
By Geo. Hoff
Deputy

Wm J Wallace
& W Mathews
for Appellant

Notice to Take Deposition

In the District Court
of the United States

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I hereby accept and admit service on the within this 19th day of February A.D. 1857.

Wm Blanding
Dist Atty

Northern District of California.

Anastatio Chabolla
Widow + Heirs of
Claimants,
vs
The United States.

San Francisco, February 26. 1857

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ON this day, before John. A. Monroe a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Antonio Sunol a witness produced on behalf of the Claimants.

in Case No. 254, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 777 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being interpreted by James Alex. Forbes a sworn interpreter —

PRESENT: Wallace & Mathews, Counsel for Claimants, and Wm. Blanding, U. S. Dist. Atty.

QUESTION BY

Counsel for Claimants

1 2. How long have you resided in San Jose?

Answer Thirty nine years - I knew Anastatio Chabolla - he is dead - I knew his wife - she is also dead - I know their children - there are several of them alive but I do not recollect all their names - Their names are Angel Maria, Jose Antonio, Jose Fernando, Jose Facundo Maria Ygnacia, Maria Lorena, Policarpia Chabolla.

as now read to me.

Those are all the children to my knowledge. I know the land they claim in this case. I know that Anastatio Chabolla had a house on the land and occupied it with his family, I know he had cultivated that land and on one occasion he did not raise a crop on account of the great number of squirrels upon it. The first act of Chabolla that I recollect as to possession was in 1843. He had the land before. Sometime in ~~thirty~~ 1839 the land was reputed to belong to him but I think he did not live there - but I am not certain. I believe he lived there until 44 or 45 when the house was burned. He bought the land from Rafael Soto. I know this because I saw the deed of sale from Soto to Chabolla. I being sub-prefect of that district a certain individual presented himself and asked a concession of the land, supposing them to be vacant. then Chabolla presented himself with the deed from Soto. I then seeing Chabolla had a title which was valid refused to grant the land and decreed that the land belonged to Chabolla. I dont recollect the name of the person asking the concession, but all the documents in obedience to an order

uments in obedience to an order

of Government were handed to a Justice of the Peace.

Soto derived the title from his god-mother wife of one Maria Saens Saez - or widow. Soto is dead.

The God mothers name was Miguela Saez. she got her title from her husband. He was the founder of the Pueblo & got his grant from the Government. By the permission of Chabolla - Didoni Guillen occupied this land I think in the year 1843. The town authorities were established in 23 and before that time it was under military authority. The title of Saez was a long time prior to this period. The title of Saez was from the Government long before the authorities of the Town could make grants. In 1846 I think, the municipal authorities took charge of those lands and distributed them among certain individuals - this was subsequent to the country being occupied by the Americans.

I was a member of a committee appointed by the people to make reclamations against the distribution of those lands, in consequence not only of the representations of Chabolla but other citizens, and the Protest was pe

sented at that time to the Justice of the Peace. The Justices name was John Burton - He was a justice of the Peace and at the head of the Municipal government in San José The answer was that the matter was done and finished & there was no room for any reclamation. The land of Chabolla was bound on the North by the land of Romeras - On the East by a certain tract of land generally called the Salt lands, and on the South by lands of Francisco Castro - and on the west by a depression or Cañada which was winding - On the South there were several large Willow trees which marked the boundary - but they do not exist now - They were in the aforesaid Cañada and on the Eastern side of the well - The corner of the land was about 8 or 10 varas from the well.
I think the line ~~towards the~~ on the Salt land from the corner ran a little North of East. Exhibit A being exhibited to witness he says he thinks it a fair representation of the lines of the land. Witness wishes to make a correction - When I said I first

Knew Chaballon to exercise right of possession in 43, I intended to say in 1843. I dont recollect the contents of the deed I have spoken exactly from Soto to Chaballo, but I know it was signed & executed - Soto could not write and the deed was signed with a cross. Exhibits B. C. & D hereto attached are offered in evidence and the Counsel for the United States objects to B & C: The District Attorney objects to the proof of the contents of the papers without proof of their existence and loss.

Cross-Examined

I know nothing of the original grant for this land - nor any thing connected with it except what existed in the archives and Saez was a grantee as an original founder - I do not know whether those archives ~~do not~~ exist now. I have been in several public employments, have been treasurer sub-prefect, member of the Municipal Council and several minor offices

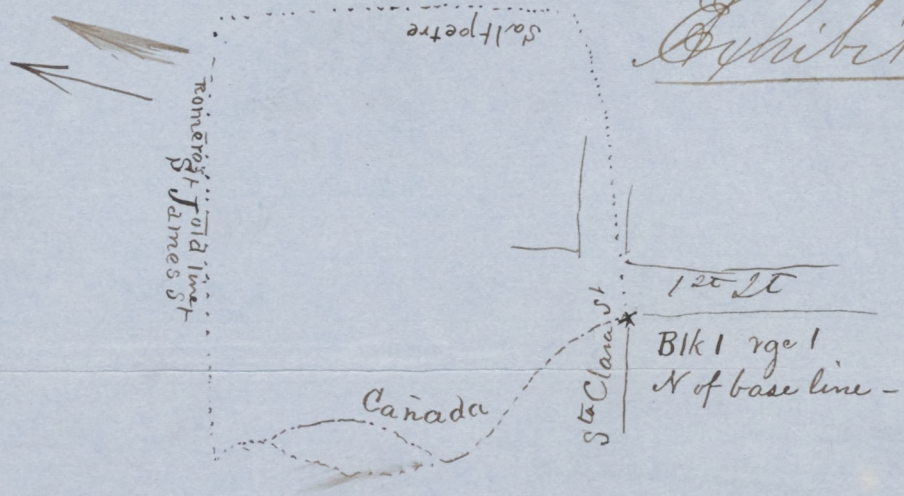
The list I have spoken of as containing Saez name, contained the names of the founders and settlers and of the lands granted to them - I saw no deed from Saez

Did not know where archives are

Dont recollect the date of the deed from Soto to Chabollo. I recollect the precise land conveyed by the deed - They were the same lands of which I have described the boundaries - I dont recollect whether the land contained more than 2 suertes. ~~the land contained more than 2 suertes~~ A suerte of land contains 200 varas on each side - 200 varas square - The first act of possession of Chabolla was in 1833. He had ~~no~~ a house there at that time - I dont recollect when the house was first built - I mean by act of possession the occupation of the land - He lived on the land in 1833. Dont recollect whether he cultivated the land or not - I dont know that any one lived on the land prior to 1833. Antonio Señot

Sworn to & Subscribed before me Feby 26, 1857.
Isaac A. Chevers
U.S. Commr

Exhibit "A"



Land in San Jose.

Sketch.
254 N.D.
p. 86.
" Three sweetes of Land in San Jose "
Anastasio Chabolla, Chmt

Santa Clara C.

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Exhibit B.

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

Case No 254.

The Heirs of Anastacio Chabolla deceased Appellants

v

The United States Appellees.

State of California }
Santa Clara County }

I Augustin B. Caldwell do solemnly swear that I am the acting Public Administrator in and for the County aforesaid and as such I am in charge of the administration of the Estate of Anastacio Chabolla deceased and that there has never come to my knowledge or possession any instrument in writing purporting to be a deed or instrument of sale from one Soto to said Chabolla conveying or purporting to convey any interest or right to said Chabolla of in or to any lands or tracts of land in San Jose known as Questa

lands or any other lands or property whatever and that I account for the former administrator in said estate which pertained to be all the papers belonging to said estate and that so far as I know no such paper is in existence

A. B. Caldwell
Public Administrator
in Charge of the Estate of
Anastacio Chabolla dec

Sworn to and subscribed before me this the 23rd day of February 1857.

Austin W. Thompson
Notary Public

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

Exhibit C

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Case No 254

The Heirs of Anastacio Chabolla deceased
Appellants

vs

The United States Appellees.

State of California
San Francisco County } ss

I John Yontz do solemnly swear that I was the first Administrator of the Estate of Anastacio Chabolla deceased: and that I turned over to my successor in said Administration all the papers which had ever come to my possession as such Administrator. That my successor in said Administration was A. B. Caldwell who is the present

Administrator of said Estate of Anastacio Cha-
-bolla deceased. That no paper purporting
to be a deed of conveyance from Rafael
Soto to Anastacio Chabolla comprising or
naming any real property in San José
ever came to my knowledge or possession. That
I have often heard of such a paper and
have made diligent search for it at
every place where I supposed it could
be but without success. That a search
ration of the public papers at San
José referring to suerte lands have been
abstracted many years ago as it is said
and generally believed, or have been
lost or destroyed. That my administration
of said estate continued for about two
years and after the searches and
efforts that I have made to obtain
said paper or deed from said Soto
to said Chabolla I am satisfied
that said instrument in writing is
lost or destroyed so that the same
can not be produced. & the claim

-ants on the hearing of this cause.

John Jontz

Subscribed and Sworn to before me this 26th day of February A.D. 1837

L. B. Hempstead
Notary Public

"Exhibit A C"

Exhibit D

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

Case No 254

The Heirs of Anastacio Chabolla, deceased
Appellants

vs

The United States, Appellees

State of California }
Santa Clara County } ss

I, Maria Ygnacia Maximiana de la Trinidad Chabolla de Alviso wife of Xavier Alviso and daughter of Anastacio Chabolla deceased do solemnly swear that I am one of the claimants and appellants in the above entitled cause - that I am a resident of the county of Santa Clara aforesaid and am of the age of Sixteen years - That I am informed and verily believe that my said deceased Father was in his lifetime and at the time of his death the owner of the lands described in the amended petition filed in this case by the heirs of said Anastacio Chabolla

deceased, this affiant among the rest — That I am informed and verily believe that my said Father in his life time purchased the said lands from one Rafael Soto who is now deceased and received a deed therefor from said Soto upwards of Fifteen years ago — That I am informed and verily believe that said deed from said Soto is lost or destroyed and that the same cannot be produced now — That for years before his death (which occurred in 1852) my said Father was a refugee and was absent from his usual place of residence owing to difficulties growing out of matters occurring while the Military Struggle was going on in California in 1846 — That my Mother Josefa, who is now deceased, has often told me that my Fathers valuable papers were in the possession of his friend and attorney in fact Thomas B Godden Esq now deceased, and in his last will and testament my said Father declares that the papers in relation to his claim to the land involved in this case are in the possession of the said Godden, and I always understood that said papers were in the possession of Thomas B Godden Esq now deceased

who was the agent and attorney in fact

who was the agent and attorney in fact of my said Father at the time of the death of my Father - That said Thomas B Godden was Engaged both before and after the death of my said Father in attending to his business and I always understood in the family that said Godden had all the papers of value which belonged to my said Father - That said Godden on an occasion shortly previous to the month of April 1853 was traveling to the City of San Francisco from San Jose by way of the Bay of San Francisco and had with him his trunk containing as afterwards stated by said Godden many and very valuable papers belonging to my Father as well as to other persons to whose business said Godden was attending and that upon said trip his said trunk was lost or mislaid or stolen and was first missed by said Godden upon his arrival in San Francisco and said Godden then concluded that said trunk had not been put on board but had been accidentally left at Alviso which is the place of Embarkation by water - That said Godden shortly returned from San Francisco looking

for his said trunk but did not find it and came on to San Jose and related to William T. Wallace Esq. the foregoing facts and expressed to said Wallace at the same time his intention to go back to San Francisco and search for said trunk - upon his going back to San Francisco the said Godden was blown up in the Steamer "Jenny Lind" and shortly afterwards died at ~~San Jose~~ San Francisco and said trunk of said Godden was never found or recovered by any representative or friend of said Godden so far as this affiant ever heard or had reason to believe - That John Sontz became the Administrator of said Godden and of the Father of this affiant and she is informed by said Sontz that he made diligent search at San Francisco and Alviso and San Jose for said trunk and never found it and that no paper purporting to be a deed of Conveyance from said Soto to the Father of this affiant ever came into his hands Either as Administrator of the said Thomas B. Godden deceased, or as Administrator of

deceased, or as Administrator of

said Anastacio Chabolla deceased — That after said Yontz ceased to Administer upon the Estate of the Father of this affiant A. B. Caldwell became the Administrator thereof and she is informed that said Caldwell as such administrator never received said deed so made to said deceased Anastacio Chabolla by said Soto as aforesaid — That this affiant has caused diligent search and inquiry to be made at all points and of all persons, where it was reasonable to believe that said deed could be found or heard of, but this affiant never could find a trace of the whereabouts of said deed, and this affiant verily believes that said deed has been lost or destroyed and that it has become impossible to produce the same in Evidence in this case, — And further this affiant saith not,

Mrs. Maxa de la Trinidad her X mark Chabolla

Subscribed & Sworn to before me this 23d of Feby AD 1857

Witness my hand & official seal

Austin W. Thompson
Notary Public

Exhibit D

No. 2574. 6.
(N.D.)
777 30

N. D. District Court.

Widow & Heirs of
A. Chabolla.
vs
The United States.

Deposition of
A. Sunol & 4 Exhibits.

Filed Feby 26. 1857.
W. H. Chenoweth
Deputy.

UNITED STATES DISTRICT COURT,
Northern District of California.

Widow & heirs of
Anastacio Chabolla
vs
The United States

San Francisco, Feby 26th 1857

254 ND
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ON this day, before Ira A. Munroe a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came ~~Abel G. Forbes~~ James Alexander Forbes. a witness produced on behalf of the Claimant

in Case No. 254, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 777 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: Wallace & Mathews. Counsel for Claimants. and Mr. Blanding. Esq. U.S. Dist. Atty.

QUESTION BY

Counsel for Claimants -
How long have you resided in Santa Clara County -?
Answer For twenty five years - I was eight years British Vice Consul - during that period I resided one year in this City San Francisco - I know Anastacio Chabolla - I know the tract of land claimed by the heirs of Anastacio Chabolla which I have heard described by Antonio Suñol - I think I first saw him living on the land in the year 1833 with his family - His house was situated on the E side

of a little Cañada, which forms the western boundary of that tract of land, on the Northern side of what is now called Santa Clara Street. his house was a short distance from the willow trees described by Antonio Sunol, about North from the trees. The road from the town of San José to the Mission passed over the land diagonally. I know the lines as described by Sunol to be the boundaries of the land. I have seen Chabolla cultivating that land - ploughing it &c. I resided in San José in 1833 several months. The house was an adobe house - a dwelling house. He must have resided there until 1840 because I had business with him in 1842 or 1841 - I can't state with precision - during that period I never knew his right to be disputed. The land was always regarded as his. I know that Isidore Guilliene resided on that land as Chabolla's tenant. From 42 to 45 Guilliene resided on that land as tenant - I cannot be positive as to the exact time. I know this because I saw Guilliem on the land & Chabolla told me he had rented or leased his lands to Guilliene.

I know from hearsay that

the lands were distributed in 44 and 45. Chabolla

I know from hearsay that

the lands were distributed in 46 and 47. Chabolla came to me and told me of it and I advised him to have a meeting of the people and remonstrate against it. I have never heard of any other claim to the land except that which arose in 46 or 47 or soon after the occupation of the country by the Americans which claim arose from a general division of the property made by John Burton the Alcalde.

I have had occasion to examine very minutely the records of that ~~time~~ Town in search of certain papers which I knew did exist there in 1847 and which are not to be found at this day; I have seen the document containing the grants of land in San Jose, to the founders and the settlers, and their acknowledgments of the services they had to pay to the King of Spain and I think that is the only remaining document to throw light on the titles - There were other books there which are all gone - all destroyed - I noticed a book of titles which was mutilated - leaves cut out - this was subsequent to the division made under John Burton the Alcalde.

The ~~grant to~~ land described by

Sunol was always known as Sundador Grant. A Sundador Grant is a grant made by the King of Spain to the original founders and settlers. There was a book in which those grants were recorded and the leaves were torn out & I dont believe the book now exists. I know that Anastis Chabolla in 48 or 49 ~~Chabolla~~ in consequence of charges having been made against him had to leave the country. The charges were unjust. Chabolla was afterwards shot by a native of the country. A man by the name of Thomas Gordon had charge of Chabolla's papers. He was killed by the explosion of the Jenny Lind. Gordon told me he was coming to San Francisco to attend to some claim of Chabolla and his (Chabollas) wife told me the trunk containing the papers was lost. I knew Gordon was engaged in attending to this case for Chabolla at the time of his (Gordons) death.

To the best of my knowledge the portion of Exhibit A ~~hereto~~ annexed to the foregoing deposition of Sunol containing Blk 1 sq 1 N of base line" is Gordons hand writing I have seen him write.

The names of Chabolla children as given by Sunol are correct.

I know he owned or claimed

the names of the witnesses as given by Junol are correct.

I know he owned or claimed the land - I know the land was occupied by José de la Cruz Chaballa for his brother Antonio

Cross-Exd.

I know nothing of the original grant of this land - I do not know who was the original grantee - was under the impression it belonged to Soto - Don't know who occupied the land before Soto - I knew Soto personally his name was Rafael Soto - I knew the land before I saw Chaboya occupy it. I know of no occupant of the land before Chaballa - I think Soto lived on the land prior to 1833. I know nothing of the deeds of conveyance to Chaballa - Don't know of my own knowledge that Gordon at the time of his death had Chaballa's papers. Can't say the grant to this land was cut out of the book I have alluded to - I can't say whether it was in the book, but the book generally contained notices of grants. I derived my knowledge as to the grant of this land being a Foundation Grant from general reputation -

Direct-resumed - The lands to the North and I think those to the West were Fundador Grants. The Romero Grant further to the North I think was a Fundador Grant - I never heard Chabolla's right to the land disputed.

Cross-Examination resumed -
I have been told that the Fundadore grants were given to the Founders of Pueblos in the shape of a promise that they should have a certain quantity of land in any part of California where a Pueblo was founded - I dont know that there was any formal grant made but a register was kept and I know that title was respected.

Jas Alex Forbes

Sworn to & Subscribed
Febry 26. 1857.
Fran A. Munroe
U.S. Commr.

No 254. 7.

U. S. Dist. Court.

Widow and Heirs of
A. Chabolla.
vs
The United States.

Deposition of
S. Alex: Forbes.

Filed Feby 26, 1857.
W. H. Chevers
Deputy.

254 ND
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UNITED STATES DISTRICT COURT,
Northern District of California.

Widow & heirs of Anastacio Chabolla

vs

United States

254 ND
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San Francisco, July 26th 1857

ON this day, before Levi A. Monroe a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came S. O. Houghton a witness produced on behalf of the Claimant —

in Case No. 254, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 777 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: Wallace & Mathews, Counsel for the Claimants, Wm. Blanding, Esq. U. S. Dist. Atty.

QUESTION BY

Counsel for Claimant —
When did you come to this country?

Answer
I came here in 1847 was in the U.S. Army at the time and I have resided in San Jose about eight years — I was Deputy recorder of the County, Mayor of the City, at one time and have had occasion examine the records of the County — My impression is there are no grants further back than 1846.
There are no books in the Re-

chives of the City. I have seen a book in the archives which was filed in the Office of the Clerk of the City. Exhibit H hereto annexed is a traced copy of that book which I made myself. The book appears to be very old. I am familiar with the Spanish language and I know the language is old and different from that used now. I would not be permitted to bring that book here if I desired it. The name of Manuel Saez appears at least twice in that book. Exhibit "I" hereto annexed is a translation of what appears on page 4 of the book I speak of. Manuel Saez names appears three times in the book. On the County Records an exact copy of the book I speak of and there is no other evidence of these titles.

(The traced copy objected to by U.S. Dist. Atty.)

Cross-Ex'd. Most of the entries are signed by Castro with his rubric his name is signed once. Castro's rubric is signed on page 4. I don't know who made the book. I first saw it among the Archives of the Town & subsequently it was turned over to the Clerk, by order of the City Council. Know nothing more of its authenticity than that. Don't know Castro's writing.

S. C. Houghton

Sworn to & subscribed before me July 26. 1857.
Jno. P. Wood
U. S. Commr.

"Exhibit I"

4

The Neighbor item, Nasario Saenz.

Is owner of four suertes item. but in accordance with the same, he must pay one fanega of indian corn to the Sovereign. 1. Fanega 0. each year.

Note — This individual died, and his widow married an invalid, for which cause the collection of the acknowledgment ceased and it was in the year 1801....

"Exhibit H"

Verino con titulo de Pañ.

Bernardo Rosales

Es Dueño de quatro Huertas
y dos de Riego y dos de Secal,
por las q.e debe pagar Vna fanega de maiz de reconoc.mto al
Soberano . . . . . 1 fa o cada año.

Nota El Heredero Lno dio las dos Huertas de Vicera de Abrira en el Varg.to Luis Peralta, y las dos de abajo en sus sobrinos hijos de Juan Garcia de las Heras restadas Dionicio Berna

Gesino Domiciliado en este Pueblo. No 15.
Valerio Mera

~ ~ ~ ~ ~ ~ ~ ~ ~

El Sr Dueño de quatro suertes de tierras, y otra huerta de 30 Varas de hancho, y 20 de largo todo de Regadio, como todos los q. siqu.
pero en virtud de la orn del Sor Gov.or Dr Josef Joaq.n de Arzillaga, fha 29 de Dbre de 1793, q. queda archivada no debe pagar mas q. una fanega de mais p. las dos suertes como los Pobladores antiguos, y 2 almudes p. la huerta . . . . 1 fa 2 cada año = 1 f. 2 -

Fra

- - - este Individuo fallecio, y quedo la Pose. con sus herras en sus hijos

Serino Dñ. Serafino Luego.

Es Dueño de quatro Suertes de tierras todas yerm. y mas la huerta de 20 varas de largo y hancho 20, por las q.e deso pagar arreglado à Yoñ. una fanega, y tres almudes cada año. Jaz. y. cada año

Nota.

Este Maiziano sedio las tierras en un Imbalido, el año de 1801, p.r lo q.e sesó el cobro del Reconocim.to

El Yerna Dn. Narario Sacr.

Es Dueño de quatro suertes
Dn, pero arreglado al mismo
destra pagar una fanega de
maiz al soberano... Ifa. o. Cada año

Nota.
Este Indibiduo muxio, y su Viuda caso con un
Ynbalido, pr lo qe. setó el Obro al
reconocim.to y fue dann 1780...

El Pesino ypn. mar.l Buzon.

Es Dueño de quatro suertes
ypn. y esta huerta de 40. varas
de largo, y de ancho 4 y 1/2
dexeglandome de la cn. desde pa-
gar de Reconocim.to una fanega
de maiz, y quatro dineros. Fr.co A. Cadañas

Nota
Se le suprimio la huerta à este yndividuo, y
lo q.e deve pagar de Reconocim.to ..... 1f. ...0-

Otra.
este individuo sento Plaza de Soldado
el año de 1805.

El Yerno y un Terno Nombre.

El Dueño de quatro Suertes.
y un. p. las q. arreglado a la
ord. deve pagar una fanega
de trigo al Soberano. y f. o. cada año

Nota

Havienda muerto este individuo, caso su viuda
con Militar, y las tierras se mantie-
nen hasta q. los hijos Herederos ten-
gan Edad p.a trabajarlas, o el Gov.no
disponga de ellas, p.r lo q. se le
otro al Reconocim.to

7

El Vecino Jose Maria Maa-
tines, y dm̃

El Dueño de quatro suertes
y dm̃. q̃. las q̃. dese pagan una
fanega de maiz . . 1 f.a o. cada ano

R. D

El dueño de una huerta q̃. tie-
ne de hancho 20 varas, y de largo
lo mismo, y pagará p.r hello 2 almu-
des, y assi p.r Dauto . . 1 f.a 2 alm̃. cada ano . . 1 f -- 2 a

Nota se le suprimio las huerta.

Marcos Chavoya vecino y dñ.

es dueño de quatro suertes de tierra, y la huerta concedida en su memorial, por las q.e se le agregando me ala ord.n de se pagare de Reconocim.to 1 f. 1 almudes de maiz cada año ..... 1 f. 0.

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PAGE 67

Cuia cantidad de Reconocimiento en maiz es la sig.te

	fanег.	alm.
Man.l Gonzales	0 f. 7	0 —
Liborcio Garc.a	0 f. 7	2 —
Man.l Amerg.ta	0 f. 11	0 —
Ger.o Archuleta	0 f. 11	4 —
Claudio Albizes	0 f. 11	0 —
Bernardo Rosales	0 f. 11	0 —
Onofrio Mera	0 f. 11	2 —
Seferio Lugo	0 f. 11	3 —
Narario Vaes	0 f. 11	0 —
Man.l Yturro	0 f. 11	4 —
Pedro Romero	0 f. 11	0 —
Jos.f Ma.a Martines	0 f. 11	2 —
Marcos Chavoya	0 f. 11	4
total de Reconocim.to	15 "	1 "

San Jos.f 1.o de Junio de 1794 "

Macario de Castro

Antonio Soto: se estableció en el año de 1734.

Sele mercedó Solar, y quatro Suertes de tierra, por mitad de riego, y de secadal. y deve pagar de Reconocim.to 1f.a de maiz.

Ygn.º Castro. se agregò el Año de 1794.

Sele mercenaron su Solar, y le suertan hexaas de tierra, dos de riego. y dos de secadal, y deve pagar de Reconocim.to 1 f.a de Maiz. —

"

Su Co
Mar. Albino se avecindò en el año de 1795.

Sele mercenò Solar, y 4 Cuerpos de tierra, 2 de riego, y 2 de secadal, y debe dar de Reconocim.to 1 f.a de maiz

Nota:

Este individuo sento Pasa al obrado el año del 802, y vera todo

12

Josef Aguila. se avezindò el Año de 1794.

Sele mexoraron, su Solàr. y quatro Suertes se trxã; dos de xriego, y dos de secadal. y debe pagar de Reconocim.to y fan.as de Maiz.

Nota

Este yndividuo sentò Plaza de soldado el año de 1801. por lo q.e sorò el cobro del Reconocim.to

13

nonio Alegre. se agregò el Año de 1794.

Co
an. Castro: se agregò en el Año de 1795.

Sele mexuenaxon, Solar -- y quatro Suertes de tierra, dos de xuego, y dos de Secadal, y deo pagar de Reconocim.to 1 fanega de maiz

Nota

Tiene mas este ynbibiro vna huerta, y p.r tanto deve pagar de Reconocim.to . . . . . 1 f. 2.

Josef Xavier se Estableció en el año de 1734

Gele mezcreño Solar, y quatro Suertes de Tierra por mitad de Riego, y de Secadal, y deve pagar de Reconocimiento una fanega de Maiz.

Nota

Que ynstituio Conpermiso al Gov.no se enablesio en un Ranchito, donde llaman la Caleza, endonde viembra, p.r q.e no le cobro Reconocim.to h.ta q.e se declare

Otra

Que indiviuo se bolbio à Agregar al Pueblo y se le dio permiso p.r el Comand.te D.n Josef Escudillo p.a q.e aga su casa y viembre en las Canoas

Pedro Boforques: se agrego en el año de 1795.

Gele mercenaron su Solar y quatro Suertes de trña. dos de riego, y dos de Secadal, debe pagar de reconozim.to y fan.a de ucas.

El año de 1801, se le dieron las tierras de Sarso q.e heran del tio Justo Altamirano,

Nota

este individuo sentro Plaza año de 806 y las tierras pasaron a Valencia.

Jacobo Velarde se agrego en el año de 1795.

Sele Mercenaron, su Solar y quatro Suertes de tierra. dos de Secadal, y dos de riego; deve pagar de reconocimiento. 1 fan.a de Maiz

Nota este Individuo se Degrego año de 801.

Antonio Azeven. se agregò en el año de 1795.

Sólo mescenaxon, su Solar, y quatro Suertes de tierra, por mitad de riego, y Sacadal; deve pagar de reconocim.to y fan.a de Maiz=

19

Quaderno donde constan los que deven pagar Diezmos de sus ganos, y demas esquilmos, y los q. aun no los pagan se les pone el año desde q. es Criador, ò Labrista, p.a q. luego q. allan cumplido los cinco años, lo comienzen à pagar

Fol. ... El Vezino Mar.l Gonzales lo paga desde Antiguam.te como q. es fundador

---

El vezino Apolinario Bernal, se avesindo à este Pueblo el año de 1798, de cuio tpo goza de la exencion de hambos dzhos h.tas el año de 1803, en q.e le finaliza la gracia, y comenza a pagar el año de 801, de sus tierras el suyo mo dominio, y los Dizmos: sus tierras son 2 suertes de regadio on las tierras de abajo, y 2 de secal en el Coyote

Nota este individuo vento Plasa cuidado el año de 802

N.º 2º... El Vecino Tiburcio Vasquez lo paga, como que es fundador

---

El Vecino Fran.co Valencia, se agrego aes-te Pueblo, el año de 98, le finaliza la gra-cia de Datos N.s el año de 803, y lo comen-zara apagar el de 804: tiene sus tie-rras 2 suertes de Regadio, en las de Cavajo, y 2 de secal en el Coyote

N.º 3. El Vecino Manl. Amezqta. Paga los Diezmos como que es fundador

B

El Vecino Flavio Californio, se avecino á ese Pueblo, el año de 98, y le finalisa la gracia de excesion el año de 803, y comienza apagar los dchos el año de 804, tiene sus tierras y suertes de Regadio en las de arriba, y y arecal en el coyote

B

El Vecino Yg.n Archuleta paga los Diezmos como q.e es fundador

Vecino Teodoro Garcia, se agrego a este Pueblo el año de 1801, y le finalisa la gracia de excension el de 806, y comienza a pagar los dchos R.s el de 807: tiene sus tierras y suertes de Regadio en las de arriba

unido este individuo sin traspasar las referidas tierras

23

N.º 5.º .. El Gerino Claudio Albires Paga los Diezmos como q.e es fiador

24

N.º 6º. El Venino Bernardo Morales Paga los Diezmos como q. espumadores

N.º 7.º .. El Vecino Domiciliado Valerio Mena
Paga los Diezmos ya muchos años

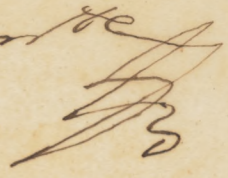
8.º ... El Vesino Dn. Seferino Lingo-
Paga los Diezmos Paño

27

N.º 9.º Alverino Navarro Sacerdote
mais 9 anos

28

N.º 20. El Serino Domiciliado Man.l Butron
lo paga Durante



54... El Vecino Pedro Romero, esta Domiciliado, y en la Noria desde el año de 92, cuia gracia le finalizan los cinco años, el año de 1796. y luego que entro el de 97 deve comenzar à pagar los Diezmos

El Expresado Pedro Romero Requiere cada pas: Pero los q. trabajan sus tierras deven pagar el Reconocim.to al Supremo dominio desde 97... 1 fanega anuales...

30

N.º 12... El vecino José Mª Marsimer está Domiciliado, y es Criador desde el año de 1793, y le finaliza la gra.ª de los cinco años el año de 1797. desde cuio año deslo pagar Diezmo

No. 254.

U. S. Dist. Court.

Widow and Heirs of
A. Chabolla.
vs.
The United States

Deposition of
Aughtin with 2 Exhibits.

Filed Feby 26. 1857.
W. H. Chevers.
Deputy.

UNITED STATES DISTRICT COURT,
Northern District of California.

Widow & Heirs of Anastacio Chabolla, vs The United States.

San Francisco, Feby 27th 1857

254 ND
PAGE 91

ON this day, before Isaac N. Monroe a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came José Felix — a witness produced on behalf of the Claimant in Case No. 254, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 777 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being interpreted by Jos. Alex. Forbes — a sworn interpreter

PRESENT: Wm Blanding U.S. Dist. Atty & Wallace & Mathews, Counsel for Clts.

QUESTION BY

I am sixty three years of age
I have lived in San José since 1836.
I have known the Pueblo of San José since the year 1818. I know the tract of land of Anastacio Chabolla in San José. When I first knew the lands they belonged to Miguela Saezz — The god-son of Miguel Saezz; Rafael Soto received the lands from her — I know it because Soto told me so. It was a fact publicly known in San José — Soto sold the lands to Anastacio Chabolla. I don't remember the year — In the frankness of intimacy between us Soto told me he had sold the lands to Chabolla — and so did

Chabolla. Chabolla lived on the land - had a house there, his fences and his corral and all his family there. I knew of a person living on that land by permission of Chabolla, whose name was Rafael Feliz who was my first cousin - Feliz told me that he lived there by permission of Chabolla -

Isidore Guillien lived there also by Chabolla's permission until the time the gentlemen Americans took the country - I did know of some one disputing Chabolla's right to the land - I dont recollect who - This party applied for a part of the land and Chabolla hearing of it presented himself before the Judge with his title and the judge said to Chabolla, "my son the land "is yours! the applicant for it has "no chance". With this exception I never knew Chabollas right to the land to be disputed -

Cross - Examined - I dont know whether Miguel Soerz ever lived on the land - Rafael Soto never lived on the land, ~~and never~~ he lived a little outside I do not know whether he cultivated it or not. I think in 1836 the land was vacant, but I dont recollect.

his
Jose X Feliz
mark

Sworn to & subscribed
Feby 27th. 1857. before me.
Levi Moore
U.S. Commrs.

Canning

No 254. 10

U. S. Dist. Court.

Widow & Heirs of
A. Chabolla,
vs
The United States.

Deposition of
José Feliz.

Filed Feby 28. 1857.
W. H. Chevers,
Deputy.

UNITED STATES DISTRICT COURT,
Northern District of California.

Widow & Heirs of Anastacio Chabolla, vs. The United States

San Francisco, February 27, 1857

254 ND
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ON this day, before John A. Monroe a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came John Yontz a witness produced on behalf of the Claimants, in Case No. 254, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 777 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: Wallace & Mathews, Counsel for the Claimants, and W. Blanding, Esq. U. S. Dist: Atty.

QUESTION BY

Counsel for Claimants

What is your name age and occupation -

Answer - My name is John Yontz. I arrived in California in Sept. 1849 & have resided in San Jose since Dec. 49. I have been Sheriff of the County of Santa Clara and Public Administrator for two or three years - As Public Administrator I had charge of the estate of Anastacio Chabolla. I was the first Administrator of that estate

I never had in my possession any instrument in writing or will purporting to be from Rafael Soto to Anastacio Chaboll a. I was informed when I became Public Administrator that there were valuable papers in San José belonging to Anastacio Chaboll a and that Thos. B. Godden had possession of all his papers. Before I was Administrator Godden told me he had valuable papers of Chaboll a & Sanchez. I know that Godden had charge of Chaboll as papers. I think A. Chaboll a could write but I don't know. I enquired of Mr. Green a friend of Chaboll as and he told me that Godden had possession of all the papers of Chaboll a. Before I was Administrator Mr. Godden told me about his losing his trunk when on his way to this City to attend to business for Chaboll a and Sanchez. Said the stage was heavily loaded & the trunk was left to be sent the next day by a boat. Said he came here and waited several days, and while here he wrote to the stage Agent and receiving no answer he returned to San José. I saw him on his return & he told me was going down on the boat to look for his trunk. this was in April 1853. He told me if he did not get his trunk he would be ruined, that it contained all the papers of

Chabolla and Sanchez and had come down here to prepare to present them to the Land Commissioners. Godden died from injuries received from the explosion of a Steam boat on his way to San Francisco. After his death I became Administrator of his Estate. I went to Goddens residence afterwards to see what papers were there belonging to him. His wife told me all the papers belonging to him were in his trunk which he was in search of when he was killed. I then went to the Stage Office and they told me they had sent the trunk according to direction to be sent to Alviso & from thence to San Francisco by boat - I went to Alviso and John R. Wilson the proprietor of the wine-house told me he had seen a trunk on the wharf belonging to Mr. Godden and supposed it had been put on the boat - Shortly after I came to San Francisco & sought for the Office of the boat & was informed they kept no office - I searched diligently for the trunk & could never find it. Mrs. Chabolla informed me that all Chabollas papers were in the hands of Mr. Godden, and that she understood they had been lost - She enumerated the land claimed in this case with other property - In the two estates of Godden &

Chabolla I got no papers of value.
Godden was a lawyer.
I have heard the description of the land of Chabolla as given in the deposition of Antonio Sunol in this case and said description is the same as is given in the complaint in different words and embraces the same land.

Cross-Ex. Mr. Godden first prepared this case for the land commission. Mrs Chabolla stated that they had papers to the land claimed in this case and papers for other property but they were all given to Mr. Godden.

John Goertz

Sworn to & subscribed
Feby 27. 1857. before me.
Ira A Thornton
U. S. Commr.

No 254.

U. S. Dist. Court.

Widow & Heirs of
A. Chabolla,
vs
The United States.

Deposition of
John Contz.

Filed Febry 28. 1857.
W. H. Chevers.
Deputy.

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UNITED STATES DISTRICT COURT,
Northern District of California.

Widow & Heirs of Anastasio Chabolla, vs The United States.

San Francisco, Feby. 27th 1857

254 ND
PAGE 99

ON this day, before Ira A. Munroe a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Manuel Pinto a witness produced on behalf of the Claimants in Case No. 254, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 777 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being interpreted by Jas Alex. Forbes a sworn interpreter

PRESENT: Wm Blanding U.S. Dist. Atty and Wallace & Matthews Attys for Claimant —

QUESTION BY

Counsel for Claimant —

1st Q. What is your name & age —

Answer — Manuel Pinto and I am Seventy three years of age — I came to San José in 1796. I was born in Monterey and lived there. I lived in San José since 1823. (Eighteen hundred & twenty three) I have seen & knew Macario Castro. I knew him as a corporal & Sergeant and afterwards as a Commissioner in San José. The Gov. of California whose name was Don Biscaino sent him as Commissioner

I have seen Macario Costo write - I dont know his, or any other hand writing. I dont know his rubric.
I have seen him write in the Custom house of which he had charge and as Secy. of the Gov. and he had the reputation of writing a good hand.
I knew Nesario Saenz and his wife ~~Nicholas~~ Miguela. I know the tract of land claimed by the heirs of Anastatio Chabolla in this case. I first knew it in the possession of Miguela Saenz the widow of Nesario - Nesario Saenz held it under the Government, from Lieut. Moraga - who acted under the orders of the Government - Rafael Soto succeeded the widow of Nesario Saenz - by virtue of a gift made to him by Miguela Saenz who was his God-Mother - I know this from the mouth of the woman herself, and also as a public and notorious fact.

My wife was distantly related to Miguela Saenz - Soto sold the land to Anastatio Chabolla - I know it from the mouths of the two parties - I have not a memory to recollect dates but it was a long time ago - Soto lived near the land before and after he sold the land - I dont remember when Soto died, but he lived several years after he sold the land - After the land was sold I never knew Soto or any one else to claim the land against

Chabolla - Chabolla retained the possession of the land until the gentlemen Americans (Cont.) came and took possession. I always understood the quantity of land sold was Two Suertes - The land was bounded on the North by the land of Romero on the East by the Salt Lands - on the West by the Coña da - and on the South by the lands of José Ignacio Mesa - Francisco Castro's land was near by on the Southern boundary - he had a little vineyard there fenced in -

Cross - Examined -

I know the lands were owned by Miguela Soerz in the year 1796. Mesonio Soerz was then dead - I know that Mesonio Soerz held the grant from the Government from my parents and several years afterwards I heard the list read of the titles which had been granted. Moraga was the Lieut. of the Guison of the Presidio of San Francisco. I heard the list read in San José during the time Antonio Buello was Alcalde, by him - Miguela Soerz did not occupy the land after I came to San José in 1823. No one lived on the land at that time. The first person who lived on the land after I came to San José was

Chabolla - Soto never lived on the land. I cannot say when Miguel Soose told me she had given the land to Soto. but I had frequent conversations with her - I know she was his god-mother because she told me so - I dont know what kind of gift it was but I know it was a gift. It was after I came to San Jose she told me the gift had been made.

Direct - resumed

After Soto became the owner of the land he lived about 200 yards from the land in the Pueblo.

Manuel his X Pinto
Mark

Sworn to & subscribed
Febry 27. 1857. before me,
Jno A. Monroe
U. S. Commisp.

No 254. 11.

N. S. Dist. Court.

Widow & Heirs of
A. Chabolla,
vs
The United States.

Deposition of
Manuel Pinto.

Filed Febry 28. 1857,
W. H. Chevers,
Deputy.

State of California
San Francisco County.

I. A. P. Cutlender do solemnly swear that I never had in my possession any paper purporting to be a deed or instrument of sale of lands in San Juan by Rafael Soto to Anastasio Chabolla now deceased — nor have I any knowledge or information as to where such paper now is or might be found.

Subscribed & sworn to before me this 28th day of February 1857

A P Cutlender

Wm Higgins
Notary Public

It is mutually stipulated that the above affidavit of Mr Cutlender be received in evidence in case No 254 (Heirs of Chabolla v The United States) with the effect as though contained in a deposition regularly taken.

H. I. Wallace
Atty for Claimants.

Wm Blanding
Dist Atty

Dist Ct U. S. 12
Northern District.

Cor No 254.

Chabot et al Appellants

v

U. S. Appellees.

Affidavit &
Stipulation

Filed Feby 28. 1857.
W. H. Chevers,
Deputy.

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 Tuesday the Eleventh day of August in the year of our Lord one thousand eight hundred and fifty-seven.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States ads Widow & Heirs of A. Chaboya	D.C. 2024; L.C. 777.

On application of the U.S. Attorney it is Ordered that Thursday the 20th day of August instant at 10 O'clock A.M of that day, be appointed for the taking of the testimony of James M. Weekes, Robert Livermore, Charles Webber, Peter Davidson and others on behalf of the U.S. in the above case, before J. Edgar Symes U.S. Special Commissioner, and that notice in accordance herewith be transmitted to the ~~the~~ counsel of the claimants.

Ogden Hoffman
Dist Judge

254 13

United States District Court, Northern District of California.

The United States

ads.

Widow & Heirs A. Chabya

ORDER.

for examn. of witnesses.

Filed August 11th 1857

John. A. Monroe,

CLERK.

By W. H. Chevers

DEPUTY.

UNITED STATES DISTRICT COURT,
Northern District of California.

The United States
vs
Widow & heirs of Anastacio Chabolla

San Francisco, August 20th 1857

ON this day, before J. Edgar Guymes a Special Commissioner appointed by the Dist Court of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Peter Davidson a witness produced on behalf of the United States in Case No. 254, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 777 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: U.S. Dist Atty ~~represented by~~ and J. J. Williams and Messrs Wallace & Mathews for claimants

QUESTIONS BY J. J. Williams

1st Ques- What is your name age and place of residence?
1st Ans. My name is Peter Davidson, 42 years old and I reside in San José Santa Clara County
2d Ques. How long have you resided in the town of San José?
2 Ans- Since July 1842-
3d Ques- Are you acquainted with the streets and the present plan of the town of San José?
3 Ans - Some of the streets- I am acquainted with the plan-
4th Ques- Do you know the location of the Suertes claimed in this Case-
4th Ans- I know the lands they claim but I do not know the exact bounds-

5th Ques- How is that portion of the land known to you as claimed in this case situated in regard to the present town of San José-

(Counsel for claimants object to the question)

5th Ans- Part of it I do not know- I know that they claim the Northern corner of Santa Clara and First Street-

~~6th Ques~~ (Answer objected to by claimant's Counsel)

6th Ques- Is the said corner of Santa Clara and First Street within or without the present town of San José?

(Question objected to by claimant's Counsel on the ground that the evidence is not competent in this form)

6th Ans- It is within.

7th Ques- Was the said Streets within or without the limits of the town of San José at the time you first settled in that place?

(Question objected to by claimants Counsel on the ~~the~~ grounds that the evidence is inadmissible and incompetent in this form)

7th Ans- There were no limits at all from 1842 to 1847- ~~Mr Lyman~~ that I know of Mr Lyman made the survey I believe in 1847-

8th Ques- At the time you settled at the Pueblo of San José was there or was there not a resident Alcalde?

8th Ans- There was always one sometimes two- 1st & 2nd

9th Ques- What was the extent of their jurisdiction

(Question objected on the ground that it is not ~~evidence~~ competent to prove the jurisdiction of the Alcalde by this character of evidence)

9th Ans- I do not know- I cannot tell their jurisdiction or power- I know they

granted lots within the present limits of San Jose'

(Answer objected to as incompetent and not responsive to the question)

10th Ques- Look upon the Map now shown you purporting to be a plan of the City of San Jose' and say whether or not from your knowledge of the plan of said City the said Map is a correct delineation thereof?

(Question objected to on the ground that the map is not certified and that it is not competent to prove the boundaries or to prove a map or a copy of map by this evidence)

10th Ans- As far as I am acquainted with the Town of San José this is a copy of the original survey of said town map, I believe describe the location-

11th Quest- Point out on said Map if you can the said Corner of First & Santa Clara Street

11th Ans. The initials P.D. are now placed on the corner to which reference is made - and witness says that there was a house there from 1842 to 1847 and I heard that said house was torn down and that Chabolla raised a row about it-

12th Quest- In what Condition was said house previous to its being pulled down-

12th Ans- It was in such a condition that I would not give $2-00 for it- It was about 10 by 15 feet no roof on it- It was made of sticks and

13th Quest - Were you acquainted with Anastasio Chabolla ?

13th Ans - Yes -

14th Quest - When has he resided since 1842 ?

14th Ans - He resided on his ranch 7 or 8 miles from San José -

15th - Has Chabolla or his family since the year 1842 resided on the Suertes claimed in this Case ?

15th Ans. Not to my knowledge

16th Ques - Are the said Suertes occupied by anyone at this time -

(Question objected to as irrelevant)

16th Ans - They are all occupied I believe -

17th Ques - Do you know of your own knowledge whether or not grants by the Alcaldes of the Pueblo of San José have been extended over the said Suertes -

(Question objected to on the ground that is not competent to prove grants by parole testimony and the question is irrelevant and the evidence inadmissable)

17th Ans - I believe they have I am not certain - I never saw the deeds or titles -

Cross Examination waived.

Sworn to and subscribed before me August 20th 1857

Peter Dawson

Hezar Gaymes

Special Commissioner

2 54 15

U. S. Dist Court

The United States
vs
Widow and Heirs of
Anastacio Chebolla

Deposition of P. Davidson

Filed August 20. 1887
John A. Monroe
Clerk

Exhibit "J. C. G." Com.r

No 254.

U. States District Court.

Widow & Heirs of A. Chabolla vs. The United States.

Translation of Exhibit H. attached to the deposition of S. O. Houghton.

Bernado Rosales, resident (vecino) with title as such.

Is owner of four suertes likewise, two irrigable and two of dry ground (secadal) for which he has to pay one fanega of maize as a mark of gratitude to the Sovereign. — 1 fanega each year

Note.

The legitimate heir (el heredero) granted the two suertes of land first above mentioned to the Sargent Luis Peralta, and the two others to his nephews, sons of Juan Garcia, who held them reserved.

Dionicio Bernal

Valerio Mera, resident domiciliated in this Pueblo.

Is owner of four Suertes of land, and a garden of thirty varas in width, by twenty in breadth, like all those that follow, but in virtue of the order of the Governor Don José Joaquin de Arillaga, of the 29th Decr 1793, which is among the archives, he has only to pay one fanega of maize for the two Suertes, like the old founders of the town, and two almudes for the garden -

1 fanega & 2 almudes every year

(rubric of Mariano de Castro)

This individual died and left his lands to his sons -

(Castro's Rubric)

Likewise the resident Ceferino Lugo,

Is owner of four Suertes of land all of the same kind, besides the garden of twenty varas wide by twenty varas long, for which he shall pay, according to said order (arreglado à ydm) one fanega and three almudes of maize each year.

1 fanega 3 almudes each year.

(Macario de Castro's Rubric)

Note:

This individual ceded his lands to an invalid in the year 1801, for which reason his collection of the rent ceased.

(Castro's Rubric)

4.

Also the inhabitant (or resident) Basario Saez

Is owner of four Suertes likewise, but according to the same regulation, he must pay one fanega of maize to the Sovereign –

1 fanega each year
(Castro's Rubric)

Note:

This individual died, and his widow was married to an invalid, for which reason the collection of the rent ceased and this was in the year 1801.

Also the inhabitant Manuel Butron.

Is entitled to four Suertes of the same kind and a Garden of forty varas in length and breadth, and regulating myself by the order, he has to pay in acknowledgement one fanega and four almudes of Maize — 1 fanega 4 almudes each year

(signed with Castro's Rubric)

Note.

The Garden is suppressed to this individual, on which account he has to pay as acknowledgement one fanega and no almudes

(Castro's Rubric)

Another note;

This individual enlisted as a soldier in 1803 —

(Castro's Rubric)

Also the inhabitant Pedro ~~Romero~~ Romero,

Is owner of four Suertes of the same kind, for which according to the order, he has to pay one fanega of maize to the Sovereign — 1 fanega each year.

(Castro's Rubric)

Note.

This individual having died, his widow married a Soldier, and the lands remain in the same condition, until the heirs shall arrive at an age to transfer them, or the Government shall dispose of them for which reason the collection of the rent ceased.

(Castro's Rubric)

The Inhabitant Jores Maria Martinez, also

Is owner of four Sacates of the Same Kind, for which he has to pay one fanega of maize -

1 fanega every year

(Castro's Rubric)

P. D. (post date)

Is owner of a garden which is 20 varas square and he will pay for it 2 almudes which makes a sum of 1 fanega & 2 almudes every year

(Castro's Rubric)

Marcos Chavoya an inhabitant also,

Garden Impressed

Is owner of four suertes of land, and the garden granted in his memorial, for which regulating myself according to order, he has to pay in acknowledgement 1 fanega and 1 almude of maize every year — 1 f. 0.

(Castro's Rubric)

Which quantity of Rent in maize is as follows:

		fanegas	almudes
	Mont Gonzales		0
	Vicente Daez	1	1
21	Mont Amezqua	1	0
22	Ygn. Archuleta	1	0
23	Placido Alberes	1	0
24	Bernardo Rosales	1	0
25	Otanio Mesa	1	2
	Ceferino Lugo	1	3
26	Natanio Saez	1	0
	Mont. Pulmer	1	0
	Pedro Romero	1	0
	José Maria Martinez	1	2
	Marcos Chavoya	1	0
	Total of Rent	15	1

San José 1st of June 1794

(signed) Macario de Castro

~~10~~ 9.

Antonio Soto, settled in the year 1794.

There was granted to him a Solar and four Suertes of land, the one half irrigable and the other half dry (Secadal) and he has to pay one fanega of maize

(Rubrica)

Ignacio Castro joined the Settlement in the year 1794.

They gave him his Solar, and four suertes of Land, two of irrigable and two of dry (secadal), and he has to pay in acknowledgement – one fanega of maize

(Rubric)

Francisco Alvis became a settler in the year 1795

He was granted a Solar and four Suertes of land 2 of irrigable and 2 of dry (Secadal) and has to pay in acknowledgement one fanega of maize
(Rubrica)

Note:

This individual became a soldier in the year 1802 and it all ceased
(Castro's Rubric)

José Aguila become an inhabitant in the year 1794

They granted him his Solar and four suertes of land, two of irrigable and two of dry and he has to pay in acknowledgement 1 fanega of maize -

(Rubrica)

Note:

This individual became a soldier in the year 1801 for which reason the collection of the rent ceased

(Castro's Rubric)

13.

Antonio Alegre was joined to the Settlement in the year 1795.

14.

Francisco Castro joined the Settlement in the year 1795.

He was granted a Solar and four Suertes of land, two of irrigable and two of dry land and he has to pay in acknowledgment 1 fanega of maize.

(Rubric)

Note:

This individual has besides a garden; and for the whole he has to pay as an acknowledgment one fanega and two almudes

José Lanos established himself in the year 1794.

He was granted a Solar, and four suertes of land, two one half of irrigable and the other half of dry land (Secadal), and he has to pay as an acknowledgement one fanega of maize.

(Rubric.)

Note.

This individual with the permission of the Government established himself on a small Rancho, at a place called La Calera, where he sows grain, on which account no rent is collected from him untill such time as he may declare himself.

Other:

This individual again connected himself with the Pueblo and permission was given him by the Commandante Don José Estudillo, that he might build his house and sow grain in the Conoas

(Castro's Rubric)

Pedro Bojorques, became a resident in the year 1795.

The gave him his Solar and four Suertes of Land, two of irrigable and two of Dry Barren, he has to pay as an acknowledgement one fanega of Maiz

(Rubric)

In the year 1807 they gave him the lands below (de abajo) which had belonged to his uncle Justo Altamirano,

Note: This individual, became a soldier in the year 1805 and the lands passed to Valencia.

(Castro's Rubric)

17.

Jacobo Velarde, joined the Pueblo in the year 1795.

They gave him his Solar and four Suertes of land two of dry & barren and two of irrigable; he has to pay in acknowledgement one fanega of maize.

(Rubric)

Note:

This individual left the Pueblo in the year 802

(Castro's Rubric)

Antonio Aseves, joined the Pueblo in the year 1795.

They gave him his solar, and four suertes of land, the one half of irrigable and the other half of dry barren land: and he has to pay one fanega of maiz as an acknowledgement:

(Rubrica)

Blotter (Quaderno) in which appear those who ought to pay tythes of their herds and harvests; and those who, altho' they do not pay, the year is put down, from which they have been herdsmen or laboreros, in order that as soon as they may have completed the five years, they may commence to pay.

(Castro's Rubric)

Number one = The Inhabitant Marc.l Gonzales pays from old times (desde antiguamente) as he is a forender (fundador)

(Castro's Rubric)

The inhabitant Apolinario Bernal, became a resident of this Pueblo in the year 1798, from which time he enjoyed an exemption from both taxes until the year 1803, in which the grace expired, and he will commence to pay in the year 1804 for his lands, the tax to the Sovereign (el Supremo Dominio) and the tythes: his lands are two suertes of irrigable land among the lands below and two of dry & barren on the Cayote

(Castro's Rubric)

Note: This individual became a soldier in the year 1802.

(Castro's Rubric)

20.

Number two. — The inhabitant Ildefonso Vasquez says as he is a founder.

(Castro's Rubric)

The inhabitant Francisco Valencia, joined himself to this Pueblo in the year 1798, his exemption from ~~[illegible]~~ taxes, as acknowledged by him, ceased in the year of 803, and he will commence to pay in 804; he has for his lands, two leagues of irrigable lands in those below and two of dry abovem on the Coyote.

(Castro's Rubric)

Number three. — The Inhabitant Manuel Amesquita, pays the Tythes as he is a Founder.

(Castro's Rubric)

The inhabitant Placido California, became an inhabitant of this Pueblo in the year 98. and his exemption expired in the year 803 and he will commence to pay the taxes in the year 804; he has for his lands two Suertes of irrigable land among those below, and two of dry & barren on the Coyote.

(Castro's Rubric)

number 4 — 22.

The Inhabitant Ygnacio Archuleta pays the Tythes as he is a founder.

(Castro's Rubric)

The Inhabitant Teodoro Garcia, joined himself to this Pueblo in the year 801 and his exemption ceases in 806, and he will commence to pay the taxes in the year 807 — He has his lands, two suertes of irrigable land among those below.

This individual died without working the said lands.

(Castro's Rubric.)

23.

N° 5 –

The inhabitant Claudio Albiez pays the Sythes as he is a founder.

(Austro's Rubric)

24.

Number 6.

The Inhabitants Bernardo Rosales pay the tenths as he is a Founder.

(Castro's Rubric)

25.

No 7.

The Inhabitant, domiciliated, Valerio Mera pays the Tenths, it is now many years since.

(Castro's Rubric)

26.

Number 8.

The Inhabitant likewise, Ceferino Lugo, pays his Tenths for years.

(Castro's Rubric)

27

Number 9.

The Inhabitant Nasario Saez like the rest, for many years.

(Castro's Rubric)

 28.

Number 10.

The domiciliated Inhabitant, Mark Batron pays is duly.

(Castro's Rubric)

29.

Number 11. The Inhabitant Pedro Romero, is domiciliated and is a laborer from the year 92, whose exemption five years will finish in the year 1796 and upon the entrance of the year 97 he ought to commence to pay tow tenths.

(Castro's Rubric)

~~The said Pedro Romero, is dead, (requiescat in pace): But those who cultivate his lands have to pay the acknowledgement to the Supreme Government from 97.~~ 1 fanega of maizes

(Castro's Rubric)

Note by translator, the latter part of the above is crossed out in the original, as in his translation.

San Francisco May 4th 1857.

30.

N°12.

The Inhabitant José María Martinez is domiciliated, and is bachelor from the year 1793 and his exemption of four years finishes in the year 1797 from which year he ought to pay tenths

(Castro y Rubio)

.....185

DEED.

By.....

To.....

JOSEPH GRANT, NOTARY PUBLIC,

No. 98 Merchant Street,

SAN FRANCISCO.

DEED

UNITED STATES DISTRICT COURT,
Northern District of California.

The United States
vs
Widow and Heirs of Anastasio Chabolla

San Francisco, June 30th 1857

ON this day, before J. Edgar Grymes a Special Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Frederick A. Sawyer a witness produced on behalf of the Claimants in Case No. 254, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 777 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: U. S. Dist Attorney ~~parte~~ Messrs Stanley Mathews of Counsel for Claimants.

QUESTIONS BY Counsel for Claimants

What is your name, age and place of residence
Ans. My name is Frederick A. Sawyer - ~~30 yr~~ and I reside in San Francisco -
2 Ques. Look at the paper attached to the deposition of S. O. Houghton taken in this case on the 26th day of February 1857 marked Exhibit "M" and say whether you have made a full, true and correct translation of said document -
2. Ans - I have and the paper submitted and marked "J. E. G. Com^r" is a full true and correct translation of said paper above referred to. -
I am familiar with the Spanish language for the last 15 years - I have been in Spain where I spent some years and where I paid particular attention to the language

Cross Examination

The U. S. Attorney having objected to the introduction of the trace copy in evidence now objects to the translation

Sworn to & subscribed before me this 30th day of June A.D. 1857

Fred R. A. Sawyer

J Hagan Gyne

Special Commissioner

Examination of witnesses in this case adjourned to July 1st 1857 at 10 o'clock P. M.

Examination adjourned to July 2d 1857 at 10 o'clk P.M.

Examination adjourned to July 6th 1857 at 10 o'clk P. M.

954

U. S. District Court

The United States
vs
Willows & Heirs of Anastacio Chabolla

Deposition of Frederick A Sawyer

Filed Aug: 20. 1857.
W. H. Chever,
Deputy.

254 ND
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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 31st day of August in the year of our Lord one thousand eight hundred and fifty-seven.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States ads Widow & H. A. Chaboya	D.C. 2054; L.C. 777

At the request of the U. S. District Attorney it is ordered that the testimony of Jose Noriega and Antonia Maria Pico and others be taken in this case on the part of the U. S. before J. Edgar Symes Special U. S. Commissioner, on Tuesday the 8th of September next at 10 a.m. and that notice be forwarded to claimants attorneys.

Ogden Hoffman
U. S. Dist Judge

254 16.

United States District Court, Northern District of California.

The United States

vs.

Wid & Heirs A. Chaboya

ORDER.

to take testimony

Filed August 31st 1857

John A Monroe CLERK.

By J Elp

DEPUTY.

254 ND

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UNITED STATES DISTRICT COURT,
Northern District of California.

Widows and Heirs of Ant° Chabolla
vs
The United States

San Francisco, September 8th 1857

ON this day, before J. Edgar Geynes a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came Jose Noriega a witness produced on behalf of the United States in Case No. 254, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 777 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being interpreted by Clinton Palmer . . . . a sworn interpreter

Genuine
Commissioner
before appointed by the dist court

PRESENT: U S Dist Atty and Messrs Wallace & Mathews for claimants

QUESTIONS BY U. S Dist Atty

1st Ques. What is your name age and place of residence
1st Ans. My name is Jose Noriega, 57 years — and I naive at the Pueblo of San Jose —
2nd Ques. How long have you resided in the Pueblo of San Jose?
2nd Ans. 23 years —
3rd Ques. Do you know the Suertes in the town of San Jose' claimed in this Case by the Widow and Heirs of Anastasio Chabolla
3rd Ans. I know the place where they are said to be —
4th Ques. Do you know what was considered the Central Point of the town of San Jose before the 7th of July 1846 and up to that time

4th Ans— Yes— The central point was near where the Catholic Church stands ~~and~~ stood at that time—

5th Ques How far from said Church were the said Sueltes claimed in this Case?

5th Ans— I cannot tell about the Sueltes— but the distance from a fallen house is about 300 varas more or less— I do not know the boundaries of the Suelte—

6th Ques To whom did the fallen house belonged and upon what lands was it situated?

6th Ans— I do not know I saw the house empty & fallen, it was said to have been on the lands of Anastacio Chabolla

7th Ques. Was the said house or the Sueltes or one of them which are claimed in this Case?

7th Ans— I do not know whether the house was on the land of Anastacio Chabolla or on other land but it was said that there was land belonging to Anastacio Chabolla there— and it was necessary for it to be on his land if it belongs to him —

8th Ques. Were the Sueltes claimed in this Case by the Widow & heirs of Anastacio Chabolla within or without the limits of the Pueblo of San José as said Pueblo existed before the 7th of July 1846

(Question objected by Claimants Counsel for the ground that it is irrelevant & incompetent testimony)

8th Ans— It was on the outskirts of the town The house I refer to when it was inhabited was one of the outskirts of the town— It was within the town it formed a portion of the town itself

9th Ques. Did you know Romero's house in S. José

~~9th Ans~~ Question withdrawn

10th Ques- Did any man by the name of Romero live near or beyond the ~~Suertes~~ claimed in this case (Question objected to because it is leading and irrelevant)

10th Ans- I do not know what Romero if can be I never ~~knew a~~ saw a Romero live near there -

11th Ques- How long has it been since the said Chabolla lived on the said Suertes?

11th Ans- I never saw him live there -

Cross - Examined

12th Ques- Do you swear that all the lands claimed in this case is within the limits of the former Pueblo of San José?

12th Ans- It is within the limits of San José

13th Ques- Have you not stated that you did not know the boundaries of this land claimed?

13th Ans- I have said I do not know the ~~exact~~ boundaries - but I know a little more or less where they are

14th Ques- What do you mean by a little more or less

~~14th Ans~~ - Question withdrawn

15th Ques- How do you know the land that you have been speaking of is the land of Chabolla

15th Ans- Because they called a house that was fallen as Chabolla's which was situated opposite to one that I lived in - And at the same time it was about 1 or 2 years they ordered me to appraise two Suertes of land belonging to the family of Chabolla -

16th Ques- Is that the only way that you

Know that the land claimed is the land of Chabolla?

16th Ans- It is the only knowledge I have because I have never seen papers or any thing else

17th Ques- Have you never told any one previous to the time that you was called upon to appraise the land in question that it was the land of Chabolla?

(Objected to as being to vague and general)

17th Ans- I do not know whether I did or ~~did~~ not I cannot recollect what I said 2 3 or more years ago in conversation which I have held ~~as~~ I do now-

18th Ques- State whether or not you at the time the appraisement of the Estate of Chabolla was made stated to John Goetz the administrator of said estate that he ought to place this land on the appraisement list of said estate because you knew it to be the property of said Estate?

(Objected to)

18th Ans. I never said any thing of the kind ~~as~~ It was impossible for me to say what I did not know-

Direct resumed

19th Ques- Did you appraise the said Swartz

19th Ans- I did ~~without~~ measuring them knowing their situation a little more or less

Qu. Who pointed them out to you for appraisement as the property of Chabolla?
Ans. Mr. John Coutz who is sentinel alongside of me

Sworn to & subscribed before me this 8th day of September 1867

Tere Monego

Hagan Guyma
Special Commissioner &c

No. 254 17.

U. S. Dist Court

Widow & heirs of
Anastacio Chabolla
vs
The United States

Deposition of José
Noriega

Filed Sept. 8 1857
Thos Monroe
Clerk

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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 Thursday the 10th day of September in the year of our Lord one thousand eight hundred and fifty-seven.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
ads
Ord & Heirs Anastasia Chabrya

No 2524.

On motion of the U. S. Attorney it is ordered that the Marshal for this District pay to Clinton Palmer the sum of Ten Dollars as interpreter on behalf of the United States in this case, in rendering the evidence of José Noriega from Spanish into the English language.

254 18.

United States District Court, Northern District of California.

The United States

vs.

Ord & Heirs A. Chabaya

ORDER.

to pay Clinton Palmer $10 as interpreter

Filed Sept. 10th 1857

Jno A. Monroe

CLERK.

By

DEPUTY.

In the District Court of the United States of America holden in & for the Northern District of California.

Widow & Heirs of Anastacio Chavoya Deceased
Appellants

vs

United States
Appellees

Case 254.

It is hereby stipulated between the Appellants and the Counsel of the United States in the above entitled cause, that all oaths and affidavits appearing upon the papers in this cause to have been taken before any Notary Public or other officer authorized by the laws of the State of California to administer oaths, shall be used and regarded in this cause, as of like effect as if the they same had been taken and sworn to before a Commissioner of this Court duly authorized for that purpose —

P. Della Fore } W. J. Wallace
U. S. Atty } Wm Matthews
for Appellants

No

Case 254

Stipulation

No 254 19

U. S. Dist Court

Widow & heirs of
Anastasio Chabolla
vs
The United States

Stipulation

Filed Nov 6. 1857
J. Ogarlyme
Deputy

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"Exhibit A"
hnitten of A M Rico.

Vecino con titulo de ydm.

Bernardo Morales

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Es Dueño de quatro Suertes ydm. dos de Riego y dos de secaal, por las q.e desde pagaro vna fanega de maiz de reconocimto al Sorcerario.... 9 fa. cada año

Nota El Enfedero Lmo dio las dos Suertes de tierra de Abrevia en el Varg.to Lir Jezalto, y las dos de abajo en sus Sobrinos hijos de Vicar Garcia de la tiene prestadas Dionicio Bernal

Es copia

Genino Domiciliado en este Pueblo.
Valerio Mesa

~ ~ ~ ~ ~ ~ ~ ~ ~

Es Dueño de quatro suertes de tierras, y una huerta de 30 varas de hancho, y 20 de largo todo de Regadio. Libro todos los G.s siqu.te pero en virtud de la orn del Sor Gov.or Dr Josef Joaq.n de Arizlaga fha 29 de Dbre de 1793, q.e queda archivada: No debe pagar mas q.e una fanega de mais p.r las dos suertes como los Pobladores antiguos, y 2 almudes p.r la huerta . . . . 1 f.a 2 cada año 1 f. 2 -

Vote

- - - - este Yndividuo fallesio, y quedo la poseccion de tierras en sus hijos

Perino Dñr. Seferino Luge.

El Dueño de quatro Suertes de tierras todas yõs. y mas la huerta de dos varas de largo y ancho 20, por las q.e desde pagar arreglado à yõs. una fanega, y tres almudes de mais. S.pa y. cada año

Nota.
de ynovido sedio las tierras en un ynbalido, El año de 1801, p.r lo q.e sesso el cobro del Reconocim.to

El Yerina Ydm. Navarro Jacr.

Su Dueño de quatro suertes
Ydm, pero arreglado al mismo
debera pagar una fanega de
maiz al soberano... 1 f.a o. Cada año

Nota
Este Ynoibidro muxio, y su viuda caso con un
Ynbalido, p.a lo q.e seto el Cobro del
Reconocim.to y fue el año 1780...

El Vecino Pm. Man.l Butron.

Es Dueño de quatro suertes
y mr. y una huerta de hortaxas
de largo, y de ancho 40 y
asseglandome da cañ. deve pa-
gar de Reconocim.to una fanega
de maiz, y quatro dineros. 1 f.a A. cada año

Nota
Sele suprimio la huerta à este y se le dio
lo q.e deve pagar de Reconocim.to

Otra.
este individuo sento Plaza de Soldado
el año de 1805.

El Señor don Pedro Romero.

~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Dueño de quatro suertes.
y ñ. f. las q. arreglado ala
ord.n. deve pagar una fanega
de maiz al Soberano. y f. o. cada año

Nota

Havienso muerto este yndividuo, caso su viuda
con militar, y las tierras se mantie-
nen hasta q. los hijos Herederos ten-
gan Edad p.a trasasarlas, o el Gov.no
disponga de ellas, p.r lo q. sera el
caso del Reconocim.to

El Perino Jose Maria Martines, y dm.

El Dueño se qaabo suertes y dm. q.e la q.e deste pagar una fanega de maiz . . 1 f.a o. cada ano

R. D.

El dueño de una huerta q.e tiene de hancho 20 varas, y de largo lo mismo, y pagará p.r hela 2 almudes, y assi p.r duno . . 1 f.a 2 alm.s cada ano . . 1 f. 2 .

Boza
de el sopximio
de huerta

Marcos Chasoya vecino d.ho

es dueño de quatro suertes
de tierra, y la huerta concedida
en su memorial, por las q.e
arreglandome ala ord.n desde
pagar el reconocim.to 1f. al mes
de mais cada año ..... 1f..0.

Cuia cantidad de reconocimien-
to en mais es la sig.te

	fanegas	alm.
Man.l Gonzales	01	4 —
Vibrancio Oaz.q	01	2 —
Man.l Amerq.ta	01	0 —
Ven.o Archilea	01	8 —
Claudio Albizes	01	0 —
Bernardo Rosales	01	0 —
Valerio Mesa	01	2 —
Sefferio Lugo	01	3 —
Navario Saes	01	0 —
Man.l Ruiz	01	4 —
Pedro Romero	01	0 —
Jos.f M.a Martines	01	2 —
Marcos Chasoya	01	4 —
total de reconocim.to	15	1

San Jos.f V.e de Junio de 1791

Macario de Castro

Antonio Soto: se establecio en el año de 1794

Sele merceno Solar, y quatro suertes de tierra, por mitad de riego, y de secadal. y dev pagar de Reconocim.to 1f.a de Maiz.

Nº Carbxo. se ay xego el Año de 1794.

Sele mercenaron su Solar, y le suer-
ten hienbes de tierra, dos de xiego.
y dos de secadal, y deve pagar de
Reconocim.to 1 f.a de Maiz.

Se Co
nan. Albino se avecindò en el año de 1795.

Sele mercenò solar, y la huerta de
tierra, 2 de riego, y 2 de secadal, y de-
be dar de Reconocim.to 1 f.a de maiz.

Nota

Este individuo sencio Pasa su obrado el
año del 802, y vera todo

Josef Aguila. se avezindo el Año de 1794.

Sele mezceraron su Solar, y quatro Suertes se trix; dos de xuego, y dos de secadal, y debe pagar de Reconocimto 4 fan.as de Maiz.

Nota

Este individuo sentro plaza de soldado el año de 1805. por lo que sero el obro al Reconocim.to

Antonio Alegre - se agregò el Año de 1755.

Xan.co Castro: se agregò en el Año de 1755.

Sele mezienaron, Solar -- y quatro Suertes de tierra, dos de Zuego, y dos de Secano, y deve pagar de Reconocim.to 1 fanega de Maiz

Nota

tiene mas este Inbitrio una huerta, y p.r tanto deve pagar a Reconoziz.to ..... 1 f. 2.

Josef Xavier se Establecio en el año de 1790

Se le mersedo Solar, y quatro Suertes de Tierra por mitad de Riego, y de Secadal, y deve pagar de Reconocimiento una fanega de Maiz.

Nota

este ynditiduo Compexmiso al Gov.no se entablerio en un Ranchao, donde llaman la Caleza, en donde siembra, p.a q.e no le cobro Reconocim.to h.ta q.e se deslozo

Otra

este individuo se bolbio à Atoyegar al Pueblo y sele dio permiso p.r el comand.te D.n Jos.f Estrello p.a q.e aga su casa y siembre en las Canoas

Pedro Bosquet: se agrego en el año de 1795.

Sele mercenaron, su Solar y quatro Suertes de tierra. dos de riego, y dos de Secadal, debe pagar de Reconozim.to y fart.a de Nav.

El año de 1801, sele dieron las tierras de Paso q.e heran al rio Junto Altamirano,

Nota
este individuo sentro Plaza año de 806 y las tierras pasaron a Valencia.

Jacobo Velarde se agregó en el año de 1794.

Se le Mercedaron, su Solar y quatro [illegible]tes de tierra
dos de Secadal, y dos de riego; deve pagar de reconocimiento. 1 fan.ª de Maiz

Nota este individuo se degregó año de 802

Antonio Azeven se agregò en el año de 1795.

Se le mercharon, su Solar, y quatro Suertes de tierra, por mitad de ruego, y Sandal; deve pagar de reconocim.to 1 fan.a de maiz=

Quaderno donde constan los que deven pagar Diezmos de sus Granos, y demas exquilmos; y los q. aun no los pagan se les pone el año desde q. es Criador ò Labrista, p.a q. luego q. allan cumplido los cinco años, lo comienzen à pagar

N.o 1.o . . El Vezino Nart. Gonzales lo paga desde Antiguam.te como q. es fundador

---

El vezino Apolinario Bernal, se avecindo à este Pueblo el año de 1798, de cuio Ypo Gra de la Vezion de hambos dchos h.tas el año de 1803, en q.e le finaliza la gracia, y comenza à pagar el año de 804, de sus tierras el supremo Dominio, y los Dizmos: sus tierras son 2 suertes de regadio en las tierras de abajo, y 2 de secal en el Coyote

Nota este individuo vento Hasa de soldado el año de 802

N.º 2º.... El Vecino Liborcio Vasquez lo paga, como que es fundador

---

El Vecino Fran.co Valencia, se agregó este predio, el año de 98, le finalisa la gracia de diez R.s el año de 803, y lo comenzara apagar el de 804: tiene sus tierras 2 suertes de Regadio, en las de arriba, y 2 de secal en el Coyote

N.º 3. El Vecino Mart. Arreguta. Paga los Diezmos como que es fundador

---

El Vecino Flavio Californio, se avecindo á ese Pueblo, el año de 98, y le finalisa la gracia de excesion el año de 803, y en-mientras apagar los dzhos el año de 804, tiene sus tierras y Sucesores de Regadio en las de arriba, y y de secal en el cerro

N.º 2.º ... El Vecino Yg.º Archuleta paga
los Diezmos como q.e es fundador

El Vecino Teodoro Gamez, se agrego a este
Pueblo el año de 801, y le finalisa la gra-
cia de excension el de 806, y comienza
á pagar los dchos R.s el de 807: tiene sus
tierras y suertes de Regadio en las de arroyo.
murio este individuo sin deparar las referidas tierras

N.º 5º.. El Berino Claudio Albires Paga los
Diezmos como q.e es fiador

N.º 8.º El Venino Bernardo Morales Paga
los Diezmos como q. esperimentador

N.º 7.º . . El Serino Domiciliado Saleario Mera
Paga los Diezmos ya muchos años

N.º 8.º ... El Sorino Ydm. Seforino Lugo —
Paga los Diezmos Zacaño

N.º 9.º Ilesino Navarro Saez como lo de
mas yacaño

V.º B.º El Jerizo Domiciliado Man.l Butron
lo paga Durtant &c

N.º 54... El Vecino Pedro Romero, esta Domiciliado, y en la Posesion desde el año de 92, cuia gracia le finalizan los cinco años, el año de 1796, o y luego que entre el de 97 deste comenzar à pagar los Diezmos

El expresado Pedro Romero Regin es cadiz pag: pero los q. trabajan sus tierras deben pagar el Reconocim.to al Supremo dominio desde 97... 1 fanega ermais..

N.º 12... El Vecino Josef Mª Marquez está Domiciliado, y es Criador desde el año de 1793, y le finaliza la gracia de los cinco años, el año de 1797, desde cuio año deve pagar Diezmo

State of California
County of Santa Clara } S. S.
Office of the Clerk of the City of San José
I, Chapman Gates City Clerk of the City of San José in the County and State aforesaid and as such Clerk having in my custody a portion of the records and public papers of the former Pueblo de San José, do hereby certify that the document hereto annexed (in the Spanish language) is a full true correct and accurate traced copy of an original document now on file in my office under my custody as City Clerk as aforesaid. In testimony whereof I have hereunto set my hand and affixed the City Seal of the City of San José this 7th day of September A. D. 1857.

Chapman Gates
City Clerk of the City of San José

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UNITED STATES DISTRICT COURT,
Northern District of California.

Widow & Heirs of Antonio Chabolla
v
The United States.

San Francisco, September 8th 1857

ON this day, before J. Edgar Gaynes a Special Commissioner, appointed by the District Court of California, duly authorized to administer oaths, &c., &c., came Antonio Maria Pico a witness produced on behalf of the Claimants in Case No. 254, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 777 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being interpreted by Daniel Murphy a sworn interpreter

PRESENT: P. Della Ima U S Attorney
Wm. T. Wallace for Claimants.

QUESTION BY Claimants.

1st Question. What is your name age and place of residence.
1st Answer. My name is Antonio Maria Pico. I am forty eight years of age and I live at San José.
2nd Question. How long have you resided at San José
2nd Answer. I have lived in San José since 1835. I lived in the vicinity of San José since 1822
3rd Question. What offices if any have you ever held in San José and at what times did you hold them.
3rd Answer. In 1835 I was Alcalde, in 1841 I was Justice of the Peace, in 1844 I was Alcalde

and also in 1845 - and in 1849 I was prefect
4th Question - Do you know the lands claimed
in this case by the heirs of Anastasio Cha
bolla deceased.
4th Answer - I do -
5th Question - Did you ever know Anastasio
Chabolla or any one else to occupy said
lands and if so when did you first
know them to be occupied and by whom -
5th Answer - I knew Chabolla (Anastasio) to
occupy these lands in 1835 - and 1838 after
which Chabolla left the Pueblo.
6th Question - What, if anything, did you
know Anastasio Chabolla to do on this land
during the period you have spoken of
6th Answer - He had a little mud and
stick house upon it what they general
ly called a box house and he sowed
beans watermelons and corn for the
use of his family and irrigated it
from the acequia -
7th Question - When did Chabolla move away
from the land -
7th Answer - I think it was in 1843 that
Anastasio Chabolla went away from the
land and left Isodoro Guillen on the
land - and Guillen was Alcalde at
that time and I used to go there to
see him on business -
8th Question How long did Guillen continue
to live on the land.
8th Answer - Guillen stood there a good
while - I do not remember how long.
9th Question - From 1835 to the time
that Guillen moved away do you
know when land this was reputed

to be. (objected to by the U.S. Attorney as being irrelevant & incompetent)
9th Answer. It was always known as the land of Anastacio Chabolla - I mean it was always reputed to be his land.
10th Question - Whose land did you know it to be during that time.
(objected to for reasons last above assigned by the U.S. Attorney)
10th Answer - I knew it to be Anastacios Chabolla's land then - I don't know who owns it now.
11th Question - During the period of which you have spoken did you ever know any one to dispute the right of Chabolla to that land - (objected to by the U.S. Atty on the same ground as above)
11th Answer - I never did - Anastacio bought the land of Rafael Soto -
12th Question - Did you ever hear Anastacio Chabolla while he was in the occupation of the land say anything about his right or claim to it. (objected to as incompetent and tending to introduce into evidence the declarations of Anastacio Chabolla in behalf of his estate)
12th Answer - Yes.

13th Question - What did he say
(Objected to as incompetent ~~tending~~ seeking to introduce hearsay testimony, and the declarations of Anastacio Chabolla in evidence)
13th Answer - I heard him while he was living on the land say that he had bought it of Rafael Soto -
14th Question - Did you know Rafael Soto -
14th Answer. I knew him a long time -
15th Question - Is he living now.
15th Answer He is dead -
16th Question - How long did he live after Chabolla was living on the land -
(Objected to as irrelevant by the U.S. Attorney)
16th Answer - He lived in or near the Pueblo San Juan for many years after that -
17th Question - Did you ever hear Soto say anything in relation to the ownership of the land by Chabolla -
(Objected to as irrelevant incompetent and seeking to introduce hearsay evidence)
17th Answer - I heard Soto say that he had sold it to Chabolla for a Rooster -
18th Question - What did you ever hear Mueller say if anything while he was living on the land as to what tenant he was upon said land -
(Objected for the same reason last above

assumed and that it is leading-)
18th Answer- He said that Pedro Chabolla the Brother of Anastasio put him there and that Anastasio Chabolla left him there-
19th Question- When did you first know of the land being taken from Chabolla or held by others in denial of his right.
(Objected to as incompetent assuming a fact not proved and seeking to introduce hearsay testimony and irrelevant)
19th Answer- In 1847 when Burton was Alcalde myself and Chabolla and a good many others made a protest against granting them lands- protesting that these were not lands to be given away by him Burton-
20th Question- What answer if any did Burton make to the protest.
(Objected to as irrelevant incompetent seeking to introduce hearsay in evidence)
20th Answer- He answered that the Californians had better shut their mouths- and he said something else in the English language which I did not understand
21st Question- What did Burton do with the lands claimed in this case, as Alcalde, if anything.
21st Answer- He went on to making grants

of them to other persons.

22nd Question - Do you know what has become of the archives and public papers of the old Pueblo of San Juan generally.

22nd Answer - The most of them have been lost.

23rd Question - Did you ever know them to be moved about or taken from their usual and proper place of deposit.

23rd Answer - I do not know of them being taken away any where but they are a great many of them lost.

24th Question - Did you ever know them to be in the custody of any soldiers and if so when and where and what were they doing with them - (objected to as leading)

24th Answer - Yes in the revolution the soldiers took some of them to make wadding and they were ordered to be shot up by the officers. (Answer objected to in part as not being responsive to the question and in part as being hearsay)

25th Question - What books or papers if any did you ever know to be in the archives at San Juan in relation to the titles of Spanish lands in San Juan. and Or

25th Answer - There were two packages one little one and one big one containing divers kinds of the Spanish grants - and particularly of the

fundador grants - they were written and bound together - (Answer objected to as being incompetent and irrelevant testimony)

26th Question - What has become of the large book you have spoken of -

26th Answer - I do not know what has become of it. It was there when I was there -

27th Question - Did you ever make an examination in later years among the archives to find that book

27th Answer - The large book I looked for in later years but I could not find it - I do not know whether it is there or not.

28th Question - When did you look for it and did not find it among the archives.

28th Answer - I looked for it last year among the archives and did not find it.

29th Question - Look upon the copy of a book now placed in your hands and marked ("Exhibit "A") and say what you know about the original and whether you have compared ~~it with the or~~ this copy with the original -

29th Answer. It is a copy of the original - I compared it with the original - The original was ~~for~~ for the security for those who had grants there.

30th Question - What faith or credit was given to the original in the archives while you were an officer - (objected to as incompetent)

30th Answer. The original was recognized as a list of Soldiers given to the Pueblados.

31st Question - Do you know the rubric or signature of Macario Castro.

31st Answer. I have seen his signature in the Archives to many public documents there - he has a commission - I never saw him and of course I never saw him write -.

32nd Question - Is he living or dead and if dead how long has he been dead -

32nd Answer - He is dead but I do not know how long since he died -

33rd Question. From what you have seen of his signature in the archives can you state whether or not in your opinion the original of which "Exhibit "A" is a copy contains the genuine signature of Macario Castro. (objected to as incompetent)

33rd Answer - I never saw him write - but I have seen his signature in the archives and from that I have formed the opinion that his signature to the original book of which "Exhibit A" is a copy is his genuine signature -.

Cross examination -

1st Question - Where is Isidoro Guillen -

1st Answer I do not know where he is now - but his family live in Santa Clara - I have seen him three or six months ago - I think he

is in Santa Barbara I think he will be here soon.

2nd Question. How do you know that the land claimed in this case is the property of Chabolla.

2nd Answer. I know it because Chabolla told me so and Rafael Soto told me he had sold it to Chabolla.

3rd Question. How do you know that Soto sold it to Chabolla.

Answer. Because Soto told me that he had sold it to Chabolla for a ~~fighting cock~~ Rooster.

4th Question. When did you have the above conversations with Chabolla & Soto.

4th Answer. I do not remember. I can not remember the precise time. It was during their life time. I do not recollect how many years ago.

5th Question. Where is John Burton.

5th Answer. He is dead.

5th Question. Was your protest to him in writing.

5th Answer. It was

6th Question. Did Burton speak Spanish

6th Answer. He spoke half Spanish. but understood Spanish.

7th Question. Did you ever see Micaela Castro's signature in the archives upon any other documents than the original of "Exhibit A" to your deposition.

7th Answer. I have seen it upon other papers.
8th Question. How many
8th Answer. Upon different papers.
The foregoing deposition and each part thereof is objected to by the U.S. Attorney as being irrelevant incompetent and hearsay testimony.

Sworn to & subscribed
before me this 8th day
of September A.D. 1857

Antonio M.ª Pico

J. Gagalgyme
Special Commissioner

No. 2554

U. S. Dist Court

Widow & heirs of
Anastasio Chabolla
vs
The United States

Deposition of Antonio
Maria Pico.

Filed Nov 12th 1857
H. Wyatt Byrne
Deputy

Transcript of the record and proceedings in the case of Anastasio Chabolla against James Dick in the District Court of the Third Judicial District in and for the County of Santa Clara in the State of California—

Be it remembered that on the 10th day of July A.D. 1851 Anastasio Chabolla files in the District Court of the Third Judicial District in and for the County of Santa Clara in the State of California his certain complaint in writing in the words and figures as follows: to wit:

Anastasio Chabolla against James Dick — In the District Court of the Third Judicial District in and for the County of Santa Clara in the State of California—

Anastasio Chabolla a resident of the County of Santa Clara in the State of California represents that on the day of 1847 he and those under whom he claims had been for more than twenty years in the quiet and peaceable possession of a certain tract of land lying in the former Pueblo now City of San José in said County and State including within its limits the lot known on the plan of the City of San José as lot number twelve in Block 2 Range 1 said lot being a corner lot fronting one hundred and thirty-seven and one half feet on first street and one hundred and thirty-seven

and one half feet on Santa Clara street. That he is entitled to the possession of said lot. That Dick also a resident of said County — on or about the said day of 1847 unlawfully entered and took possession of said lot. The complainant prays that said Dick be adjudged to restore to him the possession of said lot and to pay to him the sum of Two Thousand Dollars damages for his unlawful entry and the further sum of Two Thousand Dollars for the use and occupation of the premises

Crittenden & Wallace
p.q.

Endorsed — No. 550 — Anastasio Chabolla vs. Dick — Continued August 7th 1851 — Filed July 10th 1851 — H. C. Melone, Clerk

Anastasio Chabolla vs James Dick } In the District Court of the 3d Judicial District for the County of Santa Clara —

1 — And the said defendant James Dick for answer unto the complaint of the said plaintiff saith that he denies all and singular the allegations of said complaint and puts himself upon the country.

2. And for a further answer the said defendant saith that the title to said lot now is and was at the commencement of this suit in himself and not in plaintiff and this he is ready to verify — Burnett & Rylaind
Attys. for deft.

Endorsed — Anastasio Chabolla vs James Dick —

self and not in plaintiff's behalf is ready to verify — Bennett & Boyland
Attys for deft

Endorsed — Anastasio Chabolla vs James Lick — Answer — Filed August 4th 1851. H. C. Melone, Clerk —

Anastasio Chabolla against James Lick } In the District Court of the Third Judicial District for the County of Santa Clara in the State of California.

Thomas B. Godden being sworn, states, that he is the agent and Attorney in fact of the Plaintiff in this suit and is specially charged with conducting the same — that the said Plaintiff is now absent from the County of Santa Clara which is the reason why this affidavit is made by this affiant instead of the plaintiff himself — that the claim of the Plaintiff which is being litigated in this suit extends over a large and valuable portion of the City of San José and that the decision of the Questions presented in this suit directly and immediately affects the title of a large number of persons claiming lots in said City and who affect to hold said lots adversely to the claim of the Plaintiff and that on this account such a prejudice is caused against the Plaintiffs claim in the County of Santa Clara that an impartial trial of said cause cannot be had in said County of Santa Clara — That the facts above set forth are within the personal knowledge of this affiant

Thos B. Godden

Sworn to and subscribed before me this 16th day of October 1857 H. C. Melone Clerk

Upon the following affidavit the Plaintiff by his Attorneys moves the Court that an order be granted to change the place of trial of this cause Cutten & Wallace

p'ff

Endorsed — Anastasio Chabolla vs James Dick —
Affidavit & motion — Filed October 16th 1857
H. C. Melone — Clerk. — Overruled Oct 17th 1857
H. C. Melone, Clerk —

Chabolla vs Dick — In the special term of the District Court of the County of Santa Clara in the State of California —
October term 1857.

Be it remembered that the Plaintiff appears and filed the following affidavit & motion (here insert it) and thereupon the Plaintiff moved the Court that an order be granted to change the place of trial of this cause — to which motion the defendant by his Counsel appeared and objected to the sufficiency of said affidavit and proceeded to argue the same and during said argument the Court of its own motion suggested that the parties Plaintiff and defendant might each produce and orally examine witnesses as to the existence of any prejudice in the minds of the people of said County — as alleged in the affidavit against the claim of the Plaintiff in this suit and thereupon the Plaintiff excepted to the said ruling of the Court which exception was overruled by the Court and thereupon defendant produced and offered to examine divers witnesses orally as to the existence of such prejudice as aforesaid, to examining each and all of said

witnesses the Plaintiff objected which objection was overruled by the Court to which

witnesses the Plaintiff objected which objection was overruled by the Court and thereupon the evidence of said witness being heard the Plaintiff not asking the Court for further time. the Court overruled the motion of the Plaintiff to change the place of trial in this cause — To which several decisions of the Court the Plaintiff excepted and now here tenders this his bill of exceptions which he prays may be signed and made part of the record which is done —

C. P. Hester —

Endorsed — A. Chabolla vs James Lick —
Bill of Exceptions — Filed Oct 17th 1851 —
H. C. Melone, Clerk —

Thursday August 7th A. D. 1851

A. Chabolla
vs } Ejectment
Lick

By consent of parties this cause is continued

C. P. Hester

Special October term. Oct 17th A. D. 1851

A. Chabolla
vs.
James Lick } Now comes the parties by their Attorneys and the motion filed by the Plaintiff for a change of venue is taken up for argument and E. L. Beard, J. W. Patrick, Rob-

-cism — Coffee, J. F. Reed, J. D. Hoppe & H. C. Smith being sworn to answer questions the matters in said motion is submitted to the Court and overruled to which Plaintiff excepts and files his bill of exceptions —

C. P. Hester

Monday October 20th A. D. 1851 —

A. Chabolla
vs
James Leek

Now comes the Plaintiff by his Attorney and moves the Court to designate the amount of money to be deposited with the Clerk of this Court to pay the costs of the appeal upon the motion for a change of venue herein. It is therefore ordered by the Court that the plaintiff deposit in Court the sum of Two hundred Dollars to pay such costs as may accrue on said appeal —

Saturday December 6th A. D. 1851
Anastasio Chabolla
vs. Ejectment
James Leek

By agreement of parties this cause is continued

February 2d A. D. 1852

Anastasio Chabolla

February 2nd A. D. 1852

Anastasio Chabolla
vs.
James Lick

This cause is continued

Monday. May 3d A. D. 1852—

Anastasio Chabolla
vs.
James Lick

This cause is continued by order of the Court—

Monday. August 2d A. D. 1852.

Anastasio Chabolla
vs
James Lick

Ejectment

Now comes the Plff by his attys Crittenden & Wallace and waive the motion for a change of venue and moves the Court to proceed with the cause whereupon the Court set this cause for trial Wednesday the 4th day of August 1852.

Tuesday. August 10th A. D. 1852—

Antasio Chabolla
vs
James Lick

By consent of parties in open Court this cause is continued—

Monday November 22nd A. D. 1852 –

A. Chaballa
vs } Ejectment
James Leck

Now comes the parties by their Attorneys and this cause is set for trial by the Court for Friday the 26th inst. and there being no jury summoned for this term of the Court. It is ordered by the Court that the Sheriff summons from the body of the County but not from the bystanders Eighteen good and lawful men to be and appear at the Court house in the City of San José on the 26th inst at 10 O'clock A. M. out of whom to form a jury for the above entitled cause

Friday November 26th A. D. 1852.

A. Chaballo
vs } Ejectment
James Leck

Now comes the parties by their attorneys and issue being joined and the Sheriff having returned into Court the following named jurors to wit: J. Letcher, James Clark, Thomas Jamison, Edward Hopkins, A. J. Coddington, P. Norton, M. M. McCoy, James Gulay, A. Freeman, E. McGowen, H. Clark, and J. W. Powell. Twelve good and lawful men who were duly sworn to well and truly try the issue joined and their verdict render according to evidence Mariano Castro being sworn as a witness and his evidence not being concluded the Court charged the jury and adjourned until to morrow

7 O'clock A. M.

charged the jury and adjourned

9. O'clock A. M.

C. P. Hester

Saturday November 29th A. D. 1852

Anastasio Chabolla
vs. } Ejectment
James Lick

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Now comes the parties by their Attorneys as also the aforesaid Jury to wit: J. Letcher, J. Clark, Thomas Jamison, Edward ~~Mc Gowen~~ Hopkins, A. J. Coddington, P. Norton, M. M. Mc Coy, James Gurly, A. Freeman, E. Mc Gowen, H. Clark, and J. W. Powell, and the evidence of the following witnesses being heard to wit: Manuel Castro, and Antonio Suñol and the evidence not being closed the Court charged the Jury and adjourned until Monday the 29th inst at 9. O'clock A. M.

C. P. Hester

Nov 29th 1852

Monday, November 29th 1852.

Anastasio Chabolla
vs. } Ejectment
James Lick

Now comes the parties by their Attorneys as also the aforesaid jury to wit: J. Letcher, James Clark, Thomas Jamison, Edward Hopkins, A. J. Coddington, P. Norton, M. M. Mc Coy, James Gurley, A. Freeman, E. Mc Gowan, H. Clark, and J. W. Powell, and the evidence of the following witnesses being heard to wit: A. C. Campbell, José Feliz, and Isidro Guillen

and the evidence not being closed, the Court charged the jury allowed them to dispense until 9 O'clock A. M. tomorrow –

Tuesday November 30th A. D. 1852.

Anastasio Chabolla
vs. } Ejectment
James Leck

Now comes the parties by their Attorneys as also the aforesaid jury, and the evidence of the following witnesses being heard to wit: C. J. Ryland, Antonio Pico, Thomas White, C. E. Allen, Juan Soto, and James Weeks, and the evidence not being concluded the Court charged the jury and adjourned until ~~monday~~ tomorrow 9 O'clock A. M.

Dec 1st 1852. C. P. Hester.

Wednesday December 1st A. D. 1852.

Anastasio Chabolla
vs } Ejectment
James Leck

Now comes the parties by their Attorneys as also the aforesaid jury and the evidence of the following witnesses being heard to wit: Manuel Pinto, H. Fleitinger Isaac Brenham, Thomas Campbell, William Campbell, and Rosa Gongora, and the evidence not being concluded the Court charged the jury and adjourned until tomorrow 9 O'clock A. M.

C. P. Hester

Dec 2d 1852

A. M.
Dec 2d 1852

Thursday December 2d A. D. 1852 –

Anastasio Chabolla
vs } Ejectment
James Lick

Now comes the parties by their Attorneys as also the aforesaid Jury and the evidence of the following witnesses being heard to wit: Julius Martin, John Murphy, P. Quincy, and Henry Bee, and the evidence being closed the Court charged the Jury and allowed them to dispense until tomorrow 8½ O'clock A. M.

Friday. December 3d A. D. 1852.

Anastasio Chabolla
vs } Ejectment
James Lick

Now comes the parties by their Attorneys as also the aforesaid jury and the argument of Counsel not being closed the Court charged the jury and adjourned until tomorrow half past 8 O'clock A. M.

C. P. Hester

Dec 4th 1852

Anastasio Chabolla
vs. } Ejectment
James Lick

This cause came on for trial on November the 26th A. D. 1852 and the following juris were duly sworn to wit: F. Detcher, James Clark, Thomas Hanson, Edward

Hopkins, A. J. Coddington, P. Norton, M. M. McCoy, James Bailey, A. Freeman, C. McGowen, H. Clark, and J. W. Powell and continued from day to day and the evidence of the following witnesses being heard, to wit; Mariano Castro Antonio Sunol, A. C. Campbell, Jose Feliz; Isidro Guillen, C. J. Ryland, Antonio M. Pico, Thomas White, C. E. Allen, Juan Soto, James Weeks, Manuel Pinto, C. Fleitinger, Isaac Brenham, Thomas Campbell, William Campbell, Rosa Gongora, Julius Martin, John Murphy, Peter Quiey and Henry Bee, and the argument of counsel being closed the Court instructed the jury who retired under charge of Joseph Rouse a sworn Bailiff and came into Court, and reported they could not agree upon a verdict, thereupon by agreement of parties the jury is discharged by the Court.

Monday February 7th A. D. 1853.

Anastasio Chabolla
vs. } Ejectment
James Duck

In this cause the death of the Plaintiff is suggested to the Court

Saturday August 15th A. D. 1857

Anistasio Chabolla }
vs }

James Duck }

James Lick }

Now comes James Lick by his Atty A. Archer and moves the Court to be allowed to withdraw map of Survey filed in this cause. It is ordered that said Lick be allowed to withdraw said map from the files of this Court.

State of California }
Santa Clara County }
I John B Henson County Clerk of the County of Santa Clara in the State of California and ex officio Clerk of the District Court of the Third Judicial District of the said State of California in and for the said County of Santa Clara do certify that the foregoing transcript consisting of twelve pages (and including the clip of writing attached to the fourth page of said transcript) is a full true and perfect transcript of the record remaining in my office in the case of Adaristo Chabolla against James Lick. In testimony whereof I have hereunto set my hand and affixed the seal of the said District Court at my office on this the Eleventh day of November A.D. 1857.

Jno B. Henson Clerk
By Levi P Peck Deputy.

"J. E. Y. W."

Exhibit "J. E. G. No 2."

In the Matter of the Estate of Anastasio Chabolla decd

State of California
County of Santa Clara

Antonio Maria Pico & Jose Noriega being appointed by the Probate Court of said County as appraisers of the aforesaid estate being duly sworn say they will truly honestly & impartially appraise the property of the aforesaid estate which shall be exhibited to them to the best of their knowledge & ability

Sworn to & subscribed before me this 24th day of July A. D. 1855.
Jno. B. Hausen Clerk

Antonio Ma. Pico
Jose Noriega
Appraisers

The following being the inventory of the property appraised by the aforesaid appraisers being the the property represented to them as the property belonging to the Estate of Anastasio Chabolla deceased said appraisement & inventory made this 24th day of July A. D. 1855.

Undivided half of the Ranch called Cosumnes lying in the Counties of San Joaquin and Sacramento containing about 8 Spanish leagues & 3 pr acre 17.760 acres	$53.280.00
1 Lot on the corner of Market st & Eldorado in the City of San Jose being about 21 feet front on Market st & about 60 feet on Eldorado	1500.00
	$54.780.00

Amt Carried over

Amt bot forward $54.780.00

Undivided half of two suertes of land lying in the City of San José which is located the old City Hotel Mansion House & many others said suertes contain each 200 Spanish varas square 10.000.00

An obligation against Joaquin Ortega of San Diego County for 800 cows & calves with them no value known to the appraisers that said Ortega is insolvent and unable to pay $64.780.00

Antonio Mª Pico
José Noriega } Appraisers

Estate of Anastacio Chabolla decd
To A. M. Pico Dr
To services one day as appraiser $5.00

State of California
Santa Clara County

A. M. Pico upon oath that the foregoing item is correct

Antonio Mª Pico

Sworn to and subscribed before me this 6th day of Aug 1850.

Jno. B. Hawson Clerk

Estate of Anastasio Chabolla decd
To José Noriega Dr

State of California

Santa Cl Co } To services one day as appraiser
$5,00

J. Noriega upon oath saith the above item is correct Jose Noriega

Sworn to & subscribed before me this 6th day of August 1855. Jno. B. Hewson Clerk

Recd of John Yontz Public Administrator of Santa Clara County & as such administrator of the estate of Anastasio Chabolla decd Ten dollars being in full for one days service each as appraisers on said estate.

San Jose Antonio Mª Pico
Augst 6th 1855 } Jose Noriega } Appraisers

State of California
Santa Clara County } S.S.

I John Yontz Public Administrator for said County and administrator of the estate of Anastasio Chabolla decd do solemnly swear that the foregoing inventory contains a true statement of all the Estate of the deceased Anastasio Chabolla which has come to my knowledge and possession that no money whatever belonging to the Estate of the decedent has come to my knowledge or possession and that the deceased had not at the time of his death nor has his estate now any just claim against this affiant John Yontz

Sworn to and subscribed before me this 16th day of August A.D. 1855

Jno B. Hewson Clerk

Endorsed —
In the Matter of the Estate of Anastacio Chabolla dec'd. — Inventory
Filed Augt 16th 1855. Jno B Henson Clerk

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State of California }
Santa Clara County }
I John B. Henson County Clerk of the County of Santa Clara in the State of California and ex officio Clerk of the Probate Court of the said County of Santa Clara do certify that the preceding three pages with the writing at the top of this page constitute a full true and perfect transcript and copy of the inventory and appraisement list in the estate of Anastacio Chabolla deceased now on file in the office of the Clerk of the Probate Court of the said County of Santa Clara. In testimony whereof I have hereunto set my hand and affixed the seal of the Probate Court of said County of Santa Clara at my office on this the eleventh day of November 1857.

Jno B Henson Clerk
By Seri Peck Deputy.

UNITED STATES DISTRICT COURT,
Northern District of California.

Widow & heirs of Anastasio Chabolla
vs
The United States

San Francisco, Nov. 12th 1857

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ON this day, before P. Wagenhome ~~a~~ ~~special~~ ~~referee appointed by the Court~~ Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came William Goveas, J.O. Houghton & R.C. Hopkins a witness produced on behalf of the Claimants in Case No. 254, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 777 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: P. J. Williams representing the U.S. Dist Atty and William Mathews for Claimants

QUESTIONS BY William Mathews Esq

Ques. 1. What is your name age and place of residence?
Ans 1 – My name is William Goveas, 32 years old and I reside at the Pueblo of San José –
Ques 2 – What time did you arrive in the Pueblo of San José?
Ans 2nd – About the last of August 1848.
Ques 3rd – Did you know Anastasio Chabolla and if so at what time did you become acquainted with him?
Ans 3rd – I first knew about became acquainted with Anastasio Chabolla in September of the same year –
Ques 4 – Did you know Thomas B. Godden and if so when did you become acquainted with him?

Ans 4 – I knew him & became acquainted with him in the winter 1849 or 1850 ~~to~~

Ques 5 – Did you ever have any connection with Anastacio Chabolla's title to the Suerte lands of San José and if so what was it?

Ans 5 – I was his attorney in fact and knew that the Suerte lands was his from the people and in fact it was so stated in the power of attorney

(The U.S. Dist Atty objects to the foregoing answer as irrelevant incompetent as being in part hearsay testimony and for the further reason that parole testimony is sought to be given of a written document without its production)

~~The Atty for Claimant so~~

Ques 6th – What relation if any, you know Thos B Godden bore to Chabolya or had with him in connection with his Suertes lands in San José?

Ans 6th – Thos B Godden became his atty in fact after I left over all his property, the Suerte lands included

Ques 7 – Did you ever have any conversation with said Godden in relation to any papers in his possession having reference to Chabolya's title to Suerte lands in San José and if so state the time and the purport of the conversation if you know it?

~~Ans 7~~ – (Objected as irrelevant incompetent and as tending to introduce hearsay testimony)

Ans 7 – About the ~~the~~ middle of March 1853 I came from Santa Cruz and met Godden in San José. I asked him concerning the farm and the Suerte claim of Chabolya the way I addressed Mr Godden was as follows – I said well Tom what about

follows— I said well Tom what about the Sunta land— do you think you will ever get any thing from them— he answered yes I have found the papers— I asked him where he found them— He told me at Santa Clara at the residence of Isidoro Guillen— he told me that he had been there for some other papers knowing that Guillen had been alcalde or Justice of the Peace and came across the Sunta papers by chance— In about week says he to me I am coming down to San Francisco to see my Attorney and take the papers down to him— I never seen Godden since— the last I heard of him is that he was blown up in the Jenny Lind— ~~this was about a month after the accident that he was dead of it~~ I heard— It was about a month after the conversation that I heard he was dead (Answer objected to as irrelevant incompetent and hearsay testimony—)

Ques 8— When did Chabaya die—

Ans 8— I think that he died somewhere in 1852

Ques 9— What relation if any did Godden sustain to the widow & heirs of Anastasio Chabaya and to their Sunta Lands in San Pablo after Chabaya's death— ? and at the time

of the above Conversation?
Ans 9- He was still the Atty in fact and so remained until his death. of all the property the Sunte lands included —

Cross Examination

Ques 10th - How do you know that the said Godden was the Atty in fact of Anastasio Chabaya and subsequently of his Widow & heirs?
Ans 10th - By seeing his power of attorney
Ques 11th - did he show you the papers that he discovered at the residence of Isodoro Guinen -?
Ans 11th - No Sir
Ques 12th - did he tell you how many papers he found -?
Ans 12th - ~~He did not tell~~ He did not - he only told me that he had found the papers in relation to the Sunte Claim

The foregoing deposition and each part thereof as being irrelevant incompetent and hearsay testimony

Sworn to & subscribed before me this 12th day of November AD 1857. William Gomez

J E Gaulgayne
Special Commissioner

Examination adjourned until tomorrow

Examination adjourned until tomorrow at 10 o'clock A. M. Nov. 13th 1857

J. Edgar Poyner
Special Com.rs

Examination resumed Nov. 13th 1857

S. O. Houghton being duly sworn deposes and says:

Ques 1st - What is your name age and place of residence?

Ans 1st - My name is S. O. Houghton, 28 years - reside in the City of San José

Ques 2nd - Are you familiar with the Spanish language?

Ans 2nd I am

Ques 3rd Have you made any examination in the records of the former Pueblo of San José and if so state the character of the examination and search, at whose request and for what papers and when was the examination made?

Ans 3 — I have made examination of the records of the Old Pueblo of San José and I am familiar with those records - There is only one paper there relating to the Sucesión of Rosario Sáez - A copy of that paper is attached to my former Examination and a copy of the same paper is also attached to the deposition

of Antonio Maria Pico filed Nov. 12th 1857 marked Exhibit A as attached to the deposition of Pico and marked as Exhibit E as attached to my former deposition in this Case.

I have made several examination of those records one of which was made in the present week at the request of Mesrs. Mathews & Wallace attys. for Claimants in this Cause From my acquaintance with those records I am satisfied that there is no other paper on file there except the one above referred to.- This last examination was not thorough but was thorough enough to satisfy me being so well acquainted with those records I knew before I made this present examination that there was no such paper there unless they had been placed there within the last 5 or 6 months

~~I have made~~ Ques 4- Have you made any examination and search in the records of the County of Santa Clara? for papers relating to the Sunte of Marcario Suez?

Ans 4- I have made such an examination at the request of the above named attys in this Case and found nothing there but the record of the documents marked in my former deposition Exhibit E

The original of which Exhibit E

The original of which Exhibit H attached to my former deposition is a copy is copied upon the Books of Record in the Recorder's office of Santa Clara County - I am at the present time Deputy Recorder of said County

Ques 5 - Are Exhibit "A" attached to Antº Mar.ª Pico's deposition & Exhibit "H" attached to your former deposition in this Cause copies of the same or affirmed documents?

Ans 5 - They are copies of the same document

Ques 6 - Did the searches made by you as above described extend to the title papers & records of them of Anastasio Chabaya and his heirs & Widow for lands in this Case?

Ans 6 - Yes Sir but found nothing

Ques 7 - What offices if any have you held in the City government of San José?

Ans 7 - I have been Member of the Common Council, and Mayor of the City

Ques 8 - Are you acquainted with the handwriting of of John B Hewston County Clerk of Santa Clara County & of Levi P. Peck his Deputy, if so, state whether the signature to this document now marked Exhibit "F & G No. 1" is the true signature of Levi P. Peck whether the signature appended to ~~also~~ Exhibit marked "F & G No 2" is genuine

Ans 8 - I am acquainted with the signature of both of them - The signatures to both of

the above named Exhibits J E G No 1 & J E G No 2 are the true & genuine signatures of Levi P. Peck Deputy County Clerk

/The Attorney for the claimant now file said exhibits as a part of this deposition/

[The Atty for the U. S. objects to the said Exhibits as being ~~immat~~ irrelevant and incompetent testimony in this case and protest against filing of the same]

Ques 9 – State whether the lot of land described in the Complaint set out in Exhibit "J E G No 1." is upon the tract of land claimed by the Widow & heirs of Anastasio Chabaya in this Cause?

[Objected to as irrelevant & incompetent testimony]

Ans 9 – Part of it is –

Ques 10 – Is the land claimed in the petition of the claimants in this Cause situated in the Northern Section of California?

Ans 10 – Yes Sir it is

Cross Examination

Ques 11 – When was the document (a copy of which marked Exhibit K) attached

to your former deposition recorded in

to your former deposition) recorded in the County Recorder's office of Santa Clara County?

Ans 11 – It has been recorded for a longtime the exact time which I do not know – I believe it was in the time of the alcaldes and I think it was recorded by one of them – this I am not certain about –

I think it was Recorded in 1850 or prior to that –

Ques 12 – When was the Steamboat Jenny Lind blown up?

Ans 12 – Either in March or April 1853 I am not positive in which of these months it was –

Ques 13 – When did Thos B. Godden die –?

Ans 13 – A few days after the Jenny Lind blew up

S. C. Houghton

Sworn to subscribed before me this 13th day of November 1857

J. E. Galpin Special Commissioner

Examination of witnesses adjourned until tomorrow at 10 o'clock a m.

J. E. Galpin
Special Comr

San Francisco Nov. 14th 1857

Counsel for both parties present.
Examination adjourned until Monday Nov. 16th 1857 at 10 o'clock A. M.

J. H. Wendkyne
Special Commissioner

Examination resumed November 16th 1857

R. C. Hopkins being duly sworn deposes and says—

Ques 1. What is your name age & place of residence?
Ans 1. My name is R. C. Hopkins, of lawful age and I reside in San Francisco
Ques 2. What is your occupation?
Ans 2. I am clerk in the U.S. Surveyor General's office and have charge of the archives
Ques 3. Have you made any ~~search~~ search for any papers or grants of Suerte lands ~~to Isa~~ in the former Pueblo of San José to Nasario Saez? and if so at whose request and state the character and the result of said search?
Ans 3. I have made such search at the request of Wm Mathews of San José I have examined the indexes of said archives and have found no grant in the name of Nasario Saez.—

Ques 4 – State whether the indexes are of such a character & your knowledge of them & the papers & archives in the Surveyor General's Office is of such a character as to satisfy you that there is no such grant in said Office?

Ans 4 – The very knowledge of the papers in the archives are such as that I cannot state positively that there may not be some evidence of such grant in said archives without the same appearing on the Indexes of the Same –

Ques 5th – Please state if you know the signature of Wm Mandeville attached to Exhibit "J. E. G No. 3" now attached to your deposition and if so state whether said signature is genuine

Ans – 5 – I saw him sign it –

The said Exhibit is here offered in evidence by the attorney for claimants and the Atty for the U.S. objects to the said document as evidence in this case upon the ground that the same is irrelevant & incompetent testimony –

R. C. Hopkins

Sworn to & subscribed
before me this 16th day of
November A.D. 1857

J Edgar Spence
Special Commissioner

It is hereby agreed by Counsel that the translation of Exhibit J.E.G. No. 3 so soon as it is furnished by R.L. Hopkins shall be filed in this case as a correct translation subject to all objections as to the competency and relevancy of the same as evidence in this Case.

J. Edgar Payne
Special Commissioner

No 2574 21.

United District Court

Nor. Dist of Calⁿ

The United States

vs

The Widow & heirs of Anastacio Chaboya –

Depositions of Wm Gorres – S. O. Houghton & R. C. Hopkins

Filed November 16th 1857

J. Egan Grymes

Deputy clerk

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

The United States
vs
The widow & Heirs of Anastasio Chabolla } No. 254

It is hereby stipulated that on the hearing of this case, it is admitted that a due and proper search has been made in the archives in the office of the Surveyor General of the United States, in for the State of California, for a grant to Navarria Baez for the Sierle lands set out and referred to in the petition of the claimants in this case, and after said diligent search by the proper officers in charge of the papers, no such grant can be found — nor is any copy thereof in said office —

Nov. 16th 1857 —

P. Della Torre
U. S. Atty
Shurtz & Matthews } for Claimants

No 254 22

Widow & Heirs
of
Anastacio Chaboya
vs
United States ~~Claimed~~
No 254

Stipulation

Filed Nov. 16 1857

H. Galloway
Deputy

254 ND
PAGE 234

No 313.

Instruction approved by His Majesty which was made for the establishment of the new town of Petic, in the province of Sonora and ordered to be adopted by the new settlements ~~which~~ projected and which may be established in the District of this Comandancia General.

1st. Although by the law 6, title 8, book 4, it is prohibited to the Viceroys, Supreme Courts, (Audiencias) and Governors to grant titles for cities or towns or to exempt from their principal capitals, the settlements of Spaniards or Indians, this decree is limited to those which shall have been already established, therefore as to the new towns and settlements, it is provided that they observe what is decreed, referring to the other laws, which treat of the subject and as the second law ~~xxii~~ seventh chapter of the same book directs, that the land, province and place, in which a new settlement is to be formed, being selected and the convenience and advantages, which may result therefrom being investigated, the Governor in whose district it should be comprised, shall declare whether it has to be a city, town or village, and conformable to what he shall determine, shall be formed the council, government and offices of it, in the act of this power, bearing in mind the extent of the place selected and the advantages which their lands being fertilized by the benefit of irrigation by means of the principal canal constructed for this purpose, provided, Your Honors may declare the new settlement a town, determining the name it shall bear and have for its distinction and recognition.

In conformity with what is determined in law 6. title 5. of the same book 4, relative to Spanish towns which were formed by agreement or contract, and first in relation to those which for want of contractors, might be founded by private settlers, who shall establish themselves and agree to found them, there may be conceded to the towns in question four leagues of district or territory in a square form or in extent as shall be adapted to the better location of the land that may be selected & marked out so that its true limits may be known and recognized, as far as they extend, wherein there can be no inconvenience by means of its being distant more than five leagues from any other village, town or city of Spaniards. There shall not result injury to any private individual or to any pueblo of Indians, by the (pueblos of the Seris remaining within the limits as a part ~~of the~~ or Suburb of the new settlement, subject to its jurisdiction and with the advantage of enjoying as neighbors the same benefits, public and common, which the settlers may have, & of which, now, these natives are wanting from their indolence, want of application and of intelligence, reserving for themselves the power of selecting their alcaldes and officers, with the jurisdiction "economica" and other circumstances which the laws 15 & 16. title 3, book 6. provide,

3 The Presidio of San Miguel de Orcantas, having been removed to the locality of Pitic, in order that, under its protection and support may be founded the new settlement, in conformity with that which is required in the articles 1st & 2d of the new regulation of Presidios, of the 10th of September 1772. and in the 50th Article of the old regulation of the Señor

Viceroy, Marquis of Casafuerte of the 20th of April 1729. which by the Royal order of the 19th of May 1779. is ordered to be observed, the political Government and the Royal jurisdiction ordinary, civil and criminal of first instance of the new settlement, belonged to its capitain or Comandante, which he should exercise while the Presidio should be established, in that place, with the appeals to the Royal Supreme Court of the District, but his Honour resolved that the company should be considered as detached in the new settlement, and consequently that the use and exercise of the Royal Jurisdiction remain in charge of the Political Governor of the Province and of the first Alcalde (Alcalde Maior) or Lieutenant which you shall name, it is made necessary that the election of this officer may fall upon a person of sufficient instruction and knowledge, to promote the advancement of the new settlement, to make the distribution of the houses, lots (solares) and water privileges — and to observe with exactness the articles of this Instruction and the other orders that may be successively communicated to you,

4th — For your better rule of conduct and government, conformably with the requirements of the laws 10th, title 5th 2. & 19. title 1st, 2 & 3d, title 10th book 4th — of the recopilacion, as soon as the number of the new settlement shall reach to that of thirty residents, there shall be established a council, Cavildo, or ayuntamiento, to be composed of the ordinary alcaldes six Regedores, a Prosecuting Attorney (Procurador, sindico ó personero) of the community and a Mayordomo de Propios to whom charge shall devolve the economical management, the care of the supplying of provisions and of the cleanliness and police of the new settlement, the capitulares referred to being elected the first time by all of the residents and in the subsequent elections

by the members of the Ayuntamiento, conformably to what the laws provide upon this subject, and the election shall be returned annually to the Political Governor of the Province, so that by means of his approbation, the officers elected can take possession and enter upon the enjoyment and discharge of their respective offices.

5th. The two ordinary Alcaldes shall also exercise by way of precaution and "aprevencion" with the first Alcalde or Commissioner, the royal jurisdiction ordinary, civil and criminal in first instance subject to appeals to the Royal Supreme Court to the Governor and to the Ayuntamiento, in the cases wherein they correspond to each and every one, by the laws of the Kingdom as provided in the first and following title 3d, book 5th.

6th The land of four leagues granted to the new settlement being surveyed and marked out, its pastures, wood and water privileges, hunting ground, fishery and stone quarry, and other things which they may produce, shall be for the common welfare of the Spaniards and Indians residing therein or on the suburb or village of the Sais, as also shall be the pastures of the lands and estates, the grain which they shall have sowed therein being harvested, as provided by the laws, 5th and following, title 17 — book 4. of the Recopilacion.

7th — The residents and natives shall also enjoy the benefits of the woods, pastures, waters and other advantages of such royal or vacant lands as may lie without the limits assigned to the new settlement in common with the ~~[illegible]~~ residents and natives of the neighbouring Pueblos — which right and power shall exist until such lands may be granted or alienated by his Majesty, in which case these matters shall be regulated in accordance with the provisions

of the grants issued to the new persons or owners.

8th The place most appropriate for the new settlement having been selected and marked out, the Commissioner will superintend the establishment of the same and see that all the houses and other edifices that may successively be constructed, may be in accordance with the plan formed by the Engineer Extraordinary, Don Manuel Mascaro, which, to the end that it may be observed, shall be placed as a heading to this Municipal ordinance and instruction, under which method or plan, the streets shall be laid out in straight lines, in such a manner as most to facilitate the traffic and communication of the residents with each other, this regularity and symetry, contributing to the beauty of the settlement, its cleanliness and health to the benefit of the residents.

9th The place that every block must occupy being marked out in the plan and it not being easy to prescribe the solar tract that may be sufficient for every resident settler, on account of the inequality that may exist between the families, the means of those that are determined to become so, it is left to the prudent judgment of the Commissioner to assign to each Solar the number of varas, that each one in his estimation according to the condition and circumstances of his family may need, to which end and that all may have that which corresponds to their circumstances, he may assign one block, one half, quarter or eighth part, which are the divisions most adequate to produce the greatest possible uniformity in the edifices of the settlement.

10th To avoid any complaints that might arise from the voluntary distribution of Solares, on account of preference that might be given to one over another, the distribution shall be made among the first settlers, by casting lots as required by law 11.

tit. 7. lib. 4. de la Recopilacion.

11th The Engineer Extraordinary Don Manuel de Mascaro having marked out the place in which the new settlement is to be established, there will be left on the four sides, commons sufficient for the recreation of the settlers, the harmless grazing of their flocks; and in order, as the settlement increases, that, there may be land to grant to the inhabitants, on which to erect their habitations, in accordance with the laws 17. 13. & 14 of the before cited tit. 7. lib 4 de la Recopilacion.

12th In the same manner there shall be designated and marked out the pasture ground or cattle meadows which shall be sufficiently large to supply with abundant pasture the working cattle and those that may be designed to supply the new settlement with provisions, and for this purpose such lands shall be selected as yield abundant pasture and are not of the best quality for producing grains, fruits and vegetables suitable for the consumption & subsistence of the settlers and their families, as required by the said laws 7 & 14. tit. 7. Book 4 de la recopilacion.

13th The Commons, pasture grounds, or cattle meadow being marked out, the Commissioner will make a prudent estimation of all the useful and fertile land susceptible of being irrigated by means of the canal constructed for that purpose and an estimation of the remainder, that without possessing this advantage, may be considered appropriate for the growth of such grains as do not require irrigation and dividing each class into "Suertes" equal to Four Hundred Varas in length by Two Hundred varas in width, the same being the quantity of land required for the sowing of one fanega of Indian Corn, he will obtain a knowledge of the number of suertes of each class, that may be for distribution among the

new settlers and among those, in the future, that may

new settlers and among them, in the future, that may be added to them.

14th The Suertes being thus divided, there shall be designated and marked out, eight of such as are most useful, lying nearest the pueblo, and enjoying the benefit of irrigation, which shall remain as a pueblo fund (fondo de propios) the proceeds of which will be subject to the administration of the Mayor domo, appointed by the Ayuntamiento, who will be required to present annual accounts, which will be examined and approved, previously referring them to the Agent or attorney of the community, in order that he may make such notes and observations in their defend as he may deem ~~xxxxx~~ corresponding and just; and admitting that the proceeds should be used for the public benefit of all the inhabitants, under the rules which may have been established for securing its faithful management and legitimate disbursement and that actually there is no public fund with which to defray the expenses of their first cultivations, cornfields and crops, the settlers shall be under the obligation of meeting, to perform them personally or by means of their servants yokes of oxen and cattle, in the equitable manner in which the Commissioner shall arrange the work (la faena del trabajo) in such a manner that all shall participate in it, without exception of any settler or resident, with the understanding that this arrangement shall be limited to the first ploughing, sowing and harvest, with the proceeds of which shall be defrayed the costs of the successive, leaving the nett balance for the benefit of the common fund, to employ it in objects for the public welfare, notwithstanding by the laws of the kingdom these stocks are appropriated.

15th The making out and the adjudging of the eight Suertes of the irrigable land for the benefit of the

common fund of the new settlement being confirmed the remaining which might be useful in the District be they ingable or dependant upon the seasons (temporal) shall remain for the benefit of the settlers, to whom they shall be distributed and granted (mercenado) as they establish themselves therein, and it not being possible to give a fixed rule as to the number of the suertes which shall be distributed and granted to each settler, to the prudent judgment of the Commissioner is to be allowed the power of seg==regating and granting those which he shall consider sufficient for the maintenance of the family of every one, bearing in mind the number of persons who compose it, those which should have among them useful ones for the work and cultivation, the implements for farming and other utensils, which each one might own, to undertake it; and finally, their respective industry, as it is just that he who might possess it, should obtain in recom=pense thereof, a greater number of lots, than those who by indolence and inapplication, should leave without cultivation those which shall have been marked out for them; under considerations which you will make the first distribution among the actual settlers, not exceeding three suertes, which can be granted to every one, leaving the remaining for distribution to those who shall hereafter be added to the settlement, to the sons of families, who becoming actual settlers, belong to the class of residents, or to the same settlers who by their industry and application with which they may have devoted themselves to the culti=vation of the first distributed suertes, deserve an increase of others, which never shall exceed the same number, which in the first distribution they had marked out to them.

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has marked out to them.

16th. It being very convenient to the settlers that the number of suertes which shall be distributed to them, shall be united and contiguous to each other, in order that in this manner they may better attend to its cultivation, without the annoyance which the distance from one land to the other occasions the Commissioner shall bear in mind this consideration to adapt to the settlers, as far as may be possible, the advantage of the assemblage of ~~the~~ suertes or at least the less distance which can be made to exist between those which shall be distributed to them, and so as to avoid the complaints which might result by the improvement of some lands over others after they may be divided in the form prescribed he, the Commissioner shall proceed to make the first division casting lots among the settlers, accordingly and as is provided, with respect to the solares up to the 10th article of this instruction.

17th. The Commissioner in whose charge shall be the new settlement and the distribution of lands and town lots shall make a book or register, in which may be found the original proceedings of distribution which should be taken, which shall be kept in the archives of the Ayuntamiento of the new settlement, and in reference to these he shall give a certificate or schedule certified, which explains with brevity, distinctness and clearness the "cavida" boundaries of the and town lots and suertes which he may have respectively assigned to them, which instrument shall serve as a title of property (de pertinencia) for them, their children and descendants, warning them that for this object they shall keep and preserve it and if they should lose it by some unintentional accident, they can have recourse to the Commissioner or Ayuntamiento, who shall give them a true copy of the proceedings, which for this purpose shall remain

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in the archives.

18th. So that in the original steps of distribution as in the schedules or titles of property (de pertenencia) which should be given ~~be given~~ to the settlers, the Commissioner shall likewise make known that the town lots and lands are distributed ~~xxx xxx~~ and granted in the name of his Majesty, perpetually and for ever and ever and by right of inheritance for themselves, their children and descendants, with the positive condition that they shall keep arms and horses and be ready to defend the country from the insults of its enemies, who should commit hostilities against it and to march against them whenever they shall be ordered; who shall build and occupy their houses and reside with their families in the new settlement, at least for the period of four years; that during this time they can not alienate, hipothecate or impose any incumbrance whatever upon the lands and town lots, which shall have been distributed to them, even though it may be with a pious motive; that within the exact term of two years, they shall have worked and cultivated the lands, which shall have been granted to them and at least have commenced the houses on the town lots, which shall have been assigned to them, under the penalty of loosing both, he who having abandoned them over this length of time, they may be given to another more industrious; that having complied with these conditions and resided four years with house and family in the new settlement shall acquire the real dominion over the lands and town lots which may have been granted them, and of the houses and edifices in which they shall have worked, and they shall have the power thereafter, to dispose of them at their own will freely — as of a thing of

their own as provided by the law 1st, title 12th book 4th. of the recopilacion, but under the stipulation that they never can sell or alienate them to a church monastery or member of an ecclesiastical community, (persona Ecc.a comunidad) nor any of them called mort-main, as provided in law first, of the same title and book, under the penalty that he who shall violate the law, of loosing the land and edifices, which in this case can be distributed to others and finally within three months after having made the grant and distribution they shall be obliged to take possession of the building lots and lands which shall have been marked out to them and to plant all of the boundaries and borders thereof with fruit trees or others which may be useful to the supplying of the settlement, by which means the district shall enjoy a good and peaceable management, and they may avail themselves of the fruit, wood and timber which shall be produced for their domestic uses and for the farming utensils which they necessarily require, as provided in law 10th of said title and book

19th. The advantages of irrigation being the principal means of fertilizing the lands and the most conducive to the encouragement of the settlement, the Commissioner shall take particular care to distribute the waters in such a manner so that all of the land which may be irrigable, may partake of them, especially in the times and seasons of spring and summer, at which time they are most necessary to the land sown with seed, in order to secure the crops, at which time availing himself of skilful or intelligent persons, he shall divide the territory into districts and hereditaments, marking out to each one a trench or ditch, which shall start from the main source, with the quantity of water which may be regulated as sufficient

for its irrigation, at the said times and at other seasons of the year, which they shall require it, by which means each settler shall know the ditch (Ysla y Azequia) with which he must irrigate his lands, that he can not and has not the power to take water from another (otro distinto) nor in a larger quantity than that which shall fall to his share, for which purpose and that it may not be increased in injury to the owners established on the land beyond or still lower, it shall be proper that the trenches or distributing ditches be constructed in the main ditch of lime and stone, at the cost of the settlers themselves.

20th. In order that these (the settlers) may enjoy with equity and justice the benefit of the waters in proportion to the necessity of their respective crops, there shall be named annually by the Ayuntamiento an Alcalde or Mandador of each trench, whose charge shall be the care of distributing them on the estates comprized in the District (partido) or hereditaments, which shall be irrigated by them, in proportion to the need they shall have of this benefit, making known by a list which he shall form, the hours of the day and of the night, at which each owner shall irrigate his lands sown with grain; and in order that by carelessness or indolence of the owners, those which shall need them, may not remain without irrigation nor may they loose their crops, whereby, besides the private injury may also result that of the public and common, produced by the want of provisions and supplies, it shall also be the duty of the Alcalde or Mandador to have a servant or day laborier, knowing the hour of the day or night designated for the irrigation of each tract of land or cornfield, who, in default of its

owner shall take care to irrigate it, the just price of his labour being regulated afterwards, by the Commissioner, which he shall cause to be paid him, immediately, by the owner of the land or hereditament irrigated.

21st The repairs & the cleaning which the main ditch may need for its preservation, shall be done at the cost of the whole neighborhood, at the periods which the Commissioner and Ayuntamiento shall designate, every neighbour contributing thereto with his assistance and personal labour, or on his failing therein, with the sum which by partition and an equitable distribution, which shall be determined, in order to pay and satisfy servants (peones); and in regard to the repairs and cleaning of the principal distributing flood gates and ditches destined for the irrigation of the districts and hereditaments, in which the land should be divided; it shall be the duty of the Hacenders or owners whose lands and possessions shall be irrigated by them (the dams & ditches) amongst whom shall be divided the expense they shall occasion, pro rata: to the number of servitis, which each shall possess in that Presidio or hereditament belonging to the "Cavildo" Council or Ayuntamiento, by common consent with the Commissioner, shall determine upon those which without injury to the lands cultivated, the said cleaning and repairs should be made.

22d To avoid the damages and injuries, which by negligence of their owners, the cattle and sheep do on the cultivated lands, there shall be annually apointed by the Ayuntamiento, the two Alcaldes, Guardias de Campo, that the one shall exercise his duties by day and the other by night; and like public officers shall swear before the Ayuntamiento to discharge well and faithfully their occupation &

this apertions shall be believed, unless against them is presented proof sufficient to justify the contrary, and both shall be under the obligation to watch by day and by night, so that the cattle may not cause damages on the cultivated lands of the neighbourhood, and apprehend those which they may encounter so doing, which they shall have to a corral made for this purpose and shall be called the "Corral del Consejo" reporting and denouncing them immediately to justice, so that under his sworn deposition he proceed summarily and effectually and tax the damages which they shall have caused and to oblige the owner of the apprehended cattle to pay the same and that he may satisfy, him, the owner of the cultivated lands, who shall have suffered it.

232 It not being sufficient to restrain and avoid the damages which the cattle frequently occasion on the cultivated lands, to compel the owners to ~~the~~ payment of the value, at which they may be estimated, it becomes necessary in order to recover it, to impose upon them some other moderate pecuniary fine, which exacted in all cases of violation unpardonably, it obliges them to take care of them, and to try that they be not repeated, and to regulate the above mentioned fine, a particular practical knowledge of the country, of the condition of its inhabitants and of the value of the cattle, being indispensable this point shall be reserved for the Ayuntamiento, so that in common with the Commissioner, they fix and determine upon the fine, which shall be imposed and exacted in the case of violation, taking care that the fine which they shall determine, be greater for those who shall occasion damages by night, on account of their greater difficulty

of being apprehended and punished.

24th And lastly as it is particularly the province of the (Cavildos) councils or Ayuntamientos they being the best informed of that which suits the Community and public which they represent to determine and resolve upon the subjects and means, which they may consider most useful and conducive to their better management and political and economical government, which being approved by the highest authority belong to the Class of Municipal officers, which should be observed as the particular laws of each settlement, so far as they may not be opposed to the general laws, established by the Sovereign; this same power, the Ayuntamiento of the new settlement, shall be vested with and in the use of it acting in common with the Commissioner of its establishment, they shall fix & promulgate the articles ~~of~~ or municipal ordenances which they shall consider most useful and necessary, of which they shall report to the superior Government, so that by means of its approval they may be valid and observed.

A Copy.

Chihuahua 14th November 1789

Juan Garcia

y Morales.

No 254 23.

U. S. Dist Court

Widow & heirs of Anastacio Chabolla
vs
The United States

Translation & Exhibits Filed

Filed Nov 23rd 1857
Edgar Cayne

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 the sixth day of August in the Year of Our Lord One thousand eight hundred & fifty seven.

Present: The Honorable Ogden Hoffman Jr
District Judge

Decree of Confirmation

The Mayor and Common Council of the City of San Jose
vs
The United States

Decree.

Appeal from the final decision of the Commissioners to ascertain and settle private land claims in the State of California. The Claimants claim the land, included within the boundaries of the former Pueblo of San Jose de Guadalupe according to its ancient boundaries, and the Cause having been heard upon Appeal from the decision of the Commissioners aforesaid upon the Transcript of the Proceedings before the said

Commissioners, their decision and the papers and evidence, on which said decision was founded, and the same having been argued by the District Attorney on behalf of the United States and by J. M. Haight and Joseph B Crockett on behalf of the Claimants, representing the said Pueblo and due deliberation being thereupon had, the said Court in pursuance of the Laws of Congress in that Case made and provided, do the order, judge, and determine, that the claim of the Claimants, to the land included within the Ancient limits of the said Pueblo of San Jose be confirmed to said Claimants, or their legal representatives, according to the Ancient boundaries of said Pueblo, as ascertained by the orders and decrees of the former Governments of California; the Map and Surveys in evidence and the testimony of Witnesses in the Case as set forth in the said Transcript of the Proceedings of the said Commissioners sent to this Court.

It is further ordered, adjudged and Decreed by the said District Court, that the boundaries of the said Claim, being the same with those of the former Pueblo of San José shall be ascertained, and surveyed as follows:

Beginning at a point in the Woods, at a live oak tree, in the dividing line between

said Pueblo, and what were formerly known as the lands of the Mission of San José, and if said line is gone where the same was in March 1838, running thence a South East course which passes through the Mountains, which are called las Bueltas, Pala, San Felipe, Las Animas and Aguas de las Llagas to a monu=ment of Stone, erected in March 1838, and having reference to all the land marks on this line, and to the Monument of Stone in the middle of the Pala, this line is in length eleven and one half leagues, and its Southern termination, the South East Corner of the ancient limits of the said Pueblo, and of the land hereby confirmed to the Claimants — Then commencing again at the point first mentioned, being the said live Oak Tree or its former situation, and running a line from the North East by East to South West by West to the Embarcadero of Guadaloupe to the last live oaks, which is seen on the Bank of the River Guadaloupe, or where the same was in March 1838, being two leagues and eight hun=dred Varas for the length of this line, and the same passing near the house formerly occupied by José Higuera, and distant from it four hundred and ten Varas, the house being on the

Northerly side of this line. Thence up the River Guadalupe to its source, and thence running with a line corres=ponding with the Course of said River, as near as may be and which is nearly from South East to North West and having reference to Monuments of Stone formerly placed on this line, the last of which, and the termination of this line, was placed on the Apex of a little Hill, which is at the foot of the Mountain called "Parage de los Capitancillos" including part of the Oak Grove, now or formerly at this place, and including all the Willow Grove, now or formerly at the source of the said river. Thence from said point at the foot of said Mountain de los Capitancillos to the Creek called Las Llagas, at or near its source, and at such point as will make the distance from where said line strikes said Creek to the South Eastern point before ascertained the same length as the distance from the starting point in the Survey to the Embarcadero, that is two leagues eight hundred Varas, thence from said point last ascertained, to the South Eastern Cor=ner of the said tract before ascertained. In making the Survey and ascertaining the preceding lines, reference will be had to the Survey and Map of the Boundaries of said Pueblo made by the Commissioners, Castro, Gulnac, and Silvio Pacheco in March 1838. and to the Survey of Josef Arguello under date of the twenty fourth day of July 1801: signed also by the Friar Martin

de Benedita and Jose Miguel Asuna and to the documents and depositions in the Cause as to the Ancient Boundaries of said Pueblo of San José —

Ogden Hoffman
Dist Judge.

(Endorsed) Filed Aug. 6. 1857.
Jno A Monroe, Clerk
by W H Chevers, Deputy —

I, John A. Monroe Clerk of the District Court of the United States for the Northern District of California do hereby certify the foregoing to be a full true and correct copy of the original now on file and remaining of record in my office

In testimony whereof I have hereunto set my hand and affixed the seal of the said Court the 20th day of November A.D. 1857
John A Monroe Clerk
By J E Jas Gaynes Deputy

2541 24

U. S. Dist Court

Widow & heirs of Anastasio Chabolla
vs
The United States

Copy of Decree of No 419

Filed Novr 23, 1857

H. W. Wilgus
Deputy

254 ND
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"M. J. C"

El infrascrito Cura Párroco de Monterey certifico, que en uno de los libros que existen custodiados en el archivo de esta Iglesia, en el que están inscritos los nombres y apellidos de los difuntos, se lee la partida siguiente:

„A. D. 1845 dia siete de Junio
„murió Josefa Iguera viuda de
„Anastasio Chavolla viviente en el
„Pueblo de San Jose, fué administra-
„da de los Stos. Sacramentos y se se-
„pultó el dia nueve de Junio en
„el cementerio de esta Iglesia.—
„J. Fitoteo Cura„

Cuya partida esta fielmente sacada de su original á que me remito, y para que conste en donde convenga, lo firmo en Monterey á 29 Diciembre de 1845.

Juan B. Comellas Pbro

In the United States District Court holden in & for the Northern District of California

Heirs of Anastacio Chabolla Deceased
Appellants

vs

United States
Appellee

I John Yontz of the County of Santa Clara & State of California do on my oath depose and say that the signature of Juan B. Cornellas to Exhibit marked "H. J. C" hereto attached is genuine and that I say the said Cornellas sign the same and that the said Cornellas is known to me to be the Priest in charge of the Records of the Catholic Church at Monterey, and that the Exhibit aforesaid was furnished me by the said Priest at my request made by direction of Wm. Matthews one of the Attorneys of Appellants in this case.

John Yontz

Sworn to and subscribed before me January 6, 1858.
W. F. Cheney,
Deputy Clerk

In the U. S. District Court within and for the Northern District of California

Case 254.

It is hereby stipulated and agreed between the U. S. District Attorney & the Attorney for the Claimants in this cause that the written affidavit and the certificate of the Point Reyes B. Connelly attached thereto taken and received as a part of the application of San Pedro Springs Farm in this cause;

Jno H. Hamilton
U. S. Dist Atty. for Cal.

J. Della Torre
Atty. for Clmt.

25.

U. S. District Court

The United States

v

Fid Theis A. Chabrya deceased.

Stipulation

Filed January 6 1858.
W. H. Chenery,
Deputy.

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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 Friday — the Eighth — day of January — in the year of our Lord one thousand eight hundred and fifty-~~seven.~~ eight.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
ads
The widow and Heirs of
Anastacio Chabolla

D. C. 254: L. C. 777.

Decree.

This cause came on to be heard at a stated Term of the Court on appeal from the final decision of the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California under the Act of Congress approved on the 3d of March A. D. 1851, rejecting the claim; upon the Transcript of the proceedings and decision of the said Board of Commissioners and the papers and evidence on which the said decision was founded; and it appearing to the Court that the said Transcript was filed in the Clerks office of this Court on the 21st day of July 1855, and that on the 21st day of April 1856 an order was entered dismissing this cause because no notice of intention to prosecute the appeal had been filed, according to the provisions of the Act of Congress approved August 31st 1852; and it further appearing that at a subsequent term of this Court, to wit, on the 18th day of November 1856, a consent order was made vacating said order of dismissal, and

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United States District Court, Northern District of California.

The United States

vs.

Widow and Heirs of Anastasio Chabolla

~~ORDER~~.

Decree dismissing claim.

Filed January 8, 1858

John A. Monroe,
CLERK.

By W. H. Carey
DEPUTY.

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reinstating said cause so dismissed as aforesaid; and thereupon, in consideration thereof, it is Ordered, Adjudged and Decreed that the order of the 19th November 1857 setting aside the said order of dismission and reinstating this cause be, and the same is, hereby vacated; And it is further Ordered, Adjudged and Decreed that this cause be and the same is hereby dismissed for want of jurisdiction.

William Hoffman
Alex. B. Fitzpatrick

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

The Widow & Heirs of
Anastasio Chabolla, D. C. 254.
vs Appts. L. C. 777.
The United States.
Applees.

Know all men by these presents that we Augustus Redman and William T. Wallace of the State of California, are held and firmly bound to the above named United States in the sum of Two hundred and fifty dollars, to be paid to the said Appellees, for the payment of which well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors and administrators, jointly and severally by these presents.

Sealed with our Seals and dated the eighth day of March, A. D. 1858.

Whereas the above named Appellants have prosecuted an appeal to the Supreme Court of the United States at the City of Washington in the District of Columbia, to reverse the decree rendered in the above suit by the District

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

Now therefore the condition of this obligation is such that if the above named Appellants shall prosecute their Appeal to effect, and answer all damages, and costs if they fail to make their appeal good, then this obligation shall be void, otherwise to remain in full force, and virtue.

Witness,
W. A. Choate. Augustus Redman

William T. Wallace

United States of America,
Northern Dist. of California,

Augustus Redman and William T. Wallace, parties to the above stipulation being duly sworn do depose, and say each for himself, that he is worth the sum of Two hundred, and fifty dollars over, and above all his just debts, and liabilities.

Augustus Redman
William T. Wallace

Sworn to and acknowledged
this 8th of March, 1858, before me,
N. A. Cheves,
N. P. Comm'r.

Approved

Geo. W. Hoffman
Dist Judge

No. 254.

N. S. Dist. Court.

Widow & Heirs of
Anastasio Chabolla,
vs
The United States.

Appeal Bond.

Filed March 8. 1858.
W. H. Chenet,
Dep: Clerk.

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Wm Dorr & Louis
A. Chabolla
vs
The U. S.

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ND

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The transcript in this cause was filed in this Court on the 21st July 1855 —
No notice of appeal was filed ~~in~~ as required by the Statute and on the 21 April, 1857 the District moved for an order dismissing the appeal This order was granted & a decree to that effect duly entered —
At the ensuing term of the Court ~~and~~ on the 18th Nov. 1856 a consent order was entered allowing a notice of appeal to be filed nunc pro tunc which was accordingly done on the 21st of the same month depositions were taken and the cause brought to a hearing at the present term It is objected that the Court claimants having failed to file a notice of appeal within the time limited by Statute and a decree dismissing the appeal having been duly entered the Court had no jurisdiction

reinstate the cause now with the consent of parties - especially as the term at which the decree of dismissal had been entered had expired -

We are of opinion that this objection is well taken and that after an order dismissing the cause jurisdiction cannot be reacquired at a subsequent term now by the consent of the parties -

The petition of the claimants must therefore be dismissed -

2524

25

U. S.

ads

R. Chabolla

Opinion —

January 8. 1858.

In the District Court of the United States of North America holden in & for the Northern District of California.

Widow & Heirs of Anastacio Chaboya Deceased: Appellants
vs
United States Appellee
Case No: 254

To Hon Wm Blanding District Attorney for U. S.

You will please take notice that the Appellants herein will take the depositions of José Fernandez, Antonio Chaboya, Pedro Chaboya, Antonio M. Pico, Robert Livermore, Julius Martin, Frederick A. Kruger, Tibucio Basques & others, before J. A. Monroe Esqr: U. S. Commissioner for said Court, on ~~Monday~~ Tuesday ~~July 30th~~ June 30th 1857 between the hours of 9 O'Cl A. M. & 5 O'Cl P. M. at the Office of the said Commissioner and that the taking of the said depositions will be continued if necessary to complete the same from day to day

Stanley ~~[illegible]~~ King:
Attys: for Appellants

Widow & Heirs of Chatoya

vs } No 254

United States

Notice to take Depositions

Copy for Mr. Blossing

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Stanley & King
for Claimants

U. S. District Court

Wid & Heirs of A. Chabya
v
The United States

No. 254.

San Francisco Sep 8. 1857

Sir:

You are hereby notified that Antonio Mª Pico, James Alex Yoüell, Alvin C. Campbell, Peter O. Minor, ~~and~~ José Fernandez & others, will be examined in this case on the part of the claimants on Thursday the 17th day of September instant before L. Edgar Grymes U. S. Commissioner at the Clerk's office of the U. S. District Court, at 10 O'clock A. M., continuing from day to day until concluded.

Yours &c
Wm Matthews
Wm J. Wallace
Attys for Claimants

P. Della Torre Esq
U. S. Attorney.

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U. S. Dist Court

Widow & Heirs of
A. Chaboya

v.

The United States

Notice

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Copy
within rec'd. this 8 Sep
A. D. 1857.

P. Della Fore
U. S. Atty.

Wallace & Mathews
for claimant

In the United States District Court holden in and for the Northern District of California.

Heirs of Anastacio Chavolla Deceased
Appellants -

vs

United States
Respondents -
Case No. 254 -

To the Hon Wm Blanding
U. S. Dist. Attorney

Sir:

You will take notice that the appellants in the above entitled cause will take the depositions of Maximo Martinez, Robert Livermore, Sebastian Peralta, Manuel Pinto, Jose Fernandez, Pedro Davidson, Antonio Bunol, Pedro Chavolla, Davis Divine, E.P. Red and James Alex^r Forbes before Wm H Chevers United States Commissioner, at his office in the City of San Francisco on the 26th of February 1857 between the hours of 9 o'clock A.M. and 5 o'clock P.M. and that said examination will be continued from day to day if necessary to make the same, and that the said witnesses will be brought before the court if need be by process of the said court.

Wm T. Wallace
&
Wm Mathews
Attys for Appellants

(Copy.)

Feb 17. 1857

Heirs of Chevallo
vs.
United States

No. 254

Notice to take deposi-
-tion-

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W J Wallace
&
W Matthews
for Appellants

In District Court of United States of North America, holden in & for the Northern District of California Hon: Ogden Hoffman Judge:

Angell Maria Chabolla
Jose Antonio Chabolla
Jose Fernando Chabolla
Jose Facundo Chabolla
Maria Ygnacia Chabolla
Maria Juana Chabolla
& Policarpia Chabolla } Appellants
vs } Case No 234
United States Appellee

On appeal from the Board of United States Land Commissioners:

The Petitioners above named Angell Maria Chabolla, Jose Antonio Chabolla, Jose Fernando Chabolla sometimes styled ~~himself~~ Fernando Chabolla, Jose Facundo Chabolla sometimes styled ~~himself~~ Facundo Chabolla, Maria Ygnacia Chabolla sometimes ~~herself~~ styled Maria Antonia Chabolla, Maria Juana Chabolla & Policarpia Chabolla complaining to this Honorable Court respectfully represent:

That they are the only children and heirs at law of Anastacio Chabolla deceased, who whilst living was a resident of the State of California & County of Santa Clara, and also of their mother Maria Josefa de Higuera Cha=

bolla who was during the lifetime of the said Anastacio his lawful wife. That during the lifetime of the said Anastacio and at the time of his death he was possessed and the owner of three mertes of land situate in the former Pueblo & present City of San Jose in the Northern District of the State of California, and bounded and described as follows viz Beginning at the North East corner of Block one (1) Range one (1) North of the Base line at the intersection of Santa Clara & First Streets — thence running in an Easterly direction along Santa Clara Street a distance of about four hundred (400) varas to the land known as the Salt-Petre land — thence on a line nearly parallel with the line of First Street to the line known as Romero's old line, thence westwardly along said line which runs along St. James Street to the Cañada or small ravine which lies West of First Street — Thence Southwardly along said Cañada or small ravine following its meanderings to the place of beginning: And that on the death of the said Anastacio their father he having died intestate the said land descended to your petitioners and their said mother Maria Josefa de Higuera Chabolla who has since the death of the said Anastacio viz in the month of June 1865 departed this life likewise intestate — and whose portion of the said land descended as aforesaid to her from the said Anas=

tacio, on her death descended to your petitioners.

That your petitioners together with their said mother filed and presented to the Board of United States Land Commissioners to ascertain and settle private land claims in the State of California their petition praying a confirmation of their title to the said land on the 2nd: of March 1853. That the presentation of the said claim to the said Board was entrusted to the Administrator of the Estate of the said Anastacio Chabolla, most of your petitioners being infants at the time and such of them as were of age being too poor to attend to the presentation thereof themselves, the same was neglected, and although abundant proof could have been adduced to satisfy the said Commissioners of the validity of their said claim to the said land, no testimony whatsoever was offered in support thereof and the same was therefore on the 30th: of January 1855 rejected by the said Board of Land Commissioners and that the Transcript of the Record of this claim before the said Board (and being on their docket case No 777) was duly filed in the Clerk's Office of this Court on the day of in the year 1855 and that thereafter viz on the day of 1856 your petitioners filed their notice of ~~appeal~~ their intention to prosecute their appeal from the said decision of the said Board of Land Com=

missioners to this Court, in accordance with the Statute in such case made & provided: That for a more full and complete adjudication of their said title to the said land herein claimed they refer to their said petition to the Board of United States Land Commissioners.

Therefore Your Petitioners in terms consideration of the premises pray that the decision of the said Board rejecting their said claim to the said land may be reversed, and the claim of your Petitioners to the said land be confirmed by this Honorable Court and the same decreed to be a valid claim: And as in duty bound Your Petitioners will ever pray &c.

Jony
W. T. Wallace
& J. M.
W. Matthews
Attys: for Claimants
& Appellants

accepted service
Dec 3. 1856.

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Angell Maria Chabolla
et al:
vs
United States
On appeal

Petition to United
States District Court

Copy
for
Hon: W.m Blanding
U. S. Dis. Atty

Case No 934

In the District Court of the United States, for the Northern District of Cal:

Ticdum & heirs of A. Chabolla
v
The United States

In answer to cases cited by Hanson & Williams in.

1 The U. S. vs Mann, has no application to this case. In Mann's case (3 How: 620) the petition was not filed in the Court, until more than ten years had elapsed from the time limited by the act of Congress. —

In Chabolla's case — the petition had been filed, & proper notice had not been given, because of the death of the Petitioner. The U. S. had waived the objection also.

2 The case of Villabolos vs U. S. 6 How: 81. has no application to this case: Villabolos case, was upon the construction of acts of Congress regulating "appeals" —

The next case cited McCabe vs Washington 16 How: 96 — has no bearing on this case — The act of 1807 declared all claims void unless notice of the claim should be filed, prior to 1st July 1808. The Pet: was filed 22nd Aug: 1824. — In the mean time patents had been issued to others — Judge Catron says on page 96. "The action being an ejectment, and the Defendant in possession by virtue of patents from the United States, the only question is, whether the Pltff has a better legal title." —

The next case cited — The United States v Porch 12 How: 432 — has no bearing on this case: The act of 1824, the provisions of which were discussed provided that all claims not brought before the Court, & within a certain fixed time, — shall be forever barred, both at law & Equity, & no other action at common law, or proceeding in Equity shall ever thereafter be sustained in any court whatever in relation to these claims" —

I need not stop to show the difference between this law, absolutely denying jurisdiction to the Court, & that of the act of 1832, which gives discretion to the Court, and directs merely that they are to be regarded as dismissed"

If this case was quoted to shew a waiver "could not confer jurisdiction, it was a needless reference — for no such thing is contended for: but after a court regularly acquires jurisdiction, a waiver of a right by one party, is altogether another matter. . —

The other case cited in 12 How: 389, Saltmarsh v Tuthill has no application here: The court there say — this court has never deemed the tribunals of the United States authorized to dispense with the express provisions of the acts of Congress regulating appeals and writs of error, upon any equitable ground" — no such thing is contended for here. —

The same remark applies to the case referred to in 6 How: 113. — —

The next case cited by the learned counsel is that of Mills et al. vs Brown et al: 16 Peters 527: In this the Supr. Court say, what is not denied that "Consent will not give jurisdiction" - and the Court very properly declines, "where the act of Congress has so carefully and cautiously restricted the jurisdiction conferred upon this court, over the judgments & decrees of the State tribunals" to exercise such jurisdiction - Can this by any stretch of ingenuity be made to bear upon the case now before this Court? —

It has however been decided, that although consent cannot give jurisdiction yet "if a Court has jurisdiction of a matter, and one party has some privilege which exempts him from the jurisdiction, he may waive that privilege if he chooses so to do" Onenstreet vs Brown 4 Mc Cord 79. — Same point decided in Bostwick vs Perkins 4 Geo: 47.

—

The next case cited by the Counsel is BK of U. S. vs Moss 6 How: 36. - The court in this case decided that at a subsequent term "after final judgment", a judgment could not be set aside "by a motion only" (see page 37. in the opinion of the Court) and on p. 38, the court say, a judgment cannot be set aside "in this summary way on motion". But the power is admitted "to correct misprisions of the Clk:" & to confirm the record to the truth: & irregularities in notices & can be corrected. — It is no where laid down

that a party may not have a right to have a case regarded as dismissed." –

In the Case of Crenshaw Ex parte 15 Peters 123 a judgment was annulled & set-aside because Crenshaw had not been cited to appear, at a former term. –

In this case – Chabbal's heirs, – the widow was dead, when the case was dismissed. The widow died in June 1855. The transcript was filed July 21. 1855. –

In the case of Jackson et al v Ashton 10 Peters, 480, it is decided that the Supreme Court, cannot on motion reverse a former decree of the Court. It has no power to do so, after the term has passed, and the cause has been dismissed, or otherwise finally disposed of." It is contended there is a vast difference between a case finally disposed of, & one that is to be regarded as dismissed". In the case last quoted 10 Peters, it is admitted a decree might be rendered in the Circuit Court by consent of parties." –

In the case of Sibbald v U. States 12 Peters 492: The Court decides, as in several other cases cited by the Counsel on the other side, that its own final decrees or judgments" cannot be reversed or annulled for errors of fact or law after the term has passed &c. This seems to have been decided with reference to the power conferred on the Supreme

Court by the Judiciary act of 1789.

It is confidently argued this is not a case, in which the rights of parties, have been "finally settled", Here there has been no "adjudication of the rights of parties". In the case last quoted - 12 Peters - it is said "Bills of review, writs of error & are exceptions which cannot affect the general rule" - Should not a stipulation on the part of the United States, in a case arising under a treaty, - under the act of 1831 - take this case out of the inexorable rule contended for by the opposing counsel? In Sibbald's case 12 Peters, the court admits as an exception to the rule laid down, that a cause may be re-instated when it has been dismissed by mistake"

When the District atty: saw, this case was not prosecuted, he might well have concluded the parties had abandoned it - but when he knew from affidavits submitted to the Court, that the widow of the Claimant had died, when it was impossible to comply strictly with the act of Congress, - is not this as strong as any case of "mistake"?

In Sibbald's case it is said "whatever has been before the Court - is decided" - In Chabollar's case, nothing has been before the Court - nothing examined or passed upon. -

In 12 Wheaton p. 10 the Court in speaking of a re-instatement of the case, "after a dismissal from the misprision of the Clerk" say = Every court must be presumed to exercise those powers belonging

to it, which are necessary for the promotion of public justice; and we do not doubt that this Court possesses the power to reinstate any cause dismissed by mistake."

In Bk: Ry v Wilcox et al: 3 Peters 431. a judgment was reversed twelve months after its rendition by allowing interest: it was decided after argument & objected to upon grounds similar to those advanced by the Counsel here.

The Counsel opposing this claim cited the case of Pedro Sanserain, in which a notice of appeal had been filed in the District in which the case was not situated: The answer to this is, that here, in Chabolla's case — the objection was waived by the officer representing the United States.—

The other questions raised by the Counsel will not be replied to again, because they have several times been considered by the Court & are more thoroughly understood than by the Counsel of either side.

The questions of fact arising in the case are argued orally & will be examined by the Court with the record before it. They are therefore not referred to here.

The Counsel opposing this claim cited numerous cases, to prove "Consent could not give jurisdiction" & — This is admitted, but has no application here: In Wilcox's case 17 Howard the Supreme Court decided that the suit

was instituted in the Dis: Court of U. S. by filing the papers. The question of jurisdiction so elaborately discussed does not arise here. —

It has been believed to be a principle of law universally acknowledged, that any one may renounce or waive a right given him by Statute; sometimes even when it has been established. It is a rule consonant with principle & justice.

In Burr's trial 1st vol p. 353 — the question arose whether the Court could proceed to impanel a jury, unless a portion of the venire were summoned from the County in which the offence had been committed. — The 29 Sec: of the Jud: act of 1789 provided. "That in cases punishable with death the trial shall be had in the County where the offence was committed, or where that cannot be done without great inconvenience twelve petit jurors at least shall be summoned from thence" — Col: Burr was willing to waive this right, especially intended for the benefit of the accused: & the Chief Justice had no doubt of the power of the Court to dispense with summoning the Jurors from the County in which the offence had been committed, by consent of parties. —

If this waiver could be made, under these imperative words "shall be summoned" could it not be, in this case? —

It matter to be regretted, that after the Petition filed in this case, by mistake of counsel it was re-instated, depositions were taken & concert of the U. States. -

Respectfully submitted
Thos J. Key Jr
Claimants

In the District Court
of the United States
Northern Dis: of Cal:

Widow & Heirs of
A. Chabolla
vs
The United States

Exhibit J E G No 3

/

Nº 317

Ynstruccion aprovada por S. M. que se forme para el establecimiento de la nueva Villa del Pitic en la Provincia de Sonora, mandada adaptar alas demas nuevas Poblaciones proyectadas y que se establecieren en el distrito de esta Comandancia General.

1º..... Aunque por la Ley 6ª tit. 8. libro 4º se prohive à los Virreyes Audiencias y Governadores conceder Titulos de ciudades ó Villas ó eximir de las Cabezeras principales à las Pueblas de Españoles ó Indias es limitada esta providencia à las que ya estubieren fundadas, pues en quanto à las Nuevas Poblaciones y fundaciones, previene se guarde lo dispuesto refiriendose alas otras Leyes que tratan del asunto, y como la 2ª tit. 7º del mismo libro dispone que elegida la tierra, Provincia y lugar en que se hiziere de hacer nueva Poblacion y averiguada la comodidad y aprovechamientos que puede haver, declare el Governador en cuio distrito estubiere ó confinare, si ha de ser Ciudad Villa ó Lugar, y que conforme à lo que declarare, se forme el Concejo republica y Oficiales de ella, en uso de esta facultad teniendo presente las proporciones del sitio Elegido y las Ventajas que prometen sus terrenas fertilizando con el beneficio del Riego por medio de la gran Azequia construida à este fin, puede V.S. declarar Villa à la Nueva Poblacion señalandole el Nombre que deva usar y tener para su Distincion y Conocimiento.

2º..... Con arreglo à lo dispuesto en la Ley 6ª tit. 5º ad

mismo libro 4.º para las Villas de Españoles que se funda
ren por Capitulacion ó asiento, y por la 10.ª para las que
afalta de Asientos se Erigieren por particulares Po-
bladores que se fundaren y Concordaren enformarles se
podrá conceder ala de que se trata quatro leguas de ter-
mino ó territorio en quadro ó prolongado, segun lo pro
porcionare la mejor disposicion del Terreno que se destina
ra y amojonara para que se sepan y conozcan los Ver-
daderos limites a que se extiende en lo que no puede ha
ver incombeniente mediante distar mucho mas de
cinco leguas de qualesquiera otra Villa Ciudad ó
lugar de Españoles, No resultar perjuicio a persona
particular, ni a ningun Pueblo de Indios, por deber
quedar el delos Sexos dentro de esta Demarcacion,
como parte ó barrio de la nueva Poblacion, Sujeto a su
Jurisdiccion y con la benaja de disfrutar en Calidad
de Vecinos los mismos beneficios publicos y comunes
que tendran los Pobladores, y de que aora carecen
aquellos Naturales por su desidia falta de aplicacion
y de inteligencia reservandoles la facultad de elejir
sus Alcaldes y Regidores con la Jurisdiccion Economica
y demas Circunstancias que previenen las Leyes 15. y 16.
titulo 3.º libro 6.º

3. ..... Hallandose trasladado el Presidio de S.n Miguel

de Oxcaitar al parage del Pitic, para que asu reguardo y abrigo se forme la Nueva Poblacion, conforme ألo disp.to en los Articulos 1.º y 2.º tit.º 11. del Nuevo reglamento de Presidios de 10. de Septiembre de 1772 y en el 50. del antiguo del Sor Virrey Marquez de Cavafuente de 20. de Abril de 1723. que por Real Orden de 15. de Mayo de 1773, esta mandado observar, correspondia aun Capitan ō Comandte el Govierno Politico y la Jurisdiccion Real ordinaria Civil y Criminal en primera instancia dela Nueva Poblacion, la que deveria exercer interin subsistiere el Presidio en aquel destino, con las Apelaciones ألa Real Audiencia del distrito, pero havendo Vs resuelto que la Compania se considere como destacada en la Nueva Poblacion, y de consiguiente que el uso y exercicio dela Real Jurisdiccion queda a cargo del Governador Politico dela Provincia y del Alcaldemayor ō Teniente que nombrare, se hace preciso que recaiga la eleccion de este Empleo en Sugeto de bastante instruccion y conocimiento para promover el fomento dela Nueva Poblacion, hacer los Repartimientos de Casas Solares y Aguas, y observar con exactitud los capitulos de esta Instruccion, y las demas providencias que subcesivamte se fuesen Comunicando,

4.º ..... Para su mejor regimen y govierno conforme ألo dispuesto en las Leyes 10. tit.º 5.º 2. y 13. tit.º 7. 1.ª 2.ª y 3.ª tit.º 10. libro 4.º dela Recopilacion, luego que el numero de los

nuevos Pobladores ascendieren a el de treinta vecinos se formarà un Concejo Cavildo ó Ayuntamiento Compuesto de dos Alcaldes Ordinarios, Seis Regidores, un Procurador Sindico ó Personero del Comun, y un Mayordomo de Propios acuyo cargo correra el Govierno de Economico, el cuidado delos Abastos, y del aseo y Policia de la Nueva Poblacion, Eligiendose los referidos Capitulares la primera vez por todos los vecinos y en las Subcesivas por los Vocales del Ayuntamiento con arreglo alo que previenen las Leyes sobre esto punto, y las Elecciones deveran remitirse anualmente al Governador Politico de la Provincia para que mediante su aprovacion puedan los Electos tomar posesion y entrar al uso y Exercicio de sus respectivos Empleos.

5.º ..... Los dos Alcaldes Ordinarios Exercerán tambien acumulativamente y aprevencion con el Alcalde de Mayor ó Comisionando la Jurisdiccion Real ordinaria, Civil, y Criminal en primera instancia, con las apelaciones ala Real Audiencia al Governador ó al Ayuntamiento en los casos en que a cada uno correspondan por las Leyes del Reyno, como lo previenen la 1.ª y siguientes titulo 3.º libro 5.º

6.º ..... Demarcado y amojonado que sea el terreno de quatro leguas concedido ala Nueva Poblacion sus Pastos Montes Aguas, Caza, Pesca, Piedra

Arboles frutales, y demas especies que produscan seran de aprovechamiento comun para los Españoles é Indios avecindados en ella y en su Barrio ó Aldea delos Seris y tambien lo seran los Pastos delos tierras y heredades alsados que sean los frutos que se sembraren en ellas como lo disponen las Leyes 3.ª y siguientes titulo 17. libro 4.º de la recopilacion.

7.º ..... Igualmente disfrutaràn los vecinos y Naturales delos Montes, Pastos, Aguas y demas aprovechamientos delas tierras realengas y Baldias que huviere fuera del terreno señalado ala Nueva Poblacion en comunidad con los Vecinos y Naturales delos Pueblos inmediatos y colindantes cuya gracia y facultad subsistirá hasta que por S. M. se mercenen ó enagenen en cuyo caso se arreglaran alo que se previniese en las mercedes que se expidan afavor de los Nuevos poseedores ó propietarios

8.º ..... Hallandose Elegido y señalado el sitio que se ha considerado mas oportuno para Vicar la Nueva Poblacion cuidara el comisionado aun establecimiento, de que todos las casas y demas edificios que subcesivamente se fueren construyendo. se arreglen ála Planta ó Plano formado por el Ingeniero extraordinario Don Manuel Mascaro que

afin de que se tenga presente se unirá y pondrá por Cabeza de esta instruccion y Ordenanza Municipal. Bajo este methodo saldrán las Calles derechas mas proporcionadas para facilitar el trafico y comunicacion de los Vecinos y Pobladores y contribuyendo su igualdad y simetria a hermosear la Poblacion limpieza y Sanidad en beneficio de los que se fixaren en ella.

9.º ..... Estando señalado en el Plano ó Planta el terreno que deve ocupar cada Manzana, y no siendo facil prescribir el Solar que sea suficiente para cada Vecino Poblador por la desigualdad que habrá entre las familias, medios y proporciones delos que se determinaren á serlo, se deja al prudente arbitrio del Comisionado la facultad de concederles las varas de solar que segun sus familias Caudal y demas justas Consideraciones estimare que cada uno puede necesitar, labrar y edificar a cuio fin y el de que todos tengan el que sea correspondiente asus facultades podra repartirsedes una Manzana media quarta, ó octava parte que son las divisiones mas adequadas para conseguir el fin de uniformar en lo posible los edificios de la Poblacion.

10. ..... Para evitar las quexas que podria ocasionar el

Señalamiento Voluntario de Solares por la preferencia ó mejoria de los unos respecto de los otros, se executará el repartimiento entre los primeros Pobladores hechando Suertes como lo dispone la ley 11. tit.º 7. libro 4.º de la recopilacion.

11. ..... Haviendo señalado el Ingeniero extraordinario Don Manuel de Mascaro el sitio en que deve colocarse la Nueva Poblacion se defarán por los quatro frentes de su circunferencia Ejidos competentes para que puedan recrearse los Pobladores, salir sus ganados sin hacer daño, y para que a medida q.e se aumenten en lo subcesivo haya terreno que poder mercenarles, para que edifiquen sus casas y havitaciones segun lo disponen las Leyes 7.a 13. y 14. del citado tit.º 7.º 4.º 4.º de la recopilacion.

12. ..... Asimismo se procederá á señalar y demarcar la Deesa ó Prado Boyal que se regulare suficiente p.a que puedan pastar abundantemente y con comodidad los Ganados de Lavor y los que huviere para el abasto de la nueva Poblacion procurando elejir á este fin las tierras abundantes de Pastos que no sean de la mejor calidad, para producir trigos ú otros frutos y Legumbres utiles a el consumo y subsistencia de los Pobladores y sus familias, como lo disponen las citadas Leyes 7.a y 14. tit.º 7. libro 4.º de la recopilacion

13. ..... Evaquado el señalamiento de los Ejidos y a las Deesa Comun, ó Prado Boyal formará el comisionado

un prudente Calculo de todo el terreno útil y fructífero que por medio dela Acequia construida pueda regarse y del restante que sin tener este beneficio considere aproposito para siembras y cosechas de Temporal, y Dividiendo uno y otro en suertes iguales de quatrocientas varas de largo y doscientas de ancho, que es lo que comunmente ocupa una fanega de Chiar ó sembradura, tendrá en conocimiento del numero de suertes de ambas clases que hubiere para repartir à los nuevos Pobladores, y alos que se àgreguen ò aumentaren en lo subcesivo.

14. ..... Divididas asi las suertes de las mas utiles è inmediatas al Pueblo, que gozen el beneficio del Riego se señalaran y amojonaran ocho que quedarán aplicadas para fondo de propios cuios productos se administraran por el Mayordomo que nombrare el Ayuntamiento con obligación de dar cuentas anualmente que se examinaran y aprovaran oyendo previamente sobre ellas al Procurador Sindico ò Personero del comun para que en su defensa les ponga las glosas ò reparos que estimare justificados y correspondientes; y supuesto que sus productos deven emplear en beneficio Publico de todos los Moradores bajo las reglas que se hallan dictadas para afianzar su

fiel manejo y lexitima imbersion y que actualmente no hay fondo alguno, Publico, con que poder costear los gastos desus primeras Lavores siembras y cosechas tendran obligacion los Pobladores y Vecinos de concurrir à hacerlas personalmente ó por medio desus peones Yuntas y ganados, en la forma equitativa que dispusiese el Comisionado quien repartirá las faenas del trabajo de modo que todos participen de ellas con igualdad, sin excepcion de Poblador, ni Vecino alguno en la Inteligencia de que esta Operacion hade limitarse álas primeras Lavores siembras y cosechas, con cuios productos se costearan despues las subsistencias quedando el resto liquido abeneficio del fondo propio para imbertirlo en los objetos del bien publico; aun que por las Leyes del Reyno estan Destinadas estos Caudales.

15. ..... Verificado el amojonamiento y aplicacion de las ocho suertes de regadio áfavor delos propios dela nueva Poblacion las restantes que fuieren utiles en su distrito, ya sean de regadio ó de temporal quedarán abeneficio delos Pobladores aquienes se iran repartiendo y mercenando amedida que se bayan estableciendo en ellas y no siendo posible dar regla fixa sobre el numero de suertes que podrán repartirse y mercenarse à cada Poblador, se dejará al prudente arbitrio del Comisionado la

facultad de regular y mercenarlas los que considere suficientes ala manutencion dela familia de cada uno teniendo para ello presente el numero de individuos que la compongan, los que hubiere entre ellos utiles para el trabajo y laborio, los aperos y demas utencilios que cada uno tubiere para emprenderlo; y finalmente su respectiva aplicacion, por ser justo que el que la tubiere consiga en premio de ella maior numero de suertes que los q. por desidia, ó inaplicacion dejaren sin cultivo las que seles hubiere señalado; bajo cuias Consideraciones Chaquana el primer repartimiento entre los actuales Pobladores sin Exceder de tres Suertes, las que podra conceder a cada uno dejando las restantes para repartirlas, ألos que subcesivamente se fueren agregando ألa Poblacion, ألas hijos de familias, que tomando estado pasen ألa Clase de Vecinos, ó alos mismos Pobladores, que por la Yndustria y aplicacion con que se hayan Esmerado en el cultivo delas primeras suertes repartidas se hagan acreedores ألque seles aumenten otras, las que nunca podran Exceder de igual numero, ألel que en el primer repartimiento seles hubiere señalado.

16. ------ Siendo muy conveniente alos Pobladores que el numero de suertes que seles repartieren se hallen unidas y Contiguas unas ألotras para que se

este modo puedan atender mejor asu cultivo, sin las distrac-
ciones que ocasiona la distancia de unas tierras á otras
procurara el comisionado tener presente esta consideracion
para proporcionarles en quanto sea posible el beneficio de la
reunion de suertes, ó al menos la menor distancia que
puede facilitar entre las que seles repartieron, y para
evitar las quejas que pudieran resultar por la mesoria
de unos terrenos respecto de otros, divididos que sean
en la forma que ha prevenido, procederá á executar
el primer repartimiento, hechando suertas entre los
Pobladores, segun y como queda dispuesto, por lo res-
pectivo á los Solares en el articulo 10 de esta Ins-
truccion.

17.....El comisionado a cuio Cargo estubiere la Nueva
Poblacion, y el repartimiento de tierras y Solares, De
vera formar un Libro ó Quaderno, donde existan
las Diligencias Originales de repartimiento que fuere
practicando, el qual se conservara Archivado en el
Ayuntamiento de la Nueva Poblacion; y con referencia
a ellas dara á cada Poblador un Testimonio ó hijuela
Certificada que explique con brevedad distincion y clari
dad la cabida y linderos del Solar y suertes que res-
pectivamente seles hubieren asignado, cuio instrum.to
les servira de titulo de pertenencia para ellos sus hijos
y desendientes, advirtiendoles, que á este fin deven guardar
lo y que si lo perdieren, por algun accidente inbolun-

tario pueden ocurrir al comisionado ó al Ayuntamiento
a que seles de otro igual delas Diligencias que con este efecto
quedaran Archivadas

18. ..... Asi en las Diligencias Originales de repartimiento, como
en las hijuelas ó Titulos de pertenencia que se dieren álos Pobladores
expresara igualmente el comisionado que los solares y tierras se
reparten y mercenan ánombre de S. M. perpetuamente para siempre
jamas y por Juro de heredad, para si sus hijos y descendientes con
las precisas condiciones de que han de mantener Armas y Cava
llos y estar prontos adefender el Pais delos Fieles alos
Enemigos que le hostilizaren, y a salir contra ella siempre que
seles mandare, que hande labrar y tener sus Casas y residir
con sus familias en la nueva Población, alo menos por espacio
de quatro años; que durante este termino no hande poder
enagenar ipotecar ni imponer gravamen alguno sobre las
tierras y solares que seles hubieren repartido, aunque sea
con motivo piadoso: que dentro del preciso termino dichos años
tendrán cultivadas y en labor las tierras que seles hubieren
mercenado, y alo menos empezadas las casas en los solares
que seles hubieren señalado bajo la pena de perder unas y
otras el que los abandonase por este tiempo para q.e pasado
que sea, puedan darse otro mas aplicado: que haviendo
cumplido estas condiciones, y residido por quatro años con
su casa y familia, en la Nueva Población adquirieran el
verdadero dominio de las tierras y solares que seles hubie
sen repartido, y de las Casas y Edificios que hubieren
labrado en ellos, y tendran facultad, dalli a Delante

para poder venderlas, y hacer de ellas asu Voluntad libremente como de cosa suya propia segun lo dispone la Ley 1ª tit.º 12. libº 4º de la recopilacion; pero con la calidad de que nunca han de poder vender las, ò enagenarlas à Yglesia Monasterio, Persona Ecª Comunidad ni otra de las que llaman manos muertas, como lo dispone la Ley 10ª del mismo titº y libro, bajo la pena al que la contraviniere, de perder las tierras, y edificios que en esto caso podran repartirse a otra; y finalmente que alos tres meses de haverseles hecho la merced y repartimiento, tendran obligacion de tomar posesion delos Solares y tierras que se les huvieren señalado, y de plantar todos los linderos ò confines de estas de Arboles frutales, ù otras que sean utiles à el abasto de la Poblacion, por cuio medio gozarà su distrito de buena y apacible disposicion, y podran aprobecharse de la fruta Leñas y madera que produjeren para su uso domesticos, y para los Vencilios de Labranza que indispensablemente necesitan como lo dispone la Ley 11. de citado titulo y Libro.

19. ..... Siendo el beneficio del riego el principal medio de fertilizar las tierras y el mas conducente al fomento de la Poblacion, pondra particular cuidado el comisionado en dividir las Aguas de modo que todo el terreno que sea Rgable, pueda participar de ellas Especialmente, en los tiempos y Estaciones de primavera y Verano, en que son mas necesarias à las Sementeras para asegurar las cosechas, a cuio fin Valiendose de Peritos à Inteligentes dividira el territorio en Partidos ò heredamientos, senalando a cada uno, un Arbollon ò Acequia, que saldra de la Madre ò principal, con la Cantidad de Agua

que se regule suficiente para su regadio, en los Enunciados tpos, y en los demas del año, que lo necesitaren; por cuio medio sabrad cada Poblador la Yla y Azequia con que deve regarse su heredamiento, y que no puede ni tiene facultad para tomar el agua de otro distrito ni en mayor cantidad, que la que cupiere a la suya; a cuio fin, y el de que no se aumente en perjuicio de los herederos Situados en el terreno, Posterior ó mas bajo, será combeniente que los Arbolones, ó Repartidores se construyan en la Azequia Madre de Caly Canto, à costa de los mismos Pobladores.

20. ..... Para que estos disfruten con Equidad y Justicia el beneficio de las Aguas a proporcion de la necesidad que tubieren sus respectivas Siembras se nombrarà anualmente por el Ayuntamiento un Alcalde ò Mandador de cada Yla a cuio cargo estarà el cuidado de repartirlas, en las heredades comprehendidas en el Partido ò heredamiento que se regare con ellas a proporcion de la necesidad que tuvieren de este beneficio, señalando por lista que formarà, las horas del dia ó de la noche en que cada heredero deverà regar sus Sembrados; y para que por descuido ò desidia de los Dueños no queden sin riego los que los necesitaren, ni se pierdan las cosechas, en lo que ademas del perjuicio particular, resulta tambien el Publico y comun, que produce la falta de provisiones y Vastimentos, serà tambien del cargo del Alcalde ò mandador de cada Yla, tener un Peon ò Jornalero instruido en la hora, del dia, ó de la noche señalada para el riego de cada tierra ò Sembrado el qual a falta de su Dueño,

cudana de Regarlo, regulandose despues por el comisionado o por la Justicia el justo precio desu trabajo, que se le hara pagar inmediatamente, por el dueño delatierra ō heredad regada.

21. ..... Los reparos y Limpiezas que necesitare las Azequias Madre, para su Conservacion, se haran acosta delodo el Vecindario enlos tiempos que señalaren el Comisionado y Ayuntamiento concurriendo à ellas Cada vecino con su Asistencia, y trabajo personal, o en su Defecto con la Cantidad que por repartimiento y prorrateo Equitativo, se le señalare, para pagar y satisfacer àlos Peones; y por lo respectivo àlos reparos y Limpias delos Arbolones Repartidores y Azequias Destinadas al Riego delos Partidos ò heredamientos en que Deve Dividirse el terreno, seran del Cargo delos Hacendados ò herederos cuias Suertes y posesiones se regaren con ellas, entre los quales se repartira el gasto que ocasionaren, aprorrata del numero de Suertes que cada uno poseyere en aquel Presidio ō heredamiento correspondiendo al Cavildo ò Ayuntamiento de acuerdo con el Comisionado determinarlos en que sin perjuicio de las Sementeras, deven hacerse las Chuneradas limpias y Reparos

22. ..... Para evitar los Daños y perjuicios que por descuido de sus dueños, hacen los ganados mayores y menores en las Sementeras, se nombraran anualmente por el Ayuntam.to dos Alcaldes ō Guardias de Campo que el uno Exerza sus funciones de dia y el otro de noche; y con Ministros Publicos que Juraran en el Ayuntamiento hacer bien y fielmente su oficio, seràn creidas sus deposiciones, a menos que contra ellas se presente prueva Suficiente a justificar lo contrario, y ambos tendran la obligacion de Celar de dia y de noche que los ganados no causen daños en las Sementeras del Vecindario, y la de aprehender alos que encontraren haciendolos, los que conduciran aun Corral que se

formara acerro fin y llamara Corral del concejo, dando cuenta y denunciandolos inmediatam.te à la Justicia, para que bajo su desposicion Jurada, proceda Sumaria y Ejecutibam.te y hacer reconocer, y tazar el daño que huviesen Causado, y obligar al dueño del ganado aprehendido a que lo pague y satisfaga a elcorta Sementera que lo huviere padecido.

23 ..... No siendo suficiente para contener y Evitar los danos, q.e frecuentemente ocasionan los ganados en las Sementeras obligar a su dueño al pago del Importe en que los Jurisprecaren, se hace preciso p.a conseguir lo imponerles alguna otra moderada pena pecuniaria que Excijida irremisiblem.te en todos los Casos de contravencion les obligue a cumplirlos y aprocurar que no reincidan, y siendo forzoso para regular la Cuncia da pena pecuniaria un protisco practico Conocim.to del Pais, de la Calidad de sus haviamientos, y del valor q.e tengan los ganados se reservara este punto al Ayuntam.to, para q.e de acuerdo con el Comisionado, señalen y determinen la que podra imponerse y Cocijirse en los casos de contravencion Cuidando q.e sea maior la que señalaren por los que causaren dano de noche pero la maior dificultad de ser aprehendidos y Castigados.

24 ..... Y por ultimo siendo propio y privativo de los Cavildos ó Ayuntam.tos como mas instruidos del que combiene al Comun y Publico q.e se presentan acordar y proponer los puntos y Providencias q.e consideren mas utiles y conducentes a su mejor Regimen y gobierno Economico y Politico, las q.e aprovadas por la Superioridad, pasan a la clase de Ordenanzas Municipales, q.e deven observarse, como Leyes particulares de cada Poblacion en quanto no se opongan à las generales, Establecidas por el Soberano, gozará esta misma facultad el Ayuntam.to de la Nueva Poblacion, y en uso de ella, procediendo de acuerdo con el Comisionado à su Establecim.to revolberan y Enmenderan los Capitulos ó ordenanzas Municipales que estimaren mas utiles y conducentes dr.q.e daràn cuenta à este Sup.or Gov.no a q.e mediante su aprovacion tenga Rigor y Observancia,

Es copia Chihuahua 14 de Novembre de 1789

Juan Gasiot
y Miralles

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Office of the Surveyor General,

Of the United States, for California.

I, **J. W. MANDEVILLE,** 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 Department of **Upper California,** as also the papers of the late Board of Commissioners "to ascertain and settle private Land Claims in California;" by virtue of the power vested in me by law, **Do Hereby Certify** that the 16 preceding, and hereunto annexed page of tracing paper numbered from one to 16 inclusive, exhibit a true and accurate copy of a document on file in said Archives entitled "Instruccion ~~para~~ aprobada por Su M. que se formó para el establecimiento de la Nueva Villa del Pilar en la Primera de Sonora, mandada adaptar a las demas nuevas Poblaciones proyectadas y que se establecen en el distrito de esta Comandancia General

In Testimony Whereof, I have hereunto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this Sixteenth day of November 1857

J. W. Mandeville **U. S. Surveyor General for California.**

Extract from the 2nd Section of the Act of Congress "providing for the Survey of Public Lands in California, and for other purposes."
[Approved, March 3d, 1855.]

"The Secretary of the Interior is hereby authorized to cause an official Seal to be prepared for the Office of the said Surveyor General, (California) and any copy or extract from the plats, field notes and other records and documents on file in his office, when attested as such by the said Seal and the signature of the Surveyor General, shall, in all judicial matters, have the same force and effect as the original."

Extract from an Act of the Legislature of the State of California, "concerning certified copies of certain Instruments in Writing."
[Approved, April 29th, 1857.]

"SEC. 1. Copies of all papers, lately belonging to the United States Board of Commissioners for the settlement of private land claims in California, and on file in the office of the Surveyor General of the United States for the State of California, and all copies of documents and papers belonging to said Surveyor's office, which copies shall have been duly certified to be true copies by said Surveyor, shall be received and read in evidence, in the same manner, and with like effect as the originals."

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. 777 on the Docket of the said Board, wherein The Widow and Heirs of Anastasio Chabolla are the Claimants against the United States, for the place known by the name of "Three Huertas of land in San Jose"

and request your receipt for the same.

I am, Respectfully,
Your Ob't Servant,

Geo. Fisher.