

CASE NO.

305

NORTHERN DISTRICT

ONE LEAGUE OF LAND

IN

SAN JOAQUIN VALLEY GRANT

BENJAMIN P. LEPPINCOTT

CLAIMANT

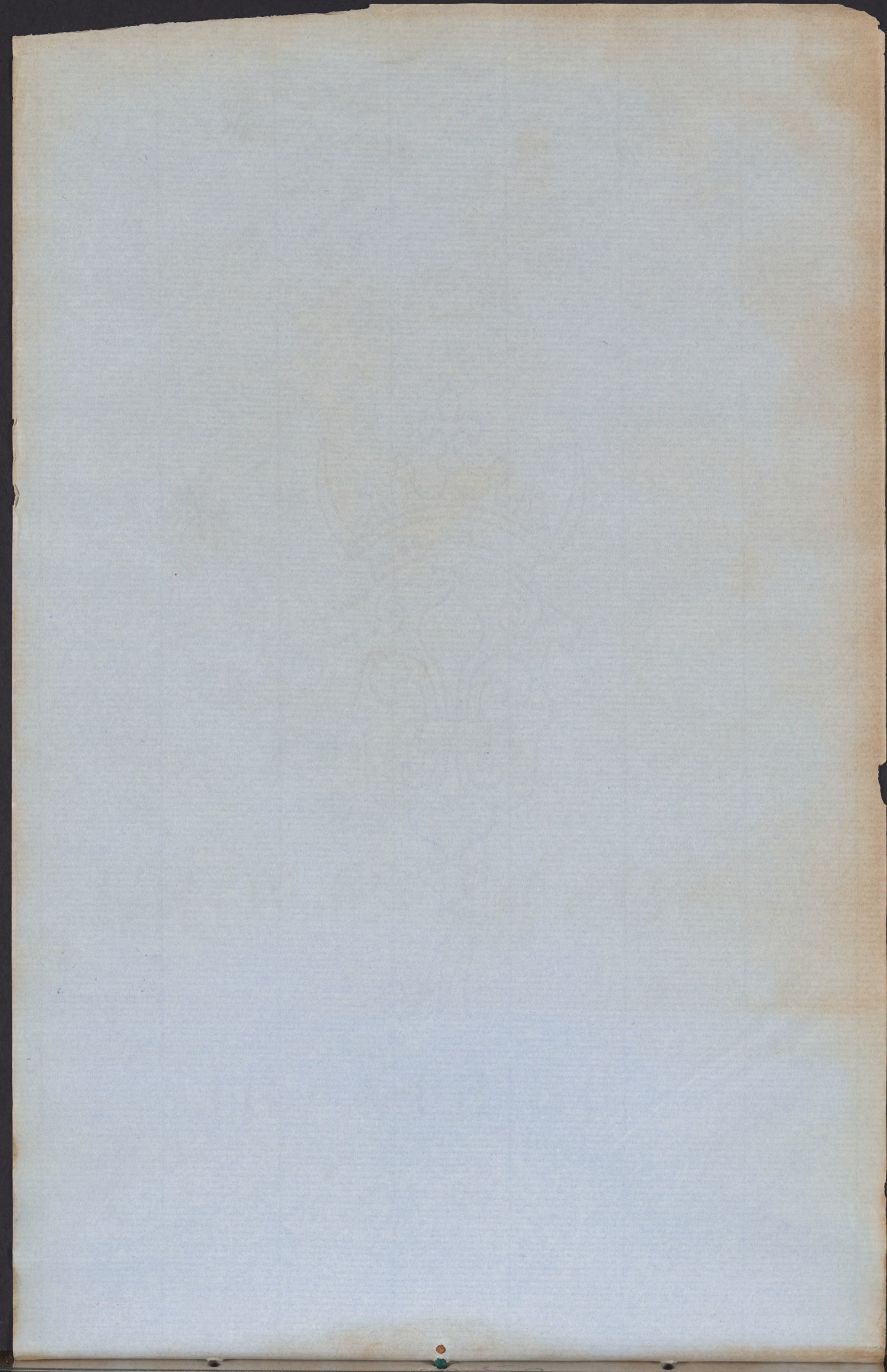
Microfilm

5ND



652

English Literature



# TRANSCRIPT

305 ND  
PAGE 1

OF THE

# PROCEEDINGS

IN CASE

NO. 652

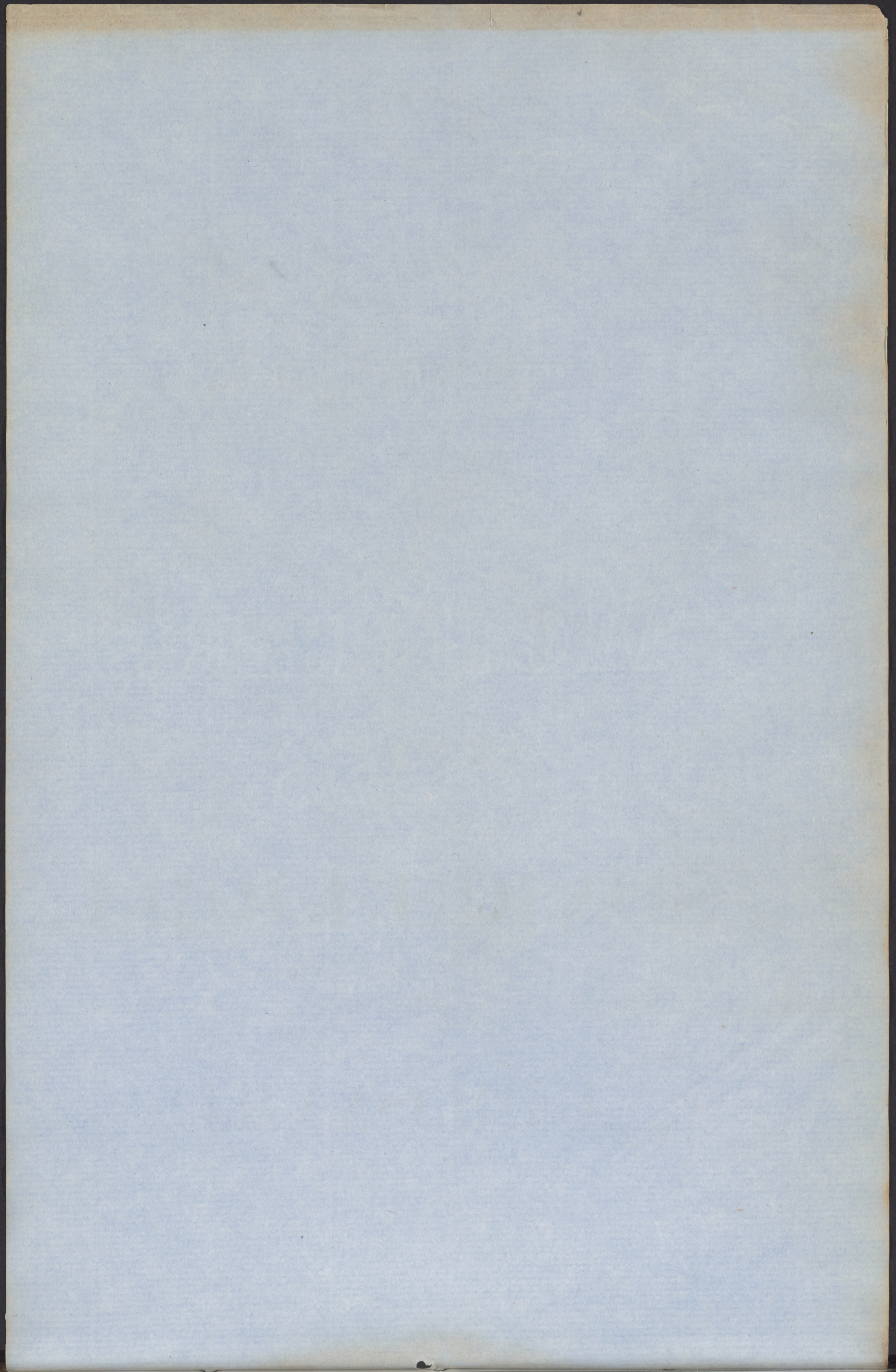
*Benjamin S. Lippincott* CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

*One league of land in San Joaquin Valley.*



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

305 ND  
PAGE 2

Be it Remembered, that on this *twenty eighth of February*, 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 *Benjamin S. Lippincott*,  
for the Place named  
*One league of land in San Joaquin Valley*  
was presented, and ordered to be filed and docketed with No. 652 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 Janry 2 1855.*  
Case no. 652, Benjamin S. Lippincott for land in San Joaquin Valley, was ordered to be placed at the foot of the 11<sup>th</sup> class cases in the Trial Docket.

*San Francisco Janry 16 1855.*  
Case no. 652 was submitted without argument and taken under advisement.

*San Francisco May 8 1855.*  
In the same case Commissioner S. B. Farnell delivered the Opinion of the Board rejecting the claim;

(Vide page 11 of this Transcript.)

And the following order was made, to wit;

(Vide page 13 of this Transcript.)

*[Faint, illegible handwriting]*

*[Faint, illegible handwriting]*

*[Faint, illegible handwriting]*

*[Faint, illegible handwriting]*

*[Faint, illegible handwriting]*

*[Faint, illegible handwriting]*

*[Faint, illegible handwriting]*

3 Petition

To the Honl. Board of U. S. Land Commissioners  
appointed to settle private land claims in  
California

The petition of Benjamin  
S. Leppincott respectfully shews:

That on or  
about the month of April A.D. 1846 Pio Pico  
then Governor of California in the name of the  
Mexican Nation by virtue of authority in  
him vested, the Success of Mexico in force, the  
various Success and customs of the country  
affecting grants of Land in California, gran-  
ted in force properly unto Jose Castro the land  
and Rancho situate in the Valley of the  
San Joaquin containing Eleven leagues of  
Land and more particularly described in the  
papers and maps relating to said grant of  
Land, a copy of said grant being filed  
herewith as part of this petition

And your petitioner further  
shews that on or about the 4th day of  
September 1849 said Castro sold and con-  
veyed One league of the said Land and  
Rancho unto James B. Gleason a copy of  
said Deed being herewith filed as part  
of this petition

And your petitioner further  
shews that about the month of September  
A.D. 1849 said Gleason sold and conveyed  
said One League of said Land to your  
petitioner, but the Deed of said Gleason  
is now missing, and a copy cannot be  
furnished at the present time, although your  
petitioner expects to be able to produce the  
same before the final hearing of his  
claim.

Your petitioner relies in  
support of this claim upon the Records  
now in the office of the U. S. Surveyor  
General for California, original papers  
and maps to be produced before you.  
Hon. Board, and the testimony of witnesses  
to be produced.

All of which your

305 ND

PAGE 3



H  
petitioner respectfully submits for such  
action as the justice and nature of this  
claim may require

E. A. Crosby  
of Lawrence

305 ND

PAGE

4

Filed in Office Feb'y 28. 1852.  
Geo. Fisher Secy

Recorded in vol 2 of Petitions on pages  
22-23

Geo. Fisher Secy

5  
Pii nro Gobernador Constitucional del  
Departamento de Californias.

~~Government~~  
~~Seal~~ } Por quanto el Jefe  
Gonv. de Cal. Dr. José Castro

305 ND  
PAGE 5

A. Copy  
Grant

Ciudadano Mexicano he solicitado para  
su beneficio personal y el de su familia  
un terreno de fanegas en las mar-  
genes del Rio de San Joaquin compuesto  
de Once sitios q. comensaron a medirse  
desde la Villa de la sierra nevada no  
abajo; practicadas preciamt. las averigua-  
ciones que han sido necesarias he venido por  
decreto de este dia en conceder al Exposedo  
senor los once sitios q. pretende declarandole  
la propiedad de Ellos por las presentes letras  
de conformidad con la Ley de 18 de Ayl<sup>o</sup>  
de 1824 y reglamento de 21 de Mayo de  
1828. conforme a las facultades en q. me  
hallo autorizado por el supremo Gobierno  
a nombre de la Nacion a reserva de la  
aprobacion de la Exma. Asamblea departa-  
mental y bajo las condiciones sigtes  
1<sup>a</sup> podra cercarlos sin perjudicar las trave-  
rias caminos, y servidumbres; los disputara  
libre y Esclusivamte destinandolos al  
mejor cultivo y uso q. le sea convenient  
2<sup>a</sup> Solicitara del juez respectivo la de la  
posesion juridica en virtud de este  
Despacho, por el cual se demarcaran  
los lindes con la respectiva mofonera o  
poniendo a mas de ellas algunos arboles  
portales i de conocida utilidad.  
3<sup>a</sup> El terreno de q. se hace donacion es  
preciamt. de Once sitios de fanega mayor  
en las margenes del Rio San Joaquin  
y comenzara su medicion desde la Villa

6

305 ND  
PAGE 6

de la Sierra Nevada. El juez que tiene  
la posesion lo hara medir con entera acur-  
sio a Ordenanza y a Vista del diseño  
o plano topografico qd. presentara el agrar-  
ciado. en consecuencia mando que  
teniendo el presente titulo por firme  
y Valido se tome razon de el en el  
libro a qd. correspondes y se entregue al  
interesado p<sup>o</sup> su resguardo y demas fines  
Dado en la Casa de Gobierno en la Cui-  
dad de Los Angeles en papel comun por  
no haber sellado, a los cuatro dias del  
mes de Abril de mil Ocho Cientos cuarenta  
seis,

(signed) Pio Pico  
signed) Don Matias Moreno  
Dir. Int<sup>o</sup>

Queda tomada Razon de este superior  
Despacho en el Libro Respectivo.

(signed) Moreno

Deposited in the Government Archives  
this 8<sup>th</sup> day of June 1849. by Bernard  
M<sup>o</sup> Kenzie.

signed. H. W. Halleck  
Bt. Capt. & Secy. of State

I certify that the foregoing is a true copy  
from the Records of this Office.

State Department Cal.  
Monterey, June 8<sup>th</sup> 1849.  
H. W. Halleck

Bt. Capt. & Secy. of State

Filed in Office Secy, 2<sup>nd</sup> 1853.

Geo. Fisher Secy

Translation  
of Grant.

Pico Pico Constitutional Governor of the  
Department of the Galapagos

305 ND  
PAGE 7

Whereas the Lieutenant Colonel of Cavalry  
Don José Custos Mexican Citizen has for his  
personal benefit and that of his family  
petitioned for a piece of Land for the  
pasturage of Cattle upon the banks of  
the River of San Joaquin consisting of  
eleven sitios, commencing their measurement  
from the border of the Sierra Nevada to  
the River below, having previously per-  
formed the steps which were necessary, I  
have made a decree of this day granting  
to the said Señor the eleven sitios petitioned  
for declaring it to be his property by these  
present letters in conformity with the laws  
of the 18th of August 1824 and the regula-  
tions of 21<sup>st</sup> of November 1828 according  
to the Authority with which I find myself  
invested by the Supreme Government and  
in the name of the Nation, reserving the  
approbation of the Most Excellent Depart-  
mental Assembly and under the following  
Conditions.

1<sup>st</sup> He can fence it without injury to the  
croppings, woods and swamps. He may  
enjoy it freely and exclusively, destining  
it to the use and cultivation which may  
best serve him.

2<sup>nd</sup>. He shall ask of the respective judge  
to give him judicial possession in virtue  
of this Decree by whom the boundaries  
shall be measured and with the respec-  
tive monuments, placing beside them  
some fence trees of known utility.

3<sup>d</sup>. The Land of which donation is made  
is precisely Eleven (sitios of ganado mayor)  
(large Cattle) upon the banks of the River  
San Joaquin and will commence the  
measurement from the Border of the Sierra  
Nevada

8

The Judge who gives the paper will have it measured with entire conformity to the Ordinance, and at sight of the map or topographic plan which the beneficary presents.

305 ND  
PAGE 8

In consequence I order that presuming the present title as firm and valid record be taken of it in the Corresponding Book and that it be delivered to the petitioner for his security and other purposes

Given in the House of the Government in the City of Los Angeles on Common paper upon the 4th day of April One thousand eight hundred and forty six.

Jose Mateos Moreno *Pro Tico*  
Secretary of the Interior

Let Record be made of this Superior Despatch in the respective Books  
Mexico

Deposited in the Government Archives this 8th day of June 1849 by Bernard McKenzie  
(Signed) Wm. Hallack  
Pt. Capt. Secretary of State

I certify that the foregoing is a true copy from the Records of this Office  
State Dept. Calca. Monterey June 8th. 1849

Wm. Hallack  
Pt. Capt. Secy of State

Filed in Office Feb'y 28th. 1853

Geo. Fisher Secy

Recorded in Ev. B Vol 17

On the Part of Monterey California  
the 11th day of June 1849

9 Copy Deed  
Casta to  
Gleason.

305 ND  
PAGE 9

In the Port of Monterey Upper California  
the 4th day of September 1849 before me  
Ignacio Esquivel 1<sup>st</sup> Alcalde of the Town  
of Casta, and before the witness with whom  
I proceed in the form established, did  
appear personally the Citizen Jose Casta  
to me known do attest, and who set forth

That in his own name and  
in the name of his heirs and successors or  
any of them, having right title or voice  
in any manner whatsoever, does sell and  
give in Sale publicly and solemnly and  
perpetual alienation by right of inheritance  
of and to citizen James St Gleason to whom  
I likewise attest and know, a piece of land  
lying on the Banks of the River of San  
Diego of the extent of one square league  
or sitio of black Cattle, being part of  
Eleven leagues granted in favor of said  
Jose Casta, according to the proper title  
in the circumstances that said league  
shall be picked out by said James St  
Gleason from the remaining Lands with  
out injury to any sale heretofore effected  
in the sum of One thousand Dollars (\$1000)  
which he has already received to his entire  
satisfaction in virtue of which the said  
cited declines and affirms as not having  
already sold, disposed or put in power and  
is free from all encumbrance, and as such he  
sells it in the said sum of (\$1000).

and as the delivery is not as appearing  
present, he renounces the sales of the same,  
those of September and payment of the  
receipt as therein expressed and does likewise  
declare that the just and true value of the  
said sitio (league) of Land is the same  
of 1000. And is not worth more and in case  
of its being worth more, or may be worth  
more the excess in greater or less amount  
he makes over in favor of the purchaser  
a pure perfect and irrevocable gift which  
of right is called mita bovos with all the  
legal securities thereof, renouncing the Lands

305 ND  
PAGE 10

which treat of Contracts, Exchanges and of  
Others which have are clauses opposed in  
more or less of the half of the first piece. and  
from now henceforth forward, does he throw  
off and release from all demands or power  
popperan, title and all right which are  
his to said premises. He ceases and makes  
open to the purchaser and in whom he may  
be represented so that he may possess  
enjoy, Exchange or dispose of it, at his  
discretion as a thing acquired with just  
legitimate title.

In testimony of the same  
he has authorized this and signed with  
me and said witnesses renouncing all  
claims that may be in his favor he is

Filed in office Feb 28. 1853

Geo. Fisher Secy

11 No. 652.

Benjamin S. Lippincott

Opinion of the Board delivered by Commissioner S. H. Farwell

The United States

For a part of Eleven leagues of land on the San Joaquin River in Mariposa County.

305 ND  
PAGE 11

The petitioner in this case claims one league of land embraced in a grant issued by Pio Pico, to Jose Castro on the 4<sup>th</sup> day of April 1846, situate at the foot of the Snowy Mountains on the San Joaquin River and running down said Stream. The merits of which said grant we have fully examined and reported in the proceedings of this board as of to day in Case No 320 by which we determined the said claim to be valid. And also in case No 692, in which the said Castro applies for a confirmation of the whole claim to ensure to the benefit of all that purchased from him, which claim has also been considered and adjudged valid and a decree entered in accordance with the prayer of the petition.

The petitioner in this case states in his petition that he holds his interest by virtue of a deed from the said Castro to one James S. Mason dated the 4<sup>th</sup> day of September 1849, and also by a deed from the said Mason to the petitioner dated some time in the same month and year but has failed to produce the deeds or any evidence of their existence, and has not shown himself entitled to any confirmation of any interest whatever



in the land. If the claimant herein has any legal interest which he holds under Castro, he will have the full benefits of that interest by virtue of the confirmation entered in case No 693. above referred to. We do not deem the proofs sufficient in this case to entitle the said petitioner to a confirmation and therefore a decree adverse to the claim will be entered.

Rejected

Filed in Office May 8<sup>th</sup> 1855  
Geo Fisher  
Sec'y

13 No 652

Benjamin S. Lippincott

Decree

The United States

In this case after hearing the proofs and allegations it is adjudged by the Commissioners that the claim of the <sup>party</sup> petitioner is not valid, and it is therefore decreed that his application for a confirmation thereof be denied.

305 ND  
PAGE 13

R. Aug Thompson  
S B Farwell

Commissioners

Filed in Office May 8<sup>th</sup> 1855

Geo Fisher  
Secy

Order

305 ND  
PAGE 14

And it appearing to the satisfaction of the Board that the land hereby appropriated is situated in the Northern District of California it is hereby ordered that two transcripts of the proceedings and the decision in this case and 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.

Office of the Board of Commissioners,

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

305 ND  
PAGE 15

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 *Fourteen* pages, numbered from  
1 to 14, both inclusive, to contain a true, correct and full Tran-  
script 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. 652, on the Docket of the said Board,  
wherein

*Benjamin S. Lippincott* is —  
the Claimant against the United States, for the place known by  
the name of "One league of land in San Joaquin  
Valley."

In Testimony Whereof, I hereunto set my hand  
and affix my private Seal (not having a Seal  
of Office) at San Francisco, California, this  
*Twentieth* day of *October*  
A. D. 1855, and of the Independence of the  
United States of America the ~~seventy~~-*eightieth*.

*Geo. Fisher*



305

U. S. DISTRICT COURT,  
*Northern* District of California.

No. 305

305

THE UNITED STATES

vs.

*(N 1)*

*Benjamin E. Saffinett.*

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. *652.*

Filed,

*October 23, 1855*

*J. E. Curran,*

*Clerk.*

305 ND

PAGE 16

Office of the Board of Commissioners,

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

San Francisco, Oct. 20<sup>th</sup> 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. 652 on the Docket of the said Board, wherein

Benjamin S. Duffinett is the Claimant against the United States, for the place known by the name of "one league of land in San Joaquin Valley" and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

*[Handwritten signature]*