

CASE No.

289

NORTHERN DISTRICT

LOS COCHES GRANT

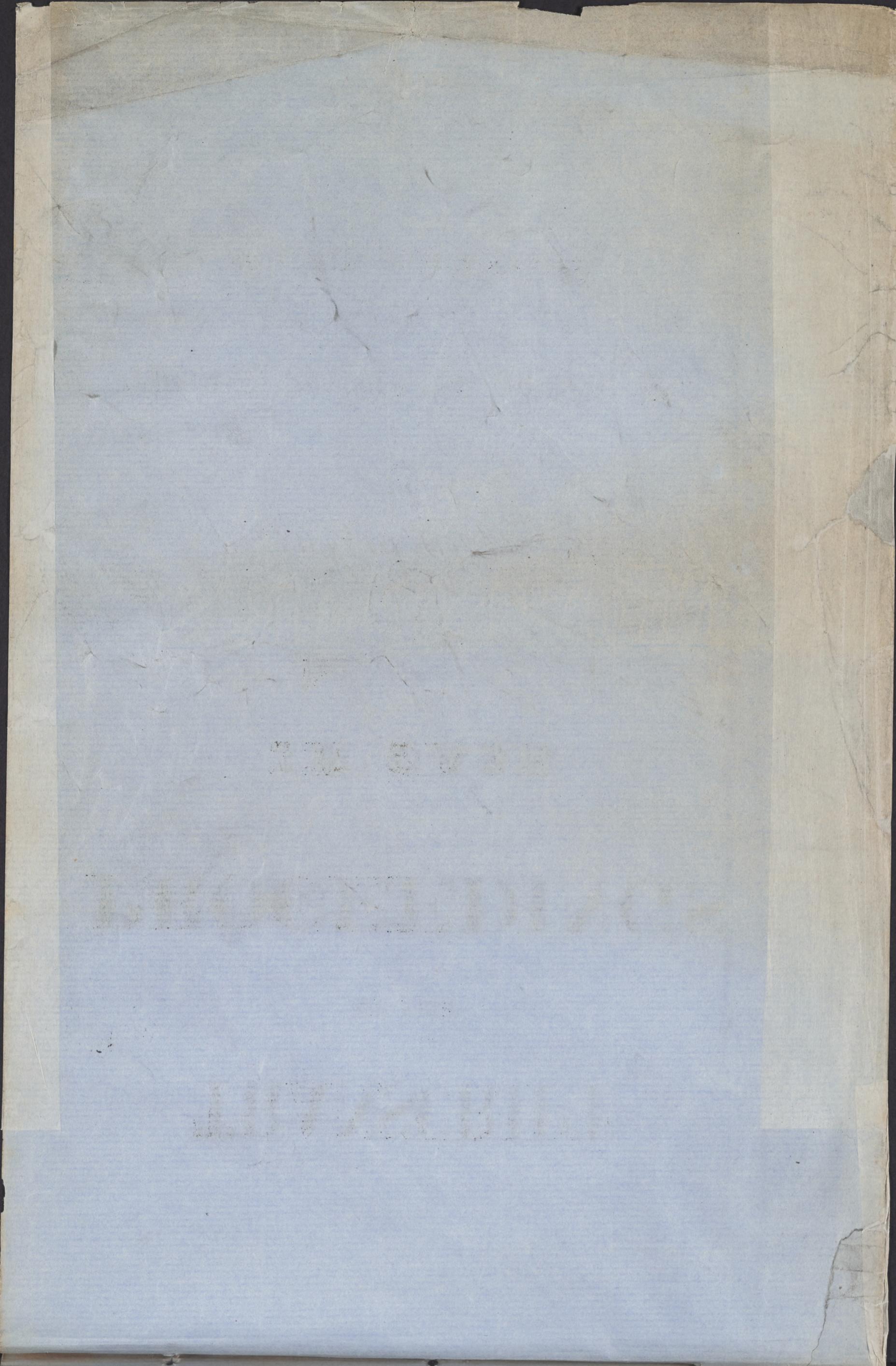
ANTONIO SUNOL. et al.

CLAIMANT:

LAND CASE 289 ND PAGES 133 ALSO AVAILABLE ON MICROFILM

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167
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TRANSCRIPT

289 ND
PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. *167.*

Antonio Guinol, et al,

CLAIMANT &

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Los Cochinos"

THE BOARD OF COMMISSIONERS
OF THE
UNIVERSITY OF CALIFORNIA

OFFICE OF THE
SECRETARY

UNIVERSITY OF CALIFORNIA

OFFICE

UNIVERSITY OF CALIFORNIA

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 seventh day of April, Anno Domini One Thousand Eight Hundred and Fifty-two, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;

289 ND
PAGE 2

The Petition of Antonio Suñol et al:
for the Place named
"Los Cochos,"
was presented, and ordered to be filed and docketed with No. 167 and is as follows, to wit;

(Vide page 5 of this Transcript.)

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

San Francisco January 8' 1853.
In Case no. 167, N. M. Naglee et al: for the place named "Los Cochos," the deposition of Antonio M^o Pico, a witness in behalf of the Claimants, taken before Commissioner Mary J. Thornton with documents marked N. J. T. no. 1. 2. 3. and 4, annexed thereto, was filed;

(Vide page 7 of this Transcript.)

San Francisco Aug. 30' 1853.
Case no. 167, Antonio Suñol et al: for the place named "Los Cochos," called; ordered to be put on the Docket.

San Francisco March 22' 1854.
In Case no. 167, Antonio Suñol et al: for the place named "Los Cochos," the deposition of José Fernandez, a witness in behalf of the Claimants, taken before Commissioner Peter Sott, was filed;

(Vide page 8 of this Transcript)

San Francisco April 5th 1854.

In the same Case the deposition of William J. Lewis, a witness in behalf of the claimants, taken before Commissioner Peter Sott, was filed;

(Vide page 18 of this Transcript)

San Francisco June 4th 1854.

Case no. 167, on motion, was ordered to be placed at the foot of the first class cases on the Trial Docket.

San Francisco July 7th 1854.

In the same Case the depositions of Benjamin H. S. Hartfield and William Campbell, witnesses in behalf of the United States, taken before Commissioner Peter Sott, were filed;

(Vide pages 24 & 28 of this Transcript)

San Francisco July 24th 1854.

In the same Case the deposition of Abilo Moadly, a witness in behalf of the United States, taken before Commissioner Peter Sott, with map marked Exhibit no. 1, P. S., annexed thereto, was filed;

(Vide page 33 of this Transcript)

San Francisco July 29th 1854.

In the same Case the deposition of James A. Forbes, a witness in behalf of the claimants, taken before Commissioner Peter Sott, was filed;

(Vide page 41 of this Transcript)

San Francisco Aug. 4th 1854

Case no. 167 was argued and submitted,

San Francisco March 20th 1855.

In the same Case Commissioner Alpheus Felch delivered the opinion of the Board confirming

3

the clarin;

(Vide page 95 of this Transcript.)

N.

And the following order was made, to wit:

(Vide page 119 of this Transcript.)

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289 ND

PAGE 4

4

Petition

To the Honorable Commissioners to Settle Private Land Claims in California

The Petitioners Antonio Suñer Paula Suñer de Susevain and Henry W. Hayes respectfully show

That in the year 1840 Roberto an Emancipated Neophyte of Santa Clara applied through the proper Authority for the tract of land called Los Cochis situate in the former jurisdiction of San Jose and now County of Santa Clara That on the report of the subordinate officer the Governor of California on the 9th day of October A.D. 1840 decreed that a provisional grant be given to the said Roberto to occupy the said lands all of which is shown in the original Espediente a copy of which is submitted herewith marked A with a translation marked B.

That on the 7th day of July A.D. 1843 the said Roberto petitioned for the Alcalde of San Jose a registry of a brand or sign for marking the cattle with which he had the claim to the said lands in the year 1840 a copy of which is submitted herewith marked C with a translation marked D.

That on the 12th day of March A.D. 1844 Governor Micheltorena granted to the said Roberto a certificate of Emancipation a copy of which is submitted here with marked E with a translation marked F.

That on the 12th day of March A.D. 1844 Manuel Micheltorena Governor of California by virtue of authority in him vested granted to the said Roberto in fee apart of the said tract of land called Los Cochis being one half a square league with the boundaries described in the grant a copy of which grant with a certificate of its registry is submitted here with marked G with a translation marked H.

That on the 1st day of January 1847 the said Roberto sold and conveyed the said tract of land to one of the Petitioners Antonio Suñer which sale and conveyance was confirmed by a public deed and bearing date on the 8th of January A.D. 1850 copies of which deeds of

6

conveyance are submitted beneath marked J with Translations marked J

289 ND  
PAGE 6

That on the 24th day of November a D 1849 the said land was duly surveyed by an Officer of the United States and the judicial possession of it given to the Petitioner Simón a copy of which possession and map of Survey are submitted beneath marked K with a Translation marked L

That on the 15th day of December ad 1849 the said Antonio Simón sold and conveyed an undivided third part of said land to the said Paula Simón de Sanscain and an undivided third part of said land to the said Henry W. Magle a copy of which conveyance is submitted beneath marked M

That the said tract of Land has not been surveyed by the Surveyor General of the United States but that it was early surveyed in 1849 that its boundaries are fully ascertained in the title papers and are well known

That from the year 1840 to the year 1847 the said Roberto was in full possession and occupation of said land that since the beginning of 1847 the Petitioners have been in the possession and occupation of said land and have expended over large sums of money in building and improvements

That they have no conflicting claim that they rely for confirmation of title upon the original papers copies of which are submitted beneath upon the records and minutes in the Archives under the charge of the Surveyor General and upon such other and further proofs as they may be advised are necessary

Wherefore they pray the Commission to confirm to them the aforesaid tract of land

By their Attorneys  
Halleck Beachy & Billings

Filed in Office April 6th 1857

George Fisher

Secretary

Recorded in Record of Petitions Vol 1. Pages 30 and 31

George Fisher Secretary



2/167

7 Depositions  
of Antonio  
Maria Pico

San Francisco January 8th 1853

On this day before Commissioner Henry J. Thornton  
came Antonio Maria Pico a witness in behalf  
of the claimants H. M. Nagle et al Petition  
No 167 and was duly sworn his evidence being  
interputed by the Secretary

The U.S. Associate Law Agent  
was present

My name is Antonio Maria  
Pico my age is forty four years I reside in  
San Jose and have lived in California all  
my life

I am acquainted with the signatures  
of Ysidoro Guiller Maria Micheltorrea and  
Manuel Jimeno their signatures to the papers  
before me marked Exhibit No 1 are genuine

I am  
also acquainted with the signatures of Jose  
Fernandez J. M. Castro Antonio Ynezoso Jose  
Morciga M. G. Haller and Jose Maria Loran  
-sertis their signatures to the papers before me  
marked No 2 are genuine

I am also acquainted  
with the signatures of Antonio Surob Jose Fern  
-andez and P. Sansvain their signatures to  
the papers before me marked No 3 are genuine

The  
signature of Antonio Maria Pico as perfect  
to the same paper is my signature

I am also  
acquainted with the signatures of Antonio Surob  
Henry M Nagle James M Jones and William  
A. Rice and their signatures to the papers before  
me marked No 4 are genuine

When the land  
described in these papers it is situated in Santa  
Clara County the Indian Roberto occupied this  
land from the time when Alvarado was Gov  
-ernor until 1847 when he sold it to Surob

He  
had a house corral forrings and cattle on  
it he had about abundant heads of cattle and  
some thirty horses since 1847 Surob and his family  
have occupied it his son lives on it now he has a  
brisk house forrings + corral Nagle + Sansvain

289 ND

PAGE 7

8

also have several large towns on it I should think the improvements made on this land have cost several hundred and some times between seventy and a hundred thousand dollars

289 ND  
PAGE 8

I have held under the Mexican Government in this country the offices of Alcalde and Jefe de los Juicios de Mexico as I understand them and the usage and custom in California Indians had the same right to sell and alienate their lands as the whites

Auto Na Pico

Me Law Agent present

Sworn to and Subscribed before me this 8th of January 1853

Henry J. Huntman

Commissioner

Filed in Office January 8th 1853

Geo Fisher

Secy

Recorded in Land Office B. Volume 2 Page 424

Geo Fisher

Secretary

Deposition of Jose Fernandez

United States of America }  
State of California } 3

San Francisco March 22. 1854

This day personally came before Peter S. H. Commissioner for taking testimony to be used before the Board of United States Land Commissioners in said State

Jose Fernandez unit

was on behalf of the claimant in case No 167 on the docket of said Board in which Auto na Pico and others are claimants the said Jose Fernandez being only sworn deposed in Spanish which was interpreted into English by the Interpreter for said Board as follows to wit

J. H. McKim Esq Me Law Agent was present

Testimony by Ale Beach Esq Attorney for the claimant

Question Please state your name age and place of residence

Answer My name is Jose Fernandez

3/16/77

9

my age fifty five years my residence Santa Clara County California

2 Question How long have you lived in Santa Clara County and in what part of that county

Answer I have lived there since the year 1835 I then lived at the Pueblo of San Jose till 1836 since that time in the Mission of Santa Clara

289 ND  
PAGE 9

3 Question Do you know the Rancho Los Cochinos how long have you known it and what do you know of the occupation of it by the Indian Roberto and the Spanning Indian

Answer I do know the Rancho and have known it since about the year 1834 I know it to be occupied by the Indian Roberto since - vizably in 1836 under the permission of the Padres who governed the Mission of Santa Clara

Roberto occupied it till he died about the year 1850 or 1851 there were houses on the land when I first knew it there was a house with a long roof on it and also a corral

There were then a few cows and horses and two yoke of oxen Roberto had a considerable quantity of the land under cultivation

After Roberto died his family and Antonio Suro. The family all lived there till their death after which Suro continued to occupy it

The family are all dead in 1857 since that time Suro has lived there till the present time

4 Question Did Roberto leave a widow or not

Answer He did He died about a year after he died

5 Question What children did he leave

Answer Two a son named Juan and a daughter named Maria Rigua

Question Did either Roberto or his widow leave any real estate both are intestate

Answer I do not know

Question 7 Look at the paper headed  
you marked Exhibit No 2 to Deposits of San  
Piero No 67 and say whether your name where  
- ever it is written on said paper was written by  
you and is your own proper signature

Answer The three signatures of my  
name on this paper are my own I signed as  
assisting witness on the first page and as  
Alcalde 2nd on the 7th and also on the endorsement

Question 8 Were the names of Jose Roberto  
Kallumino Manuella de Kallumino Juan  
Kallumino and Maria Regina Kallumino sig-  
- ned on the first page in your presence

Answer Yes all of them  
This last question objects to by the Law Agent as a  
leading question

Question 9 whose hand writing  
is the body of the instrument alluded to

Answer My own  
Question 10 Who wrote the name  
of the parties purporting to have executed it  
Answer I wrote the names of Jose  
Roberto Kallumino and Juan Kallumino and  
they affixed their marks thereto respectively  
with their own hands

The names of Maria Regina  
Kallumino and Manuella Kallumino were proba-  
- bly written by Salvador M Castro or Antonio Guejo  
whose names appear as witnesses

I saw them sign  
as witnesses I believe the marks attached to the names  
of Maria Regina and Manuella Kallumino were  
made there by them

Question 11 who was Jose Roberto  
Kallumino

Answer He was an Indian of the  
mission of Santa Clara the same person spoken  
of in my answer to 3rd Question herein

Question 12 Who were the other  
parties to the instrument as bearing executed  
the same

Answer Manuella his wife Juan  
his son and Maria Regina his daughter

Question 13 When was the  
instrument executed

Answer on the Amfit beans date  
in 1847

Question 14 How long after the date  
of the instrument did Suñero take possession of  
the Rancho

Answer He had already had stock  
on the place before that time the house was  
occupied by his vaquero who took care of his  
stock the same possession continuing after the  
writing was executed

Question 15 How long after the  
execution of this instrument did Roberto die  
Answer I believe he died that  
same year or in the early part of the next  
year

Question 16 Look at the docu-  
ment beginning on the 5th page of this paper  
and state what you know of its execution and  
the genuineness of the signatures thereto

Answer It was executed in  
my presence at the time of its date by Juan  
Ballunino and Nepica Ballunino's assistant  
who made their own marks and by Mariano  
Gralley

José Maria Levanteras and José  
Muniga as assisting witnesses and by my-  
self as Secund. Alcalde the signatures and marks  
are all genuine and written and made by the parties  
purporting to have written and made them

Question 17 Do you know  
the bound lines of the Rancho Los Cochinos of your  
State how long you have known them and  
what you know of them

Answer I know them  
and have since known Roberto the Indian  
Govestrum and on the south by the Roblar del  
Motal and on the north by an arroyo (by the  
name of) at the edge of the Laguna

The line  
runs along the margin of the Laguna till it  
reaches a place called Leinequitwa at the edge  
of the Alameda from the Pueblo to the Mission of Santa  
Catalina along the edge of the Alameda to the  
Rio de Pueblo of San José called Guadalupe  
then along the edge of the said river

289 ND  
PAGE 11

to the source of the Tootal

Question 18 What is the bearing between the Tootal and the abior sycamore Tree of which you have spoken

Answer I have always understood the line to be a straight line from the Tootal to the Sycamore tree

Question 19 Was the widow of Roberts living at the time the instrument was executed which begins on the 5th page of the paper just shown you of which you testified in answer to Question 16

Answer No she was dead

Question 20 Who were the two persons Juan and Regina Bellinero whose names appear as having executed said paper

Answer They were the sole heirs and only living children of said Roberts

Question 21 What is the Tootal of which you have spoken

Answer It is a kind of tree called Tootal the gum is called Tootal

Question 22 What is the Cui-iga of which you have spoken

Answer It is a wet swampy place

Question 23 What is the Cui-iguta

Answer It is a small spring of water which runs all the year

Question 24 Look at the map now shown you and the paper purporting to be the duplicate from the Surveyor General's office and state if the map corresponds with your knowledge and recollection of the boundaries of the Rancho of Los Cochinos

The Law Agent objects to this as a leading question

Answer This is a very extended portion of the land, there was only granted to Roberts about a league and this comprises the whole land, the map represents more land than was granted to Roberts

Witness examined by J. H. McKune Esq United States Law Agent

289 ND  
PAGE 12

13

Question 1st Was Robert an Indian attached to the Mission of Santa Clara and did he reside in the Mission in 1836.

Answer He belonged to the Mission and lived on his rancho about three miles from the Mission

Question 2 Was Roberto at that time an emancipated Indian

Answer Yes

Question 3 How large a rancho had he in his possession at that time

Answer I cannot say precisely by how large

Question 4 How large a family had he in 1836

Answer He had his wife and two children who lived with him

Question 5 Did not the Rancho on which he then lived belong to and was it not under the control of the Mission

Answer In 1836 it was recognized and understood to belong to Roberto the Mission had no stock there, the Padres had given him permission to reside there

Question 6 Had he at that time any land enclosed

Answer He had it enclosed in two different + one was a Garden and the other a field of more than 300000 square the shape of the field was a parallelogram

The fence was made of stakes driven in the ground and poles tied to them

Question 7 Are these the enclosures you refer to in your answer to Question 3

Answer They are the same

Question 8 Were these enclosures still remaining in 1841 and 1842

Answer Yes

Question 9 Were there any changes made in them in that time

Answer I do not know whether they were made smaller or not but was planting also John's Padres and others in other parts of the Land

289 ND  
PAGE 13

PH

Question 10 What boundaries were there to the Rancho in 1841 and 1842 to your knowledge besides these enclosures

Answer The whole of the land of the Rancho was generally recognized as the Rancho of Roberto tho nobody knew the extent of the boundaries I live in the Mission and did not know myself

289 ND  
PAGE 14

Question 11 When and by whom boundaries were established which you spoke of in your answer to question 17

Answer I do not remember the time It was when the title of the Land was given to Roberto by Juan Bustamante Marched over the boundaries as Alcalde at the solicitation of Roberto

I think it was about 1845 took Roberto to Antonio and showed him the boundaries of his Land

Question 12 What point did you first know him

Answer First the Rio Guadalupe next all along the Alameda thirty varas from the Alameda to the Benigno the distance I do not know it was not measured

Next we went to the Aliso or Sycamore tree I do not know the distance it was not measured it may be 500 varas I think not more Next from the Sycamore to the Poblado de Tonalte we came to the bank of the Arroyo de los Arroyos

Thence down said Arroyo to the Rio Guadalupe

Question 13 How much land was embraced in these boundaries

Answer The boundaries were printed out as intended to contain about league of land according to our calculation tho but of our present without measurement I printed out the boundaries did not know the exact quantity of the Land

Question 14 How did you judge that the boundaries printed out by you were the same as those named in the Grant

Answer when you had them

6/26/77

15-

out. I certainly saw documents or would not have done it and Roberts went with me showing me the places

I do not recollect and cannot say positively that I did see a document then

Question 15 Did Roberts ever show you documents which he called his title

answer I do not recollect distinctly of ever seeing it

Question 16 How were you appointed to decide and by whom

answer I was appointed by the Mexican Government my commission was signed by Governor Alvarado or Pico or the Prefect

under this Commission I hunted out Roberts boundaries since I recollect I think demands did not begin it unless I cannot tell whether he or the Prefect signed it

Question 17 Did anyone go with you when you hunted out the boundaries besides Roberts

answer one Indian went along and some of the Indians and others I do not recollect who they were at this time

Question 18 Did you examine the neighboring boundaries or properties

answer No

Question 19 Did you raise or establish any land marks to distinguish the boundaries

answer No the points were notable points

Question 20 Would you wish to explain your answer to Question 18

answer I gave notice to the Priest of the Mission of Santa Clara and he told me to use my own judgment

Question 21 How did you establish the line between the Alameda and how do you know the distance and why

answer Now you make me understand how that I saw the title and that distance was marked by the assumption in the title I recollect

289 ND  
PAGE 15

to have seen the title on several occasions when  
and where I cannot precisely remember how  
I saw it in the possession of Antonio Suñer  
the time I do not remember I have seen it  
both before and since the death of Roberto

289 ND  
PAGE 16

Question 22 Did you ever read  
the title

Answer It is so long I do not rem-  
ember the name but have read, or I could, not  
have printed out the boundaries to Roberto

Question 23 How and why do you  
recollect that you printed out that line as being  
20 varas from the Alameda

Answer Because it has been  
called to my recollection

Question 24 Have you recently  
examined this title and consulted with out-  
sid parties about it

Answer No it is a long while  
since I saw it and have not consulted about it  
except to tell Antonio Suñer I was coming  
here to try to get the lease when he asked  
me to do so the lawyer asked me some questions  
but did not know what to answer

Question 25 Do you remem-  
ber ever having seen a map among the title  
papers which you said

Answer I do not recollect  
never recollect whether I printed out the bound-  
aries with reference to any map

Question 26 Was the second  
line you printed out at right angles from the  
Alameda

Answer The Alameda is not  
straight and it would be difficult to tell

Question 27 Are you acquainted  
with the boundaries of Pueblo of San Jose

Answer I am not ac-  
quainted with them

Question 28 Did you attempt  
about the month of November 1849 to give to  
any one judicial possession of the Rancho of  
Los Cochinos

Answer I do not recollect I have  
been trying to remember

17

Question 29 Do you know anything about the sale of the Rancho by Roberto to Simón except what you know from the papers

answer I do not

Re Examined by Mr Peabody attorney for Plaintiff

Question 1 Look at the paper numbered 6 Exhibits No 3 to Deposition of A M Pico in '67 and state if you recognize it and if you are acquainted with the signatures therein and if you recollect the transactions to which it refers

answer I recognize the papers through the signatures of Antonio Maria Pico Antonio Simón Pedro Sansoain and myself they are all genuine I recollect the transactions I said not at first

The Law Agent objects to the last question and answer on the ground of imbecility to the lease

Question 2 Who was living on the land in question in 1844

answer Roberto with his family and Antonio Simón and the houses are still there and another penthouse & another corner

Question 3 Did Roberto leave any other children or assistants at the time of his death besides the two you have mentioned

answer No none others

Question 4 Did his widow leave any others

answer No

was examined by Law Agent

Question 1 State particularly what buildings were on the land in 1844 and how they were located on the Rancho

answer There are three or four houses including the penthouse which was built by Antonio Simón a wooden building as not from the size of it. It was about distance from the small Indian house towards the road. The house in which Roberto lived lived was inside of the Garden the others are outside the Garden was a garden of fruit trees, Jose Fernandez subscribed and sworn to before me on this 22 day

18

of March ad 1854 Peter Lott & Commission  
For taking testimony  
Filed in Office March 22<sup>nd</sup> 1854

George Fisher  
Secretary

Recorded in Volume B. Volume 4 Page 85  
George Fisher  
Secretary

289 ND  
PAGE 18

Deposition  
of William J  
Lewis

United States of America }  
State of California } 3

San Francisco April 5<sup>th</sup> 1854

This day personally came before Peter Lott a  
Commissioner for taking testimony to be used  
before the Board of United States Land Comm-  
missions in said State

William J Lewis a  
witness on behalf of the claimant in case No  
167 on the Docket of said Board in which ante-  
rior sworn oral and claimants and the said  
William J Lewis being duly sworn and deposed  
in English to wit

The United States Law Agent  
is present  
Questioned by Mr Peachy of counsel  
for claimant

Question What is your name  
age and present place of residence  
Answer My name is William  
Lewis my age 42 years my residence is Santa  
Clara County California

Question are you acquainted  
with the tract of land claimed in this case  
called the Rancho of Los Cochinos of your State what  
you know of the boundaries & contents of the Rancho

Answer I am acquainted with  
the Rancho of Los Cochinos it is bounded by the  
Guadalupe river the claimant by the boundary  
of Santa Clara and by an oak grove called  
the Motal It contains half a league of  
Land

Question Did you ever make a survey of that  
Rancho according to the call in the grant if you  
did you or not find any difficulty in making  
the survey according to the description of the land in the said grant

19

8/27

Answer Made a survey of the Ranch in February 1857 by order of the court of first instance and found insufficiently in locating the Land, in accordance with the description contained in the title

4 Question Do you now recollect the description of the Land contained in the title

Answer It called for the same as was first mentioned in answer to said Question herein

289 ND  
PAGE 19

5 Question Look at the paper filed in this case marked Exhibit No 2 to the Department of Antiquities Manila Dec 14. 1857 and say whether there is the same document used by you in making the survey you have mentioned

Answer This is the same  
Question Did you ever compare the survey made by yourself of this land with the survey of any other person of the same land  
Answer Yes compare it with a survey made by Mr Lead better found upon the comparison that the surveys substantially agreed with each other

7 Question Look at the document on page seven you filed in this case marked Exhibit No 3 to Department of Antiquities Manila Jan 16 1857 and say whether this map corresponds substantially with the one made by you when you surveyed the Ranch

Answer I think this is an exact copy of Lead better's map which, however, does not contain all the details I think it corresponds substantially with the map made by me of my survey

8 Question Had the stream marked in this map as Rio de los Gatos any other name

Answer It was also called the Guadalupe It is the largest branch of the river Guadalupe It rises in the Santa Cruz Mountains about 6 miles from this Ranch Los Gatos Testamento is called Los Gatos upon the mountains but in the plain it goes by this name (both) and Guadalupe in different parts  
Question Is this stream

of which you are speaking are about runs all the  
year round or does it dry up in the summer  
season. It is a small stream  
above, Mr. Forbes is meeting a mill in it where  
it leaves the mountains to run by some of them  
In the summer the stream when it strikes the  
ground it sinks in the valley

In some part of  
some summer it is dry in that part which con-  
tains the Rancho Los Angeles at the upper portion  
of the stream which runs into Los Angeles the bed  
of the run is gravel and about 12 feet deep

Lower down  
the channel runs through a marsh after which  
it again runs a well defined run the channel  
of the stream is easily traced all the way

The river runs  
bed of the map that looked at, at the  
Rio de San Jose is the same stream which is  
called also Rio de San Jose Guadalupe  
cross examined by printed  
States Land Agent

1. Question. What case was  
the name of the court of first instance mentioned  
by you made

Answer. In the case of Juan  
Suñer, Juanicain and Angel vs. Hepturn  
and others my impression is it was an action  
of ejectment for this same land

2. Question. What was the final  
decision of that case

This question is objected to by  
counsel as illegal the objection  
waived

Answer. It is an award  
in favor of Hepturn on the ground that they  
are not bold trespassers

3. Question. Had you the original  
title when you made that survey

Answer. Yes. The original paper  
which was shown to me by the Commission  
and which I have testified to

4. Question. Who  
went with you when you surveyed the  
land

Answer The Mammoth and  
Arumun being situated on the Alameda Forest  
the others are persons I don't recollect

Question Where did you come  
- see your being

Answer I believe I cannot  
recollect the weather as far as it was raining  
the rainy season and we were obliged to ac-  
commodate our movements to the weather and  
bad travelling running and beating off at  
intervals I do not now remember where we  
first commenced

289 ND  
PAGE 21

My impressions were confirmed  
during the Guadalupe I do not recollect the dis-  
- tance I remember the boundaries but the par-  
- ticular lines as the Mammoth which we ran  
then I cannot distinctly now remember

Question What line did  
you run

Answer I think I ran west  
along the Alameda 20 paces distant from  
leaving the Alameda 20 paces outside of the  
Ranch

Question Does the Alameda  
intersect the Rio del San Jose

Answer No it does not there  
is an interval of about 10 chains above the  
notion

Question How could you  
know from the Grant what point on the river  
San Jose to commence your line running  
to the Alameda

Answer I suppose it is according  
to what I understand to be the intention of the Grant  
I called for about 20 paces from the Alameda  
from one of the boundaries and the river Guadalupe  
for another and ran in such a way as to fix those bound-  
- aries

Question What ground you  
in the distance you saw in the distance along the  
Alameda

Answer I followed the Alameda  
till I came to the Laguna which was another of the  
boundaries called for in the Grant The Laguna  
where we first strike it is a large

Spring The Laguna is a wet marshy place extending from where we strike it along the Alameda about a mile and a quarter and back from the Alameda about from  $\frac{3}{8}$  to  $\frac{1}{4}$  of a mile Laguna is a marshy muddy place being is the Spanish word for mud

10 Question Could you not with equal propriety according to the call in the Grant if it had been necessary for quantity have commensured your line which runs at right angles from the Alameda away or to point on the Laguna

Answer Was obliged by the terms of the Grant to stop at the Laguna because that was one of the boundaries

11 Question How much of the boundary touched the Laguna

Answer It touches about about half mile in some about irregular form

12 Question Why did you not run the line which makes a right angle with the Alameda to a distance corresponding <sup>with</sup> to the line of the Laguna

Answer Because I believed that the call for the Laguna was intended to limit the extent of the Rancho in that direction and from the line marked boundary 8260 feet  $N 30^{\circ} 35'$  East was that the line parallel to the Alameda and the line at right angles thereto should measure the quantity of land called for the last mentioned line through the point

13 Question What enabled you to fix the point marked on the map oak tree

Answer Was the termination of the line last mentioned

14 Question Was it an arbitrary point fixed by you or was it a natural object called for in the Grant

Answer That was a natural object called for in the Grant at the corner in question and was required in fixing it for the purpose of getting the proper quantity of land

15 Question When above and in above names are you make the comparison between

18/1874

your Survey and Lead letters

answer I mailed in Feb  
- 9 may 1854 at San Jose I do not recollect who  
was present then Lead letters remain in my pos-  
session for some time. These lead letters are  
which had the courses and distances accurately  
marked on it these not his file's notes

289 ND  
PAGE 23

16<sup>th</sup> Question Do you recollect  
the courses and distances of the line on the  
map with which you compared your own Survey  
answer I do not

17<sup>th</sup> Question How can you  
tell that the map here shown you is an exact  
copy of Lead letters map with the exception  
stated in your answer to 14<sup>th</sup> Question

answer I think that the line  
leaving the claim was drawn at right an-  
- gles to the last course along the claim and  
that the back line was parallel to the said last  
course along the claim

As examined by learned  
for claimant

18<sup>th</sup> Question How does this back  
line of which you have spoken run with refer-  
- ence to the line called the Potrero

answer It skirts the Potrero  
on the north eastern side of the line leaving  
the line outside of the Rancho

The line called  
the Potrero runs some distance along the creek  
I do not know how far part of it is enclosed  
within the limits of the Rancho

William Lewis  
Subscribed and sworn to before me on this 5<sup>th</sup> day  
of April AD 1854

Peter Solt

Commissioner

for taking testimony

Filed in Office April 5<sup>th</sup> 1854

George Fisher

Secretary

Record in Evidence B. Volume 4 Page 159

George Fisher

Secretary

Deposition  
of William  
Campbell

United States of America }  
State of California ss } 3

San Francisco July 7. 1854

This day personally came before Peter Sott a sworn  
minister for taking Testimony to be used before  
the Board of U.S. Land Commissioners in said  
State William Campbell a citizen and inhabitant of  
the United States in case No 167 with Doct  
of said Board Alvin Austin Smith et al all  
claimants and said witness being duly sworn  
on oath depose in English as follows to wit  
The usual for claimant is present

Question by United States

Lawyer

Question What is your name

and residence

Answer My name is William

Campbell my age sixty years my residence  
Santa Clara County California

Question How long have you

resided in Santa Clara County

Answer Since December 1846

Question Are you a practical

Surveyor

Answer I am

Question Are you familiar with

the topography of the County in Santa Clara  
County

Answer I am and particularly

with the neighborhood of the land claimed in  
this case called Los Cochinos

Question How near do you

live to the tract called Los Cochinos

Answer Five or six miles and

about miles from it

Question Look at the docu-

ment numbered H. P. 2 annexed to Deposition

of William Campbell and filed in this case

and state whether you have undertaken the

description of the Land in said document as your

guide in locating the Land therein called for

and where then you are accurately locate it

Answer I have seen this descrip-

tion before and tried to locate the Land from it

Question objected to by claimants counsel P. S.

Sixth. Quest. objected  
to by claimants  
counsel.

(Signed) P. S.

7/16/17

7 Question Look at the Descrip<sup>o</sup>n con-  
 - tains in the document numbered A. P. L. and files  
 in this case and state whether it represents the  
 Land correctly as called for in the description just  
 referred to

289 ND  
 PAGE 25

answer I do not believe it rep-  
 - resents it at all I see no mark or it answering  
 to said description I could mark off the land here  
 so as to answer said description but see no dis-  
 - cription of it here

The Alameda is marked cor-  
 - rectly and the Guadalupe is marked correct but  
 the oak grove is not laid down and the Spring is  
 not laid down if they were laid down I could  
 recognize the land I could mark the oak  
 grove and the Spring but as it is the land  
 is not described at all

The description calls  
 for Los Cochinos which I understand to mean  
 where the hogs run I do not know the Spanish  
 Language but that is what I always means  
 - took these words to mean where the hogs  
 are run

8 Question Take the follow-  
 - ing description a portion of the Land called  
 Los Cochinos bounded by the river of the Pueblo  
 of San Jose by the Alameda or main distant  
 from said Alameda by the oak grove called  
 Motol and by the Spring of Santa Clara and  
 on the side towards Los Cochinos and say whether  
 from this description the land can be certainly  
 located if you where and in what shape

8<sup>th</sup> Quest. objected  
 to by.

answer It is uncertain  
 but it might be located on either side of the  
 Alameda I believe if I was to describe the mat-  
 - ter myself I should say it would be on the East side  
 on the Stockton Rancho from the foot of the  
 hogs running on the north end of that  
 Rancho between Santa Clara and the Gu-  
 - adalupe with the streams

There is an oak grove  
 with an old coral quarry on the Stockton Rancho  
 near the Guadalupe River and a line drawn  
 from that up to the big Spring near Santa Clara  
 would be north of where the hogs run

There is an oak Grove which begins at the bend  
in the Alameda which is laid down in this des-  
-crip<sup>tion</sup> nearest to the southerly side of said desert  
and is scattered along south of that on the west  
side of the Guadalupe

289 ND  
PAGE 26

along down from this  
Grove to any point on the wet land north or  
south west of that would run back again  
almost where the Alameda runs

The big Spring  
of Santa Clara is about 200 yards or about a  
south east course from Santa Clara on the  
east side of the Alameda

9 Austin What is the size  
and character of the oak Grove which you men-  
-tion on the west and south side of the Alameda  
answer The trees are scattering  
over a space of about five hundred acres of  
land

10 Austin Take that oak  
Grove on the south and west side of the Alameda  
for the boundary and the Guadalupe and Ala-  
-meda for another boundary of about 6000  
and here much land would be embraced in  
it and about what would be its shape

answer It would be from  
500 to 1000 acres in a triangular form west  
of the Guadalupe at the spot marked A  
P & L in the space dotted with red ink by  
the Commissioner west of said Guadalupe and  
south of the Alameda on said desert

11 Austin If you were to  
attempt to locate the Ranch according to the calls  
on the east side of the Alameda what would  
be its shape

answer It would run from the  
old oak Grove where the canal was which would  
be on the south east corner of this desert to the  
big Spring near the north west corner of said  
desert

and then down along the Alameda  
into the bend thereof in a north and east and  
south easterly direction to the Guadalupe and  
then down that stream in a <sup>southerly</sup> westerly direction  
to the oak Grove the place of beginning

27

and as to shape would be something near the form of the space dotted off East of the Alameda with red ink by the Commission Dots on said acres and marked B. P. L.

12 Question What is the size and description of the oak Grove East of the Alameda which you say the old canal stored

Answer I do not well recollect there are several scattering trees on a large piece of land it may extend over some farm fields which I have not seen it since 1848 that I recollect

13 Question Describe the appearance of the canal of which you speak as to its age at the time you first examined it

Answer It was an old water ditch and was in decay that was in June 1847

14 Question Look at the document marked C. Exhibit No 3 to deposition of a Mr. Rice in No 167 and filed in this case and state whether you are acquainted with the district of country indicated in said map and whether it conforms to the description mentioned therein you in the taking of this deposition

Answer I am acquainted with the country indicated by this map I do not think it conforms to the description which was contained in former interrogatory in this deposition

15 Question Point out on this map the oak Grove you before mentioned as being South and West of the Alameda

Answer It would lie on the South of the line dotted in red ink by the Commission from X to Z on said map and to the South and East of said dotted line of 500 to 1000 <sup>acres</sup> ~~acres~~ corresponding with that which was dotted off on the design in my former answer

16 Question are you acquainted with the Rio de los Gatos if you having leave you know it and have you ever known it by another name

Answer I am acquainted with it I have known the creek since early in 1847 but did not know the name of it that I can now recollect with certainty

till about 1849 or 1850 and have been it called by any other name

17. Iusticia With the same stream as the Rio de San Jose mountains called Guadalupe or a branch of it or is it an entirely separate and distinct stream

answer It is a branch of the Guadalupe and an entirely distinct stream the Guadalupe as I always understood it bears near the Irish place names

The Los Gatos where it comes out of the mountains is much the largest stream and they are several miles apart from all the streams but themselves in the plains and then flow themselves in some swamps lands south of San Jose

The swamps of the Guadalupe is south of where the Los Gatos falls into it The Los Gatos is a dry gulch where it comes down to the swamps lands of the Guadalupe except in the wet season and the <sup>heads</sup> ~~heads~~ of the Guadalupe are also dry in the plain till they rise in the swamps.

The Guadalupe where it bounds the lands claimed in this lease is a considerable stream with mills on it that is after it strikes the swamps

W Campbell

Subscribed and sworn to before me on this 7th day of July A.D. 1854

Peter Lot

Commissioner

for taking Testimony &c

Filed in office July 7th 1854

George Fisher

Secretary

Recorded in Volume B. Volume 5 Page 42

George Fisher

Secretary

Deposition of  
B. H. G.  
Hartfield

United States of America }  
State of California ss }  
San Francisco July 7th 1854

This day personally came before Peter Lot

29

a Commission for taking testimony to be used before the Board of United States Land Commissioners in said State Benjamin H. G. Hartfield a citizen and inhabitant of the United States in June 1867 on the order of said Board when in Antonio Serrero is all claimants and said witness being duly sworn on oath deposed in English as follows to wit

289 ND  
PAGE 29

The Commission for claimants is present  
Question by the United States Law Agent  
Question What is your name

Answer Benjamin H. G. Hartfield my age fifty six years my residence Santa Clara County one mile west of Santa Clara California I was appointed that was the only trade I am learned by apprenticeship I am now a farmer

Question Are you acquainted with the scope of country lying between the Town of Santa Clara and the City of San Jose on each side of the Alameda if you have land here you own it and how far do you own it

Answer I am acquainted with the scope of country mentioned I live about a mile from it and have lived there since November 1857

Question Are you acquainted with the principles of mining

Answer I am and have many acres a considerable quantity of United States Land in Arkansas it was some years since

Question Take the following description a portion of the land called Los Cochinos bounded by the River of the Park of San Jose by the Alameda 2 1/2 miles distant from said Alameda

By the oak Grove called Motat and by the Spring of Santa Clara on the side towards Los Cochinos and state whether from the words of description the land therein

described can be located with much more  
certainty if you on which side of the Alameda  
would you place it

289 ND  
PAGE 30

— witness I think from the know-  
ledge I have of the country I could locate it  
I should place it on the north east side of the  
Alameda

4<sup>th</sup> Question objected to by plaintiffs  
counsel P.L.  
Law Agent asks for the grounds of  
objection

Plaintiffs counsel reply subject to the  
proceeding and not the form of the interrogatories

5<sup>th</sup> Question Give your reasons for  
so locating said land

Answer In the first place  
I know there of but one spring called the Santa  
Alana Spring and that is on the north east side  
of the Alameda It is a large Spring

I have known  
of but one oak Grove which lies on the Pueblo rim  
near I could not ascertain from inquiring here any  
thing like the name of Pueblo which means a  
Pueblo pen or something like that

There was a  
large old canal at that Grove that Grove  
lies nearly opposite to the Spring in a north  
easterly direction from it formed by reaching  
the Guadalupe Alameda and the Alameda  
Alameda it would make it a very natural  
boundary embracing about one half league  
of land as I should judge from having  
been frequently around it

6<sup>th</sup> Question By the location  
as described by you in north of the boundary  
— my would the Guadalupe River constitute

Answer I think said river  
would form some two miles of the boundary  
judging from cross winding distances

7<sup>th</sup> Question What is the description of  
the country bounding the Alameda west south  
Answer opposite the Spring I spoke of there is a narrow  
wet country which extends down nearly half way to  
San Jose varying from half a mile width  
to narrow spots it is irregular in its width

Answer Hall

8 Question are there any <sup>places</sup> ~~places~~ along the south and west side of the Alameda prop-  
- erty called Springs to distinguish them from the  
marshy lands

Answer There are several places  
which retain water longer than the marsh gener-  
- ally but none which do not dry up in the dry  
season

289 ND  
PAGE 31

There is no water running from them in  
the dry season any where on that side of the road

9 Question State some of the prom-  
- inent differences you would find in locating a half  
league of land by the description before mentioned  
on the south and west side of the Alameda

Answer There is no place suffi-  
- ciently described as a starting point with courses  
and distances given

10 Question Objected to by claim-  
- ant's counsel as leading to R.L.

Answer all you acquaint-  
- ed with a stream called Rio de Los Gatos and the  
Rio Guadalupe if you describe their respective  
courses and the relative positions they bear to each  
other

Answer I am tolerably well  
acquainted with their situations, The Los  
Gatos heads in the mountains in a south westerly  
direction from San Jose is quite a bold stream  
when it leaves the mountain but in dry wea-  
- ther dries in gravelly places in the plain

It has  
a channel in wet weather which enters the  
Guadalupe about a half mile above San Jose  
The Guadalupe heads some six or eight miles  
further south in the mountains near the  
Quick Silver mines

It has much the same ch-  
- aracter of the other till it get within about a  
mile of San Jose where it rises in large Springs  
and there it runs <sup>flush</sup> all the season to the  
Bay

11 Question on which of  
these streams does the city of San Jose  
stand and how far and in what direction  
from the northern end of the Alameda

Answer It is on the Guadalupe below the fork or where they come together about a quarter of a mile in an easterly direction from the last trees along the Alameda  
cross the main by Main

289 ND  
PAGE 32

ants burnt

1 Question Do you ever reside in the neighborhood of this claim before November 1850

Answer Never

2 Question Are you settled upon the Land claimed in this lease

Answer I am not

3 Question are you settled upon any land which is claimed adversely to your claim before and as part of or may claim Grant

Answer There is a claim by Mrs Binnett an American who claims under a Spanish Grant I suppose further discussion of this claim verbally it will cover a portion of the Quarter Section I live on

4 Question What is the name of the Grant on which you are settled

Answer Mrs Binnett's Grant of no other name for it

5 Question Do you speak or read the Spanish Language

Answer I do not

6 Question are you acquainted with or do you know William Leampbell who has just testified in this lease if you state whether he has squatted upon the Land claimed in this lease, whether he has any interest adverse to the claimants in this lease or whether he has squatted upon any land in the neighborhood which is claimed by any Spanish or Mexican Grant

Answer I am acquainted with him he is not on any portion of this claim and I do not know of his having any interest adverse to the claimants

He is in the mission land and I do not know that any Grant covers where he claims except it may be the Galicia claim and I am not sure that that does B. H. J. Hart filed

33

Subscribed and sworn to before me on this  
7th day of July A D 1854

Peter Lott Commissioner  
for taking testimony &c

Filed in Office July 7th 1854

George Fisher

Secretary

Recorded in Evidence B. Volume 5 Page 39

George Fisher

Secretary

5

289 ND

PAGE 33

Deposition  
of Milo  
Hoadly

United States of America  
State of California ss

San Francisco July 24th 1854

This day personally came before Peter Lott  
a Commissioner for taking testimony to be used  
before the Board of United States Land Commis-  
sions in said state Milo Hoadly a witness  
on behalf of the United States in case No 167 on  
the docket of said Board whom I examined and  
swore that all statements and said witness being  
duely sworn depose as follows

That he is a Law Agent  
also a witness

Question by the U S Law Agent

1 Question What is your name and residence  
answer My name is Milo Hoadly  
being aged 45 years my residence San Francisco  
California

2 Question What is your profession  
and what office do you now hold

answer I am a surveyor and engine-  
er by profession I am now city Engineer of the City  
of San Francisco

3 Question are you acquainted  
with the location of the country lying between the  
city of San Jose and the Town of Santa Clara  
on each side of the Alameda if you be-  
lieve you have last been upon and ex-  
amined it

answer I am familiarly ac-  
quainted with the locality mentioned and  
walked and rode over it last week

4 Question take the following  
and of description a portion of the land called

Los Cochinos bounded by the River of the Pueblo of San  
Jose by the Alameda Doña Juana distant from the  
said Alameda by the oak Grove called Portal  
and by the Spring (Cerrada) of Santa Clara on the  
side towards Los Cochinos and state where if any where  
you could locate a half league of land in an  
San to the call of that description

Answer I have examined the  
above country there not knowing the location of  
these Spanish names but should say that the  
natural bounds and would locate the land called  
for on the north side of the said Alameda no  
other location could be made to answer the  
above description

4 Question and answer objected  
to by Juan Antonio Carrasco P.L.

5 Question Look at the sketch in  
lead pencil on yellow paper marked Ex libit  
1 attached to description of Pueblo of San Jose P.L.  
and state who made said sketch upon what  
data it was made and your reason for assum-  
ing 4 Question as you did

Answer I made this sketch  
myself the way in which made it was by the  
eye when upon the land without instruments the  
data are merely a view of the objects noted

and my  
ocular calculation estimate of their directions  
and distances and my reason for assuming the 4th  
Question as I did

Is that I had the description with  
me in the end of the translation of the docu-  
-ents on file and as they appear in said 4th ques-  
-tion. The north and eastern side of the Alameda  
according to the objects described

The Spring of  
Santa Clara the oak Grove the river of San Jose a  
Guadalupe and said Alameda would contain  
about a half league of land a little more or less

The  
description calls for the Spring of Santa Clara  
on the side towards Los Cochinos which I under-  
stand to be a place for boys on the north  
-ern side of the Alameda is a jungle  
or impenetrable swamps which is said

35-

to contain at the present time wildhops on the opposite side of the Alameda some of the natural boundaries called for in the description appear within a distance of three or four leagues

This answer to 5th Question is objected to by the Alamanos course P.L.

The Questioner took at the map in the document marked G. Exhibit No 3 to determine of a Rio Pico in No 167 and filed in this lease and state where upon the south side of the Alameda in the sketch you have made you have marked the north corner of the Spring exhibited in said Exhibit G. and the character of the soil at that point

Answer The north corner aforesaid shown in the Exhibit is marked in my sketch by a dotted line designated by the words Leadettes line said dotted line running from the Alameda at a point about 2/3 of the distance from the river of San Jose towards the Spring of Santa Clara

and running off at right angles about south westwardly from said Alameda the ground at that place is about a half acre of marshy or tule land

The ground between that and the Spring of Santa Clara is swampy but no running water at this season of the year

Questioner on the line in the direction of that marked Lead bettes line what distance is it to an oak Grove

Answer From the Alameda in that direction a distance of 2 to 2 1/2 miles there are some scattering trees but no grove within three or four miles

Questioner To make the Spring of Santa Clara the oak Grove you last mentioned the Alameda and the river of San Jose boundaries upon much land should they enclose and run north to make the Lead bettes line along any instead of the Spring of Santa Clara

This 8th Question and answer are objected to by the Alamanos course

Answer The quantity of land

289 ND  
PAGE 35

such as in the former description in this  
interrogatory would depend upon the direction  
in which you would run the line from the  
said spring was to strike said oak Grove it  
might be made to run west

That would be  
trace there to four leagues, if south east to  
said Grove it would be in the high bounds  
of half a league if south one and a half to  
two leagues

If you take the said better line  
and extend it to the oak Grove south exactly  
the the before named boundaries would con-  
tain three quarters of a league to a league

Question what do you know  
of the spring of Santa Clara how far is it from  
the place marked said better line on your  
sketch and what do you know of the town Los  
Locos

Answer what I suppose to be  
the spring of Santa Clara is the only spring  
- said spring on the Alameda on both sides  
of the same

It is the Springs of Santa Clara I  
think it is the spring in the original it is about  
one and a half mile from the said better line on  
my sketch and about 1/4 of a mile or a little more  
from the Church of Santa Clara

Undertand as  
before said the town Los Locos to mean apt as for  
hogs or hog pasture literally believe the hogs  
or the song

Cross examined by claimant  
- ants course  
Question was you familiar  
with the land described before you were there  
last week

Answer I was employed to go  
there by the course in this lease I suppose they  
are I was employed by Mr Bourman of course  
on the part of the Government.

Question make company and you make the margins and of the land  
Answer a part of it a small portion in the com-  
- pany of Mr Bourman part with Mr McHugh and  
part of it alone partly on foot partly on horses

Lawyer

17/3/77

37

4 Question Had you any conversations down there respecting the various localities mentioned in the Grant many of them if you state with whom and what was told you about these localities

Answer Mr Bourman was the Guatemalan I commenced with chiefly the other persons I have mentioned were speaking occasionally rather vaguely the about places that are well known

289 ND  
PAGE 37

I think Mr McElroy says some it would be said there were wild hogs still remaining in the swamps north of the Alameda one of the Guatemalan I do not recollect which told me of a canal or Bull pen that used to be near the Guadalupe or Rio San Jose about least a mile east of Santa Clara about one and a half mile from the south end of the Alameda on the north side thereof

Meaning by the north end that end of the Alameda towards Santa Clara Had put with my hand the description of which I have spoken and the bird in the leaf in the part of the manuscript and saw the part of the manuscript was not influenced by any conversation I had with anyone in making my sketch

5 Question are you acquainted with the Spanish language and familiar with the terms used to designate natural objects in that language as used in local fauna

Answer I am not generally familiar with the Spanish language I have had occasion to study the meaning of terms as indicated in the question

and obtained my knowledge of these from old residents and reports such as local terms and names

Question Did you start on the Alameda at the point which in this map is the intersection (the map numbered 6 & before referred to) of the Alameda by the line number boundary 8260 feet N 30° 35' E and you travel along the last mentioned line and you measure

is if you to what object did the ends of that line bring you

Did you then follow the line marked on this same map 12,900 feet N 59° 05' W bring any if you to what point did you arrive and what was the character of the country through which said line runs

answer I did not state as indicated nor follow either of said lines made no measurements had no instruments for surveying

As to the character of the land along the first mentioned line it starts in near Highland (tules) at the Alameda about a 1/2 mile from the Alameda it changes into a gravelly loam which say half way to the Los Gatos continues the same

There is an occasional oak tree toward the end of the line I think it is a mile or more from the Alameda before there are any trees on that line

The land on the last mentioned line running at right angles to the first is the same gravelly loam with occasional oak trees scattered along

I saw from a half a mile to a mile of the country along through which the last mentioned line runs but the character of the land is all the same through there the part of this line I saw was the north west-ly end toward the angle

Question Did you go to the oak grove near the oak grove of which you spoke

answer I do not know that there is any such said grove or any grove told them used to be

Question Did you go to the oak grove where said canal was said to have been

answer I did not know within about half a mile of it

Question How did you know the locality of the place called Hoblarde Trolat,

1854

39

Answer I do not know it in any way except from seeing it in the Leadbetter map in this case

10 Question Do you know the meaning of the term Roblar de Torral

Answer I do not de Torral would mean of Bulls but Roblar I do not know the meaning of

11 Question when you spoke of locating this land with an oak Grove had you any to what oak Grove did you allude

Answer The oak Grove mentioned as being called for by the Grant was the one east of a little north of East from Santa Clara the same one near which some time had been the old creek north of the Alameda

Another oak Grove two miles east of Santa Clara extending north eastward to the Los Gatos that you would come across south of the Alameda along the Los Gatos

12 Question Look at the divisions in the Escondido files in this case and state where on the land alluded to that division there are any trees

Answer Along the line of the Alameda on the planted trees along the south side there are scattering trees and a scattering Grove along the stream here marked among San Juan

Along the Guadalupe are scattering trees with thick under brush and along the western and eastern side of the Alameda are trees with thick underbrush on quite a large tract I suppose this stream described as the Alamo temporal in the Mojavia I suppose to be the Los Gatos

Wm H. Dudley  
Subscribed and sworn to before me on this 24 day of July A.D. 1854

Peter S. Lott

Commissioner &c

Filed in Office July 24th 1854

George Fisher Secretary  
Records in Volume B, Column 5 Page 223  
Geo Fisher Secretary

289 ND  
PAGE 39

24 Deposition  
of James A  
Forbes

United States of America }  
State of California ss } 3

San Francisco July 27th 1854

This day personally came before Peter Solt a  
Commissioner for taking testimony to be used  
before the Board of M & L Land Commissioners  
in said State

James A Forbes a witness on  
behalf of the claimants Antonio Serrano et al  
in case No 164 on the Doct of said Board and  
said witness being duly sworn deposes as  
follows

The United States Law Agents  
present

Question by claimants counsel

Question What is your name  
age and residence

Answer My name is James  
A Forbes my residence Santa Clara County  
California my age 49 years

Question are you acquainted  
with the Rancho called Los Cochinos formerly  
belonging to an Indian named Roberto being  
the land claimed in this case

Answer I state  
in what county it is situated on which side  
of the 37 degree of North Latitude being you have  
known said Rancho the Indian Roberto and his  
family and the present claimants

What you know  
of the occupation improvement and cultivation  
of the said land by the said Indian Roberto  
and the present claimants and if you know  
them describe the objects which are called for in the  
Grant as the boundaries of said Rancho of Los Cochinos

Answer I am acquainted with  
said Rancho which is situated in the said county of  
Santa Clara on the northern side of the 37th degree  
of North Latitude between San Joaquin and Santa  
Clara

I have known said Rancho about  
of thirty years from Roberto and his family  
since the year 1832 I have also known Don Antonio  
Serrano the present claimant since  
1828 I think it is about fifteen years ago

1871/697

41

that that land was occupied by the mission of Santa Clara as a pasture for horses and at that time after that this Juan Roberto was permitted to occupy it by the Priest

He built a house upon the place and lived in it with his family and cultivated a portion of the land and put cattle upon it which it was in 1844 he received title of it in full ownership from the Departmental Government

289 ND  
PAGE 41

He was in mounting when he received his title, Roberto continued to occupy the place till the time of his death with the permission of Don Antonio Sured to whom he (Roberto) had sold the place

From the time of Roberto's death said Sured continued to occupy the place with other improvements fencing encloses and houses made of adobe and three others of wood

He had horses and cattle mules and other stock on the place and cultivated the land in large quantity he now has a large tract under fence and cultivation

The wooden buildings are two story houses large fire houses part of the land under fence and cultivation by Sured is now occupied by squatters

This tract is bounded on the north and north east by the avenue of trees which runs from San Jose to Santa Clara (the Alameda) the line of that boundary is 20 Spanish varas from said Alameda and parallel thereto

On the east by the river Guadalupe on the south east by the Arroyo de los Gatos on the north and south west by a line of oak trees on the western side of the said Arroyo Los Gatos

and having as the boundaries of the Portal this said Portal runs as a municipal Provincial or Juvenile town a line of trees of the name of Portal here being similar to the poplar there is quite a number of these trees on the eastern side of the Los Gatos and formerly there

was quite along some of them in the western  
side of the Alameda but they have been chiefly  
cut down for fencing purposes

289 ND  
PAGE 42

on the west side  
the Alameda is bounded by a line running from  
the Alameda at right angles through in a north  
westerly direction in the edge of the swamp near  
the Alameda

To the outer edge of the oak and  
tanning to the line of oaks called "Trotal" the  
swamp of which I speak is very extensive towards  
the Spanish town for the Laguna and the point  
mentioned as the commencement of the last swamp  
is boundary the eastern extremity of that swamp

The  
swamp extends in a north westerly direction for  
2 1/2 miles in the plain running always near  
the Alameda tho at different distances from  
it till it reaches to within some 500 yards of the  
mission of Santa Clara

In the rainy season it  
is quite miry in places and the bushes growing  
upon it in some places springs from which flows  
the water which runs into the Potrero on that side  
It crosses the road in many places in the rainy  
season

The water breadth is perhaps about  
a mile from the Alameda at the point mentioned  
at that where the westerly boundary leaves the  
Alameda I think the Laguna is about a mile  
wide that point is one well known there are a  
quantity of bulrushes growing there

3 Question What direction  
does the edge of that swamp take from the Alameda  
Answer The general direction of  
that swamp is rather towards the north and south  
there would of course be variations in the  
line of the edge of the swamp, the whole of that  
land is not a swamp It is part of it marshy  
ground which is the meaning of the term  
Laguna

4 Question How long have you  
lived in California  
Answer Twenty odd years principally at Santa Clara  
Have lived there for the last eight years continuously

20/11/77

43

Question How far have you lived from the Rancho of Los Cochinos and state what degree of familiarity you have had with said tract of land

Answer I have lived and now do from two and a half to three miles from it I have been on and upon it hundreds of times there was a road through it at the first trial of the plains which lead to the quick silver mine of Moral Mountain which I used to go from 1845 to 1849 about twice a week

289 ND  
PAGE 43

The birds which have been described have been pointed out to me on two occasions by the Priest of Santa Clara I have also been many times on the land at the Indians house because a very intelligent man I have been personally and with his family

Question are you acquainted with the Spanish Language and with the terms used in California to designate natural objects such as hills streams grass and trees and with the terms used by the Californians to designate the implements and operations of husbandry and furcs and in clooms and other means and appliances in the raising and taking care of cattle

Answer If you state the extent of your knowledge in such particulars and whether or not you have an Indian in California a person who is devoted to the keeping of bulls if you by what term or name was such place called

Answer I am acquainted with the Spanish Language I commenced the grammatical study of it at the age of seven years I am familiar with all the principal terms both of Californians and Indians particularly in this valley which assisted to describe the natural objects mentioned I know all the terms used by Indians as well as Californians in the arts of husbandry having been myself engaged in that business and having lived with Indians and Californians in my employment I am familiar with the terms used in relation

H H

289 ND

PAGE 44

to the raising keeping and taking care of  
 cattle running at one time had 100 head of  
 my own The extent of my knowledge of the  
 Spanish Language is such as a man who of thirty  
 some years in Spanish countries was given to me  
 was an agent of the Hudson Bay Company  
 fourteen years in California and in that capacity  
 became acquainted with almost all the people  
 in Upper and Lower California and with all the  
 Indians

There is no place in California  
 devoted especially to the raising of bulls but  
 there is no place for keeping horns cattle  
 any where for the purpose of keeping cattle  
 of whatever material constructed whether  
 adobe stone or wood is called a corral

Some times  
 on the side of a corral is a smaller enclosure  
 used for keeping calves or separating cattle  
 that is called a corralillo any place where Bulls are  
 gathered together for the purpose of baiting  
 they enter by animals or men is called  
 Plaza de Toros and the place contiguous to  
 the plaza where the Bulls are placed before they  
 are let out to fight is also called a corral

I would  
 add in this answer with respect to my  
 knowledge of the Spanish Language that  
 there are two languages spoken in my family  
 my family are all Spanish tho my children  
 speak English also

The river of the same name  
 is peculiar to that part of the Alameda which  
 passes by the Cuernavaca to the edge of  
 the said Cuernavaca how far would a point  
 on

said line distant one and a half mile or more  
 and then quarter mile from the Alameda be  
 in a straight line from the Alameda to the  
 mountain or more or less proper distance  
 to the one first mentioned

Answer I think the  
 distance asked for would be from a mile and  
 a half to two miles such a line would go through  
 the base of one of the mountains

45-

8/1974

8 Question Do you know of any other place in this county or vicinity called the Hobland Hotel

Answer I do not know of any other

9 Question Look at the description in the grand copy of the Espadrero Marches at P. L. filed in this case and at that portion of the Land represented by said Assise which is in common between the Alameda the Rio de Guadalupe apart of the average Temporal de las Yeguas and the said line and Marches at P. L. and state what trees are on that land and what part of it

289 ND  
PAGE 45

Answer There are oaks on that land except some willow trees along the Guadalupe there is a considerable grove of willow trees bounding the river there

10 Question To what Assise do you refer to the 8th Assise in the description of willow in Exhibit in Chief taken before Commissioner Peter Holt on the 7th of July 1854 and filed in this case at that part of said Assise which reads

There is an oak grove which begins at about in the Alameda which is laid down in this Assise near to the southern line of said Assise and extends along north of that in the west side of the Guadalupe

and also at the bottom assumption of said Assise given in the Assise of said witness to the 9th Assise in Chief in said description as follows

The trees are scattering in a space of about 500 acres of land and state what portions of the Grove alluded to in said Assise and also state the same if you can

Answer There are oaks there there are some scrubby willows there and larger willows along the Guadalupe there is not a single oak tree in that place there is an oak grove about a mile to the north and west of it the summer oak trees to the Guadalupe in the Los Gatos are from three quarters of a mile to a mile from said

7

46

289 ND  
PAGE 46

Guadalupe. The old road to the Quikilim  
mine left the Alameda on that bend to  
the eastward of the Guiza running as near  
as I can recollect and crossed the  
camp of Los Santos about a half mile from the  
Guadalupe river

and all the oak trees in  
that direction were on the right hand of  
that road to the westward

cross examined  
by the United States Law Agent  
Mustin that as you have  
the parallel of 37 degrees of north latitude runs  
north of the Rancho of Los Cochinos

Answer Because I have  
observed the latitude of the mission of Santa  
Clara myself and found it to be 37° 19' north  
and in as much as there are only two miles  
distance between that and Los Cochinos I know  
the latter to be north of 37°

2 Mustin Does not the running  
land which you term Guiza extend into the  
lands of the Alameda if you what is it extent  
into the north and east side of the said Al-  
ameda

Answer It does not extend  
into the north side of the Alameda It is pre-  
vented from running there by a ditch running  
along the Alameda as you approach the Guiza  
- here there is low marshy land but the land  
- leading to the Alameda on that side is the vi-  
- cinity of the Rancho is higher and not marshy

3 Mustin Was not the land  
on which the Alameda stands originally a part  
of the Guiza or running land

Answer I suppose it was until  
it was cut off the ditching changed the char-  
- acter of the land into the north east side

4 Mustin What was the  
use of cutting a ditch on the north east side  
of the Alameda when there was no marsh  
on that side

Answer There are two  
objects one was to prevent the land from being inun-  
- dated in the rainy season from the waters in the

2/16/74

H 7

South and west side and the other was that  
it found a space to keep the stock in on the  
north and east side

5. Mustang Is there not a ranch  
on the north and east side of the Alameda  
its immediate vicinity or its immediate  
end towards Santa Clara

Answer Yes there is a very  
large swamp of marshy land which extends  
a considerable distance into the Potosi

6. Mustang Is not that ranch  
connected with the one on the south side of the  
Alameda

Answer No it is not the same from  
the south side runs into this through a ditch which runs  
under the road

7. Mustang Did not the few  
people of Santa Clara keep their herds on the  
north and east side of the Alameda

Answer I am sure of a very  
long time kept by the Mission of Santa  
Clara at any other place but at that called  
Los Lechos which means the place where the  
hops are kept on the northern side of the  
Alameda they could not get into the  
north side there was a deep ditch there

8. Mustang What was the extent  
of that and called Los Lechos prior to 84 (and)  
at what particular place were the hops  
kept before and by whom were they shipped  
Answer As you know these circumstances  
Answer The extent of the place

was the whole of the Liuga or marshy land  
where any animals could go up to the  
high land near the Guadalupe on the north  
- in front of the Alameda, the mission of  
Santa Clara (and) from one to two hundred  
which were supposed to run upon this extent  
of land eating their food in the marshy  
land between and in that grove of oaks being  
put to rest over there was a big land and  
several other Indians in charge of the hops  
who had a corral at the same place where Roberto  
house afterwards stood for the purpose of tending  
the hops contained them for some time before

289 ND

PAGE 47

48

to the destruction of the property of the Mission  
of Santa Clara when the change of the  
the were scattered as the Indians were driven  
among the logs because wild men killed  
off the deer and these facts are within my  
own personal knowledge

9 Question How many leagues  
of land did these logs cover in that  
direction

Answer They were confined  
chiefly to the marshy ground which is some  
two miles long and about one mile wide They  
sometimes went up to the base of the mountains

10 Question What is the direction  
of the timber which grows that part of the Rio  
de Guadalupe north & east of the Alameda

Answer It is willows prin-  
cipally they may be seen scattering poplars

11 Question Whom did you first  
hear the term Motas applied to  
the name of this you have mentioned as having that  
name and how did it happen

Answer Some twenty odd years  
ago I was at the Pueblo of San Jose and heard the  
inhabitants call it Motas Motas is because  
it was not Spanish but an Indian name  
The people used to send Indians to cut the wood  
out of the Motas

12 Question Name the  
persons by whom you heard it so called  
and their residences

Answer I could hardly find  
now to do so it was called so I have sent my  
own servants to cut wood there the mission  
of San Jose under command of the Mission  
of Santa Clara I think was the first where  
I heard mention it

I cannot tell all the  
names of the persons from public report the  
individuals that I cannot call to mind

The  
name of any other persons who have informed  
me of the name of this spot but in passing  
over it with the old inhabitants it has been  
often pointed out to me by that name

49

13 Question what was besides the Priest printed out that sent to you and called it the Motax

Answer I do not recollect Luis Puatta on one occasion went from here there and we crossed about the time he printed it out to me and explaining the name as an Indian name

14 Question Was that before or after the Priest mentioned it to you

Answer I do not recollect

15 Question Where was you when Puatta printed it out to you

Answer We were in sight of the Gun on the south side of the main house

16 Question Were not there trees you call Moto atusquas among the oaks

Answer There were open situations with oaks on the eastern side of the Los Gatos but the Grove of Motax was principally on the eastern side

17 Question How do you know the Land mentioned was granted to Roberto in full property

Answer I was in Monterey in the Government House when his title issued and saw it

18 Question Was the Rio de los Gatos one of the boundaries described in that title

Answer I do not recollect

19 Question How do you know that the title was one of the boundaries as then the meaning of the words cochis used in said title

Answer Because I know that part of land which was occupied by the Hop and that the Los Gatos was one of the boundaries of that land the name of which was mentioned in the title

20 Question What you only means of knowledge that some of the boundaries if may state you other reasons

Answer I know that Augustin Narvaiz's land lies in the other side of that creek

and the name Los Cochinos was assigned to the particular spot (Harro's mine)

the other side of the creek has a different name than that was the Indians by their own publicity by accident and anybody else acknowledges and acquiesces to this

I do not know any other means of knowledge that have truly been that before and after the grant to Roberto that was the publicly acknowledged boundary of Los Cochinos

21 Question What accident acknowledged it as a boundary

Answer Dolores Pacheco told me at San Jose who wanted to get the land from the Indians and failed to do so in 1843 he asked for the land from the government and could not get it

22 Question Was there any question made or discussed in which that line was settled to be the boundary

Answer None of any kind being raised against the claim of Roberto or that line None of any dispute or litigation about that boundary

23 Question How was it acknowledged to be the boundary

Answer By the fact that various men disputed it and the Indians was never disturbed in the possession of the land to the line on the western side

24 Question How far up the Los Gatos do you presume that stream the boundary of Los Cochinos

Answer From the crossing place of the old road which is near the junction of the Los Gatos with the Guadalupe it is from a mile and a half to two miles up the stream

25 Question What number the point up the Los Gatos where it ceases to be the boundary

Answer Was considered that about a mile from the north edge of the Robles to the creek and the boundary shown of no particular mark

57

26 Question Concerning so by whom had as you know it was so considered  
 answer Concerning so by the priest  
 - many Priest in charge of the mission and others in the vicinity and the Indians know it because the Priest told me so himself he is the very man who got the title for the Indian

289 ND  
PAGE 51

27 Question Between about points did that line extend as described to you by the missionary Priest and how did it happen that he described the line to you so accurately  
 answer There are two roads that used to cross this land one leaving Los and Santa Clara and the other from Santa Clara to the Indian place

My annotations called me frequently over the latter road once in travelling that road was accompanied by the said Priest and another person whom I do not now recollect going to said mine

and he pointed out to me in conversation that the southern boundary of that land was that line of oaks that lie between the Los Gatos and other Indians from the marshy land in a north westerly direction

28 Question When you first saw the Rancho of Los Cochinos was it with some of the Rancho as you claimed by yours and others established if any other by others and how was it established

answer when I first saw it it was not established because it had not been granted to Roberto.

It was established when it was granted to him by the Priest I do not recollect whether it was done by the Alcalde or Priest

It was done by going upon it and marking it out to the Indian

29 Question How you know what you have last stated

answer I know it because the Priest told me so in going with the land

Course

1 Question Does the Alameda  
go all the way to the Guadalupe if any how  
near does it go to it

289 ND  
PAGE 52

Answer It does not run  
west to the mouth bars of the Alameda  
about two hundred and fifty yards from  
the river

2 Question Between the point  
where the bars of the Alameda finally strike  
the Guadalupe and where the Arroyo de los  
Gatos empties into the Guadalupe

Does  
any other arroyo stream empty into said  
Guadalupe

Answer There is none

3 Question What is the meaning  
of the word Arroyo Puro in the name  
assigned in the desert before referred to to desi-  
gnate the arroyo laid down in the southern part  
of the Desierto

Answer Arroyo Puro means  
a stream which is dry at certain seasons of  
the year

The Arroyo de los Gatos is dry in the  
summer season in the lower part

Verjona name  
around which which is situated in the top of  
a conical hill in the plain near the base  
of the mountains

To the south of the Pueblo  
of San Jose and not from the Los Gatos upon  
which mountain was found a pile of stones in  
1802 by an man from the Survey of Spain ac-  
cording the boundary between the mission and  
the Pueblo of San Jose

James Alex Forbes  
subscribed and sworn to before me this 27th  
day of July A.D. 1854 before the Commissioner  
Filed in office July 29 1854

George Weston

Surveyor

Recorded in Gov. B. Vol 5 Pages 237 to 245

Geo. Weston Surveyor

5-3 1. G. D. 12

Año de 1820

Expediente promovido por el Indígena  
del Establecimiento de Santa Clara

Roberto en pretension del Paraje conocido  
p<sup>o</sup>: "Los Cochinos"

289 ND  
PAGE 52  
6

Nº 210

2. G. D. 12

Here follows  
Map

M. S. N.

573. G.D. 14 Sello Cuarto Una Cuartilla:

Habilitado provisionalmente por la Aduana Maritima del puerto de Monterrey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno

Alvarado

Antonio Maria Quiroga

Excmo Gov.

289 ND  
PAGE 54

Señor Roberto Indígena del Establecimiento de Santa Clara, ante V. E. con el debido respecto digo; que deseando ocupar en propiedad el terreno llamado los Coches que consta, en el diseño que respectivamente acompaño y pertenece al Establecimiento de Santa Clara, donde nací y me he criado hasta la Vejez en que me hallo; pido a V. E. se me libren por vía de auxilio en cuenta de ceses de las Quintas de Bueros con mis arados y quince yeguas de vientre por tanto: A. V. E. suplico se dignen proveer como pido de que recibiré la mayor gracia.

juró &c.

se sirva conceder lo que le ofesea  
meo en cantidad a bre esta solicitud  
de un sitio de ganadería  
mayor para el cultivo  
fomento y mi mayor  
tenencia tambien  
Ruego &c.

Alvarado

Nosabe firmar

21. G.D. 14 En la solicitud del Indígena Roberto q. pretende un terreno perteneciente a este establecimiento en vista del decreto de V. E. de 23 del 12 de junio para q. se informe de lo que pido el informe siguiente.

Excmo Gov.

En cumplimiento del decreto q. antecede y en atención al informe que se me pide de la pretension del suplicante sobre el paraje nombrado Rancho de los Coches digo: que dicho paraje es solicitado por el puey de paz del pueblo de S. José Guadalupe del que se me pido informe habiendo informado que dicho paraje dista de este Establecimiento tres cuartos de legua y que no constaba por rancho de Coches sino por Real de Carneros pues en el suposicion desde 1.º de junio hasta ultimos de Octubre y q. yo no lo habia verificado el poner otros

Carneros por no haber Estorcion en las milpas  
à los factores de jamco à disposicion de U. C.  
lo que hallare por mas justo.

En cuento à la solicitud del indig<sup>a</sup> de este  
establiem<sup>to</sup> de Sta Clara llamado Roberto  
dijo: que à mas de ser el sitio que pretende  
para qe. toca à su Establiem<sup>to</sup> me es de necesi-  
dad de ver q<sup>d</sup> es verdad lo q<sup>d</sup> a espuesto en so-  
licitud q<sup>d</sup> conaiedo en el parage q<sup>d</sup> pretende  
siendo su padre Capitan del mismo lugar des-  
de su gentilidad el q<sup>d</sup> despues se llamo  
de Cristiano Quem y la Macha Ana Moni  
por lo que lo concidero a redir à q<sup>d</sup> se ce con  
ceda lo q<sup>d</sup> pretende de jamco siempre à dispo-  
sicion de U. C. lo que hallare por mas con-  
viniente.

Por lo q<sup>d</sup> respeta à los bienes q<sup>d</sup>  
pretende el intere<sup>o</sup> acto soy de parecer q<sup>d</sup> solo  
se le p<sup>o</sup>dran dar treinta y en es cabezas de  
ganado mayor meluso en es toros diez llegues  
dos Juntas de Buellas dos Arados y en ato Ca  
Monterey q. de ballos mansos. U. C. sin embargo resolvera lo q<sup>d</sup>.  
Obre de 1840. era mas justo.

Sta Clara Oct. 30 de 1840. (C. Arriau).  
De conformidad con el informe del Mayor  
domo de Sta Clara, permitasele al indigena  
Roberto que pueda ocupar provisoralmt.  
una parte del terrenos que pretende y estien  
dase por la Oria la Orden para que se ce jam  
quen del Establiem<sup>to</sup> de Sta Clara los bienes  
a que se refiere el mismo mayor como asi y  
el Governat. Constitucional del Departamento  
de las Californias lo mande de crete y firme  
doy fe.

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

J. Samuel D. King Surveyor  
General of the United States for the State  
of California and as such now having in de-  
my charge and control a portion of the Archives  
of the former Spanish and Mexican Ter-  
ritory or Departments of Upper California

289 ND  
PAGE 55

J. G. D. K

Monterey q. de ballos mansos. U. C. sin embargo resolvera lo q<sup>d</sup>.  
Obre de 1840. era mas justo.

289 ND  
PAGE 56

do hereby certify that the five preceding  
and hereunto annexed pages of tracing paper  
numbered from One to five inclusive and  
each of which is verified by my initials O.  
D. H. exhibit true and accurate copies of  
certain documents on file and forming  
part of the said Archives in this Office.

*(Seal)* In testimony whereof I have  
hereunto signed my name officially  
and affixed my private seal not having  
a seal of Office at the City of San Francisco  
this 22<sup>nd</sup> day of March 1852

Saml. D. King  
Surveyor Genl. Cal.

Filed in Office April 6<sup>th</sup>

Geo. Fisher Deem

57 B

Stamp Forward on document

Translation  
of  
Españole

Provisionally authorized by the Mexican Government  
House of the Post of Mexico in the Department  
of the Republics for the years one thousand  
eight hundred and forty one thousand  
eight hundred and forty one  
Signed Alvarado signed auto Ma Oria

289 ND  
PAGE 57

Routing Letter  
House

Most Excellent Sir

Routing Letter  
no 23. 1840

Roberto and Manuel of the  
Establishment of Santa Clara  
before you by calling each  
are respect say

Let  
the Mayor Juan  
of Santa Clara  
report what he  
may know  
relative to this  
Petition  
Signed  
Alvarado

What describing  
the ownership of the land  
named Los Cochinos which is  
shown in the map I respect  
fully transmit herewith and  
which pertains to the Cathedral  
of Santa Clara where I  
was hired have been until  
the stage in which I find  
myself

May you be calling  
pleased to wait more  
from the (united de  
sacred prayer) for the upper

- want of which are my own maintain  
- and I also pray that there may be used  
to me as an assistance fifty head of cattle  
of which five only should be males two yoke  
of Oxen with their ploughs and fifteen brood  
mares

Therefore I pray you be calling to have  
the goodness to provide as I request from which  
I will receive the greatest favor from you &c  
(He does not know how to sign)

manuscript to the Petition of the Mexican Roberto  
also petitions for aid pertaining to this  
establishment in compliance with the decree  
of your Excellency of the 23rd to that report  
be made the following is reported

Most Excellent Sir

In compliance with the decree which precedes and relative to the report which is referred in the petition of the person requesting the peace named Raul de Alvarado de los Reyes said place is petitioned for by the Justice of the Peace of San Jose Guadalupe on the (Petition) was requested to report and reported that said place is distant 3/4 of a league from this Estancia must and that it was not along farm but a sheep field for they were kept there from the 1st of June to the end of October and that said sheep had not been placed there in order not to trouble the sheep and in their vicinity ground leaving to the disposition of you Excellency that which you may think just in reference to the petition of the Justice of this Estancia of Santa Clara named Roberto Gay that although the peace be petitioned for is against which belongs to this Mission I have to say that what he has represented in his petition is true that he was born on the place solicited his father having been a chief in that place when he was civilized and who was named Juan Gomez he became a Christian his mother was called Ana Maria for which reasons I consider him entitled to the grant of what he petitioned for always leaving to the disposition of you Excellency that which you may think most convenient with respect to the property he petitioned for I am of opinion that that should be granted him viz thirty five head of large cattle including five bulls ten mares two yokes of Oxen two ploughs and four or five horses without less you Excellency will decide as you may believe to be most just.

Santa Clara Sept 30 1840 signed Jno Alvarado  
 Secretary of the October 1840 in conformity with the report of the Mayor Don of Santa Clara that the person Roberto he petitioned to occupy provisionally a part of the Land he petitioned for and let the name be inserted from the Secretary Office that there may be given him from the Mission of Santa Clara the property which he petitioned for by the Mayor Don of the same that the Constitutions and the Decree of the Calipos named Alvarado and signed I hereby

Mission Office  
 April 6 1837  
 Jno F. Alvarado  
 Secy

59

San Luis de Rey

Exhibido el  
to the depts:  
afli. M. Pico  
No. 16<sup>ta</sup> H. S. D.

Pueblo de O. José  
Julio 18 de 1843  
La parte interesada  
puede usar del pie:  
no y señal of. solicita  
en esta instancia.

Roberto Neofito desfilado  
de la Misión de Sta Clara  
y estremo Bajo del mandado  
de V. se presenta y dice of. te  
niendo necesidad de peio y  
señal presenta al margen lo  
espuesto p. el uso de sus bienes  
y tenerlos seguros.

Lo of. suplica a V. se digna  
ceder sobre lo of. lleba pedido del of. V. B. B. B.  
reconocido.

(Dere Reales.)

P. de O. José y Julio 18 de 1843  
Roberto

289 ND  
PAGE 59

Dello Quinto Medio Real.

Habilitado provisionalmente por la Aduana  
maritima del puerto de Monterey, en el departa  
mento de las Californias para los años de  
mil ochocientos cuarenta y cuatro y mil ochoc  
ientos cuarenta y cinco.

Micheltoena

Pablo de la Guerra

(3<sup>er</sup>) Manuel Micheltoena General de  
Brigada del Ejercito Mexicano Ayu  
dante General de la plana Mayor del mismo  
Gobernador, Comandante General e Inspector  
del Departamento de las Californias.

Por cuanto el Indigena de Santa Clara  
llamado Roberto, ha justificado que desde  
el año de 1810, el Gobierno del departamento  
lo segrego de su Misión por haber acredi tado  
su honradez y aptitud para mantenerse  
por si, y teniendo en la actualidad las mis  
mas buenas calidades, he tenido por decreto  
de este dia rebaldarle su titulo de emancipa  
cion, para que libremente se establezca y viva  
que su subsistencia en donde mejor le acomode  
Monterey 12 de Marzo de 1844.

Man. Micheltoena

Manuel Jimeno  
Suio

MS DR

60

Dello Quinto Medio Real.

Habilitado provincialmente por la Aduana  
maritima del puerto de Monterey, en el Depar-  
tamento de las Californias, para los años de mil  
ocho cientos cuarenta y cuatro y mil ochocien-  
tos cuarenta y cinco.

289 ND  
PAGE 60

Micheltoreno

Pablo de la Guerra

Manuel Micheltorena General de  
Brigada del Ejercito Mexicano Ayu-  
dante General de la plana Mayor del  
mismo Gobernador Comandante General  
e Inspector del Departamento de Califor-  
nia.

Por cuanto Roberto natural de  
St<sup>a</sup> Clara y vecino del pueblo de St<sup>a</sup> Jose ha  
solicitado p<sup>a</sup> su beneficio personal y el de  
su familia una parte del terreno nombrado  
los Coches, colindante con el Rio del pueblo de  
San Jose, con la Alameda veinte varas dis-  
tante de ella, con el Poblado que llaman del  
torotal y con la Cuenca de St<sup>a</sup> Clara por la  
parte de los Coches; practicadas previamente  
las diligencias y averiguaciones convenientes  
segun lo dispuesto por leyes y reglamentos;  
usando de las facultades que me son con-  
feridas a nombre de la Nacion Mexicana he  
venido en concederle el terreno mencionado  
declarandole la propiedad de el por las  
presentes letras sujetandose a la aprobacion  
de la Excm<sup>a</sup> Asamblea Departamental y  
bajo las condiciones siguientes.

1<sup>a</sup> No podra venderlo enagenarlo ni hipotecar-  
lo, imponer censo, vinculo fianza, hipoteca ni  
otro gravamen alguno.

2<sup>a</sup> No podra cercarlo sin perjudicar las travesias  
caminos y servidumbres; lo disputara libre y ex-  
clusivamente destinandolo al uso o cultivo que  
mas le acomode pero dentro de un año fabrica-  
ra casa y estara habitada.

3<sup>a</sup> El terreno de que se hace donacion es de medio  
sitio de ganado mayor segun esplica el diccionario  
respectivo. El piez que diera la posesion lo hara  
medir conforme a Ordenanza que demandó el

61

sobrante que resulte à la Estacion para los usos  
convinentes.

4<sup>o</sup> Solicitaran del juez respectivo que le de  
la posesion juridica en virtud de este despa  
cho por el cual se demarcaran los linderos en  
cuyos limites pondra à mas de sus mojoneras  
algunos arboles (Sello Quinto medio Real  
Habilitado provisionalmente por la Aduana  
maritima del puerto de Monterey, en el Depar  
tamento de las Californias, para los años de  
mil ocho cientos cuarenta y cuatro y mil  
ocho cientos cuarenta y cinco.

289 ND  
PAGE 61

Micheltrera Pablo de la Guerra

frutales ò silvestres de alguna utilidad  
5<sup>o</sup> Si contraviniere à estas condiciones  
perdera su derecho al terreno y sera denun  
ciable por otro.

En consecuencia mandó que sirviendole  
de título el presente y teniendose por firme y  
valeros el presente, se tome razon de el en el  
libro à que correspondá y se entregue al intere  
sado p<sup>o</sup> su resguardo y demas fines. Dado  
en Monterey à doce de Mayo de mil ocho cien  
tos cuarenta y cuatro.

Manl. Micheltra  
Manl. Jimeno Oro.

Queda tomada razon de esta consecucion en  
el libro respectivo à f. 4  
Jimeno

Edado in Office Jan 7<sup>to</sup> 1853

Geo. Fisher Secy

62

Transmittion  
of Registry of  
Iron Brand

To

To the Justice of the Peace  
Roberto de Meophy detached from the Mission  
of Santa Clara and our vicar your jurisdiction  
presents himself before you and says

Dear being  
in want of an Iron and much hawks for  
the meadows in the Mission for the use of his  
cattle and that he may thereby keep them in  
safety

He begs you to grant my request for which  
I shall incur myself under obligation  
Pueblo of San Jose July 18th 1843  
Signed Roberto

Pueblo of San Jose July 18th 1843

The party  
interested can use the Iron and much which  
hawks from this Court  
Signed Guillen

Twelve seals }  
\$150

Filed in Office April 6th 1852

George Fisher  
Secretary

289 ND  
PAGE 62

64

27/10/44

65

Translation  
of certificate  
of amputation

Seal Fifty Half a Real (1/4 cts)  
Established Permissibly by the Maritime Law  
House of the Port of Monterey in the Dep  
artment of the Californias for the years one  
thousand eight hundred and forty four  
and one thousand eight hundred and forty  
five.

289 ND  
PAGE 63

signed Manuel Pabló de la Cruz  
Lieut of the Maritime  
Customs Eagle House  
of  
Monterey } Manuel Pabló de la Cruz  
Lieut of Brigade of  
the Mexican Army adjutant General of the Staff  
of the same General Commandant General and  
Inspector of the Department of the Californias

whence  
the native of Santa Clara called Roberto Caspar  
in that since the year 1840 the General of the  
Department has detached him for his mission  
he having shown by his integrity and abilities  
his capacity to maintain himself and where  
asked at this present time enjoys the same  
good reputation

Have thought proper by a  
decree of this date to confirm his title of am-  
putation in case that he may fully estab-  
lish himself and seek the means of subsistence  
whenever he may think proper

Monterey 12 March 1844

signed Manuel Pabló de la Cruz  
" Manuel Pabló de la Cruz  
Secretary

Filed in Office April 6th 1852

George Nelson  
Secretary

66

\_\_\_\_\_ND  
\_\_\_\_\_



6 Translation  
of the said  
- word to the  
of William  
Campbell

Seal Fifth Half a Real (6/4 Cts)  
Provincially by the Maritime  
Department of the Customs House of the Port of Monterey in the  
Department of the California for the sum of  
thousand eight hundred and forty five and  
one thousand eight hundred and forty five  
pesos partitioned pesos Pablo de la Lanza  
Seal of the  
Maritime  
Customs House  
of Monterey } Manuel Quintanilla General  
of Brigade of the Mexican  
Army Captain General of the  
Staff of the Sacred Government Commandant Gen-  
eral and Inspector of the Department of the California  
Thomas

289 ND  
PAGE 64

Roberto a native of Santa Clara and a resident  
of the Pueblo of San Jose has claimed for his personal  
use and that of his family a portion of the lands  
called Los Cochinos

bounded by the River of the Pueblo  
of San Jose by the Alameda twenty varas distant  
from said Alameda by the oak grove called Pital  
and by the Spring (Crucecita) of Santa Clara on  
the side toward Los Cochinos

The preliminary steps and  
examinations are being the same having first  
been made as provided for by the Laws and ordin-  
ances of the Authenticity (referred) and  
in the name of the Mexican Nation have gran-  
ted to him the said land aforesaid and  
by the present letters Patent declaring to be his  
property subject to the approbation of the most Excellent  
assembly of the Department and under the following  
conditions

- 1st) He shall not alienate nor mortgage it nor  
- give any tax entailment bond or permission by per-  
- mission or any other obligation upon it
- 2nd) He may fence it without interfering with  
the crossing roads and public thoroughfares he  
will enjoy its possession by and he shall not  
appropriating it to such use and culture as he  
may think proper but he shall not abuse  
them within the period of one year which shall  
be occupied
- 3rd) The extent of the land of which a donation

68

is made is one half an acre league as shown by the accompanying sketch

289 ND  
PAGE 65

The judge who shall give him possession shall cause it to be measured in conformity to and since the remaining portion being the property of the nation for such uses as it may determine & he will solicit from the proper judge the legal possession be given him in virtue of this instrument by whom the bounds shall be established and at the limits of which besides his land marks shall place some pins and other perceivable bars & the bounds be customary these conditions he will be his right to the land and it will be subject to be demanded by another person

I therefore do order that this person instrument being him as title and being also demanded, building and available be recorded in the proper book and that it be returned to the interested party where in his keeping and to serve his ends

Given at Monterey this 12th day of March in the year and eighth hundred and forty four

Juan Bautista  
" Manuel Jimenez  
Secretary

A record of this grant has been made in the proper book at page 7

Sequit Jimenez

Recorded in Book 5, at pages 484 485 and 486

December 17th 1849

By Juan C. Kearney  
Notary

Filed in Office April 6 1852

Judge Fisher  
Secretary

69

Doc. H. J. J. este rancho llamado de los boches al Señor D<sup>o</sup> No. 1. Gerardo Antonio Duñol a quien he cedido todo el de mi Office y rancho que en el tenia con el conocimiento de anexada a la toda mi familia por serle deudor de la cantidad de quinientos pesos (500) y no tener en mi P. en before que satisfacer los y para que lo dispute como H. J. Thornton propio propietario. le entrego el presente todos los documentos y constancias que tengo que acreditan que hera mio y para resguardar de Geo. Fisher de dicho señor Duñol doy este en el pueblo de San José a 10. de Enero de 1844. con las firmas de mis hijos y ante los testigos presentes Don Salvador M<sup>a</sup> Castro y D<sup>o</sup> José Fernandez y D<sup>o</sup> Antonio Hinojosa.

Jammy J<sup>o</sup>  
1843.  
Geo. Fisher

289 ND  
PAGE 66

Juan Valermino + José Roberto Valermino +  
Manuela Regina Valermino +  
Manuela de Valermino +  
Como testigo Como testigo  
José Fernandez + Salvador M. Castro.

Como testigo: Ant<sup>o</sup> Hinojosa.  
En el pueblo de San José Guadalupe a los ocho dias del mes de Enero de mil Ocho cientos cincuenta. Ante mi: José Fernandez Alcalde 2<sup>o</sup> de esta Capital y ante los testigos de asistencia con quien actue en la forma establecida. Comparecieron de presente; Juan Valermino y Regina Valermina, hijos legitimos del difunto Roberto Valermino y de la difunta Manuela su mujer y dijeron.

Que reconociendo y reafirmando la venta extrajudicial del Rancho de los boches que a primer de Enero de mil ocho cientos cuarenta y siete hizo el difunto su padre con conocimiento de todos ellos, a D<sup>o</sup> Ant<sup>o</sup> Duñol de esta capital, quien desde entonces lo ha poseido como dueño legitimo y absoluto mas que habiendo llegado a su conocimiento que algunas personas pretenden el despojar a D<sup>o</sup> Ant<sup>o</sup> Duñol de su legitimo derecho a su otro rancho. Ellos hoy con todo conocimiento de causa y en obsequio de la justicia y razon y legalidad, dejando a parte todos los beneficios que los difuntos sus padres han recibido

MSW

71

ylos que ellos diaramente reciben del espre  
sado D.<sup>o</sup> Ant.<sup>o</sup> Quinol como cristianos que son  
declararon.

289 ND  
PAGE 67

1.<sup>o</sup> Que la otra venta fue echa y firmada  
con el consentimiento y plena voluntad de  
toda la familia legal y verdaderamente.

2.<sup>o</sup> Que ellos como únicos herederos del finado  
Roberto, vuelven à repetir y declarar que es  
su voluntad libre y resuelta; y siempre lo ha  
sido, seden todo el derecho que tienen o hayan  
tenido en otro reincho de los Coches; en confor  
midad con la venta firmada de nuestro difun  
to padre Roberto Valermine cuya estencion es  
de un medio sitio de ganadero mayor, al men  
cionado D.<sup>o</sup> Antonio Quinol y para siempre  
jamás quitara y apartara à sus herederos y  
sucesores del dominio posesion y otro cual  
esquiera derecho que les compete al mencio  
ado terreno, lo seden à favor del comprador para  
que lo posea y goze pacificamente y aga de el el  
huso que mas le convenga y à la firmeza y  
validacion de lo que en virtud de la otra  
venta; Ellos en union de sus padres hicieron  
y hoy vuelven à renovar obligan los Orogantes  
sus personas y bienes habitados y por haber y con  
ellos se someten al juez y jurisdiccion de  
los tres jueces que del caso deben conocer de  
cualesquier estado que se ha para que à  
su cumplimiento les compelan y estechan  
como por sentencia pasada en autoridad de  
cosa juzgada, renuncian todas las leyes à  
su favor en cuya virtud haci lo firmaron  
y ratificaron por ante mi y los testigos de  
assistencia à defecto de Orogantes publicos  
siendo los instrumentales los D.<sup>os</sup> M.<sup>o</sup> Gua  
dalupe Vallejo D.<sup>o</sup> José Noviega, D.<sup>o</sup> Jose  
m.<sup>o</sup> Covarrubias presentes de que doy fec.  
Actuado en este papel como à falta de ella  
do correspondiente.

586

Testigo Juan + Valermine  
Man.<sup>o</sup> G. Vallejo Reyna + Valermine  
Testigo José Noviega  
José m.<sup>o</sup> Covarrubias  
Ante mi José Fernandez Alcalde 2.<sup>o</sup>

71

Queda tomada razon en el Libro 5<sup>o</sup> de este  
juizado a popas. 5 6 8. y 6 9.

José Hernandez

los boches.  
Rancho. 5

289 ND  
PAGE 68

72

73 Translation  
of Deed from  
Roberto to  
Suñer

By this present document it is declared that  
this land called that of Los Lechos belongs to  
Don Antonio Suñer to whom I have sold all  
the right which I had in it with the knowl-  
edge of all my family being his debtor in  
the sum of five hundred dollars (\$500) and not  
having wherewith to pay said sum and that  
he may hold it as the lawful proprietor

289 ND  
PAGE 69

and I have  
been all the documents and titles which I have  
in my possession which prove that it was mine  
and that the said Don Antonio Suñer has obtained  
this in his possession I give it as the Pueblo  
of San Jose this 1st day of February 1847 with  
the signatures of my children hereto annexed  
and in presence of the attending witnesses Don  
Salvador Maclean Don Jose Fernandez and Don  
Antonio Huigosa

- Agueda Juan Valeriano X
- " Jose Roberto Valeriano X
- " Maria Raquel Valeriano X
- " Manuela de Valeriano X

as witness  
sig. Jose Fernandez  
as witness  
sig. Antonio Huigosa

as the Pueblo of San Jose Guadalupe on the  
eighth day of January on the said eight  
hundred and fifty before me Jose Fernandez  
Jury Alcalde (Magistrate) of this Capital  
and in the presence of the assisting witnesses  
who were duly sworn according to Law presen-  
tly appeared Juan Batturino and Reyna  
Ballurina the legitimate children of the  
deceased Roberto Ballurina and of the deceased  
Manuela his wife who deposed as follows

That  
acknowledging and confirming the extra-  
judicial sale of the Rancho of Los Lechos  
which on the first day of January in the  
said eight hundred and fifty sum the said  
said Father made with the knowledge  
of each and all of them to Don Antonio Suñer  
of this Capital who said that he has held it as  
the lawful proprietor + further more

74

289 ND  
PAGE 70

There is may come to them knowledge that certain persons intend to dispute Don Antonio Señal of his lawful right to his said Rancho they this day with full knowledge of cause and without defence come to justice right and legally getting aside all the benefits which the accused their heirs have received and those which they daily receive from the accused Don Antonio Señal in their faith as good Christians declare

Mr. Thursto said sale was made and signed duly and legally with the acknowledgment and full consent of the entire family

Jud. That they as sole heirs of the accused Roberto bear again repeat and declare that it is their free and definite will and that it has always been the same to cede all the right which they have or may have had in said Rancho of Los Cochinos in conformity with the sale signed by their deceased Father Roberto Balluina to the extent of which is one half asquare league to the accused Don Antonio Señal and they do demand from him and all his heirs and successors from the dominion possession and any right or advantage which they may have in said land, and cede it in favor of the purchaser that he may possess and enjoy the same peacefully and make of it whatever use he may think proper and for the fulfilment of validity of that which they in virtue of the said accused together with their parents made and which they as in this day renew the grantors their heirs and property now in their possession in which they may hereafter possess and with them they submit to the judgment and jurisdiction of the judges who shall take cognizance of this affair whatever may be its state

And in  
warrant they may be compelled and bound to the fulfilment thereof in the same manner as by sentence only passed in court they remain all the same in their own interests although they have signed and satisfied the above in my presence and in that of the witnesses present

30/1674

75

In the absence of a Notary Public the witnesses present being Don Manuel Guada lupe Kallio Don Jose Noriega and Don Jose Manuel Corambios to all of which I hereby certify

Don Jose Manuel Guada lupe Kallio  
Don Jose Noriega  
Don Jose Manuel Corambios

Regencia Juan Balu vicio  
Regencia Balu vicio

289 ND  
PAGE 71

witness  
Regencia Manuel G. Kallio  
witness  
Regencia Jose Manuel Corambios  
Regencia Jose Noriega

Jose Fernandez  
2nd Alcalde

Records in Book No 5 February 29th 1848  
Page 163

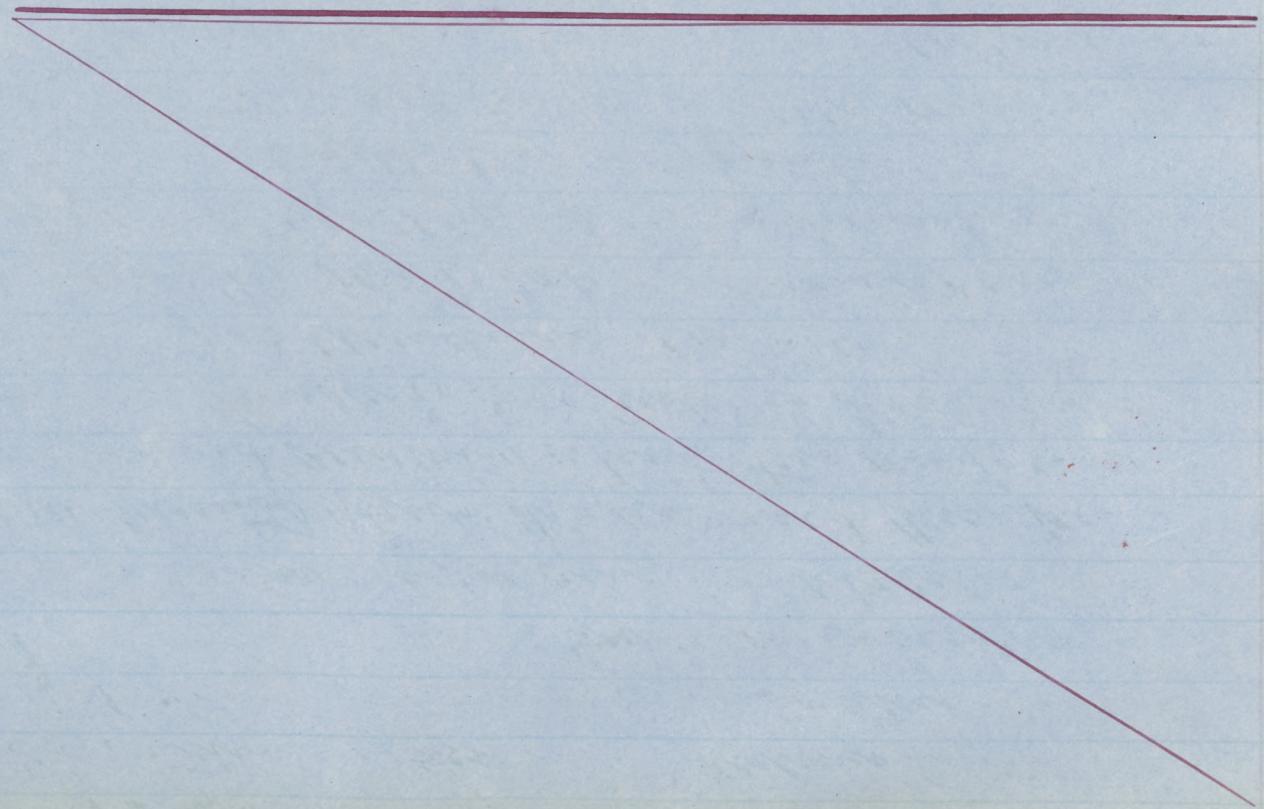
Manuel White  
1st Alcalde

Records in Book 5 of this Court at  
Pages 568 and 569

Jose Fernandez

Filed in office April 6th 1857

George Foster  
Secretary



76

772

Yo Prefecto

Escrito No. 3. Prefectura del Antonio Amol vesino de su  
 to Depo: of An Distrito del pue } mando ante. U. como mas alla  
 n. Pres de 16 y blo de San Jose ch. } lugar en derecho me presentay  
 Br. 20 de 1841 g. } respongo que siendo necesidad  
 Pase al sñ Alcalde } de dar satisfaccion al co-  
 para q. en vista de } lindante de las tierras que  
 los documentos y me } tengo al lado de camision en  
 ma estacion de los } puei à U. se sirba dar orden  
 colina antes le de } al puez para que me de poses-  
 la posesion juridi } cion juridica la que recurre  
 ca de estilo. } gracia y merse jurando no ser  
 Antonio m. pico } de malicia.  
 Prefecto. } Pueblo de O. Jose 19 de Nov.  
 1841 g.

289 ND  
PAGE 72

Antonio Amol

En el pueblo de O. Jose de Guadalupe a los  
 veinte y cuatro dias de el otre de mil ochocientos  
 cuarenta y nueve. Digo yo Jose Fernandez  
 Alcalde de constitucion que por los poderes que  
 me confiere la ley y en conformidad la superior  
 orden del Senor Prefecto arriba notada  
 ratificando y confirmando la posesion del  
 Rancho de los coches tomada por el difunto  
 Roberto y vecino de este pueblo de otre 12  
 de Marzo de 1841 bajo el titulo hecho en  
 aquel dia por Manuel Micheltoena por las  
 presentes; ordeno, y establese por dho Rancho  
 su posesion hacia de D<sup>o</sup> Antonio Amol  
 los linderos siguientes.

Desde el Rio del pueblo de San Jose siguiendo  
 toda el Alameda hasta la Ornequita de  
 Sta. Clara 20 Varas de ello entonces por una  
 linea perpendicular al alameda 8260  
 pies ingles. S. 30° 55' y l. entonces una linea  
 590 5' E. 12. 900. pies ingleses hasta el  
 Rio de los gatos entonces por el Rio de los gatos  
 y el del pueblo de O. Jose hasta el punto de  
 Salido por mando la expresada detencion  
 en medio sitio de Donado mayor como por el  
 plan aqui formado y certificado por el teniente  
 D. Lead. better aqui adjunto se demarea y  
 en testimonio de lo cual he puesto mi firma  
 y sello en presencia de dos testigos de asisten

de S. est

78

en este día primeramente arriba.

José Hernandez  
Alcalde 2º

Assta  
D. Lead better

U.S. Corps of Eng.  
Painter on.

Queda tomado Razon en el Libro 5º de  
este fogado à folios 316. y 517.

Hernandez

(Here follows Map.)

Filed in Office Janry 8<sup>th</sup> 1853  
Geo. Fisher Secy

289 ND  
PAGE 73

7 Translation  
of original  
Possession

Translation

Perfects Office for the People  
the District of the  
Pueblo of San Jose a servant of this District on  
20th November -  
1849

Señor Antonio Serrano  
a servant of this District on  
20th November - as your charge as far as in  
Law I am entitled to do present  
myself before you and represent  
that

289 ND  
PAGE 74

Let this be passed to the Judge  
whenever and where  
in view of the docu-  
-ments and prior  
-notice to the magis-  
-trates will give  
the customary  
legal possession  
to the petitioner

it being necessary for the satisfaction  
of the order of the Law  
except to those which should be  
the mission I beg of you to issue  
instructions to the magistrates  
to the effect that they may be given  
legal possession of the same

Señor  
Antonio Serrano  
Pico  
Perfect

and  
I should be much obli-  
gated to you kindly make oath  
testifying that it is with no  
intention of fraud upon any part  
that I make this request Pueblo  
of San Jose 19th November  
1849

Señor Antonio Serrano  
of the Pueblo of San Jose  
Guadalupe on the 24th day  
of November one thousand

eight hundred and forty nine I, Jose Ferrandiz  
a Magistrate legally appointed do certify that  
the Authority conferred upon me by Law

and in  
compliance with the Superior Order of the Senior  
Perfect above set forth satisfying and conforming  
the possession of the Rancho of Los Cochinos within  
by the accused Roberto a servant of this Pueblo  
since the 12th March 1844 upon the issues at  
that date by Manuel Pictotuna and by those  
present herein and establish the following  
boundaries to the Rancho which Sr Antonio  
Serrano shall hold as his possession from the  
Rancho of the Pueblo of San Jose following all the  
Alameda to the Spring (Cuenca) of Santa Clara  
20 varas from said Alameda thence along a straight  
line to the Alameda 8260 feet English South  
30° 55 west then along 12,900 feet English

811

S 29 1/2 E to the Rio of Los Gatos then along the  
Rio of Los Gatos and the Rio of the Pueblo of  
San Jose to the point of beginning

289 ND  
PAGE 75

The aforementioned  
extent forming one half of a square league as  
is shown by the plan drawn and certified to by  
Lieutenant J. Lead better and Lieutenant Alexander

and  
in testimony whereof I have affixed my signature  
and seal in the presence of the assisting witnesses  
on the above date first mentioned above  
Signed Jose Fernandez  
Lieut Alexander

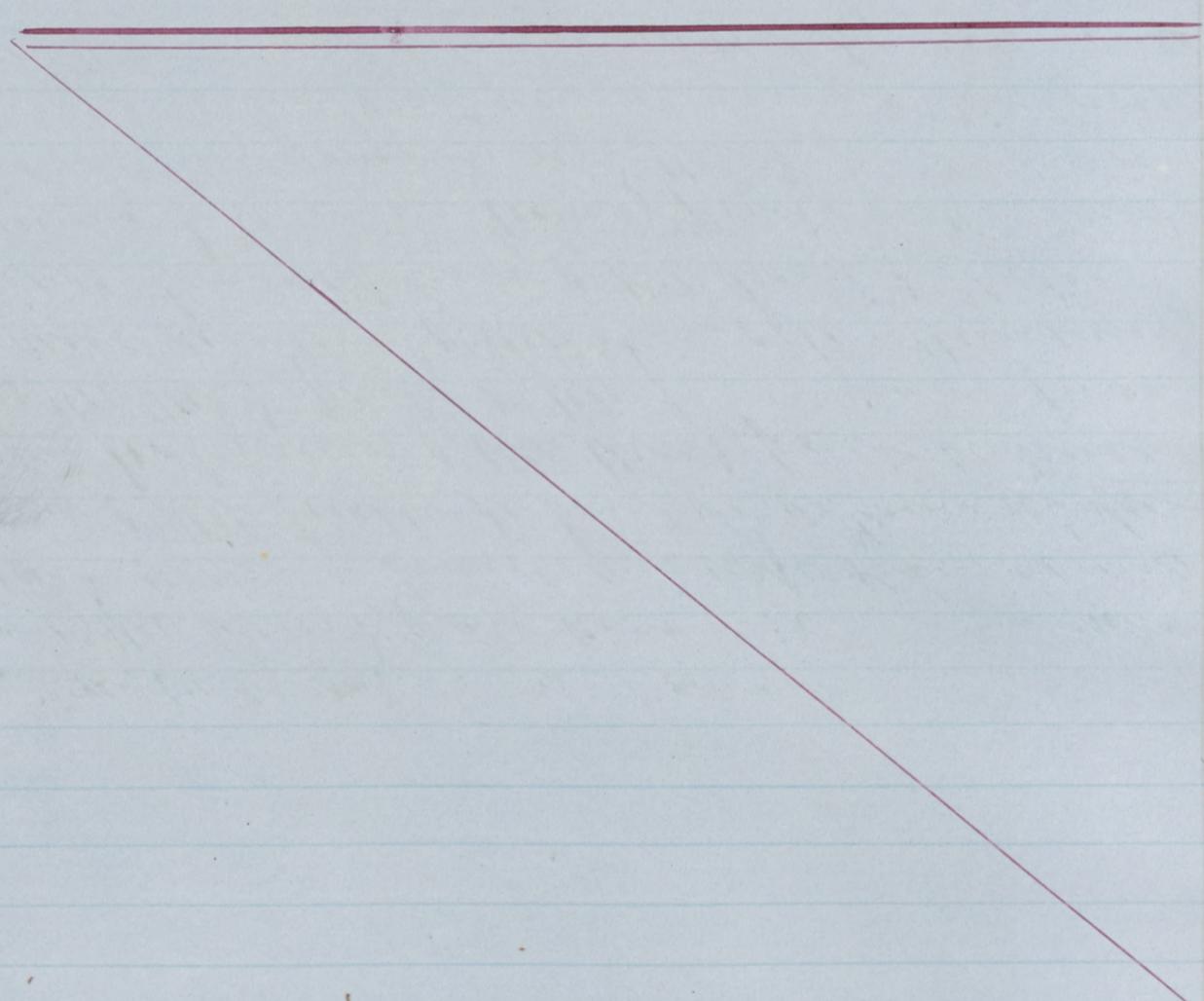
Witnesses present  
Signed J. Lead better  
United States Corps of Engineers  
Signed P. Sanborn

Recorded in book 5 of this court at Pages 316  
and 317

Signed Fernandez

Filed in Office April 6th 1852

Geo Fisher  
Clerk



81 Dec  
from Sund  
to Nagle -

This indenture made the fiftenth day of December in the year of Our Lord one thousand eight hundred and forty nine

289 ND  
PAGE 76

Between Antonio Señor of the Pueblo de San Jose de Guadalupe of Upper California of the first part Henry M. Nagle of San Francisco of Upper California of the second part and Paula daughter of said Antonio Señor and wife of Mrs Sans main of the Pueblo de San Jose de Guadalupe of Upper California of the third part witnesseth that the said party of the first part for and in consideration of the sum of two thousand dollars lawful money of the United States of America to him in hand paid by the said parties of the second and third parts as or before the sealing and delivery of these presents the receipt whereof is hereby acknowledged

Have granted bargained sold aliened confirmed released conveyed and confirmed and by these presents doth grant bargain sell alien release convey and confirm unto the said parties of the second and third parts respectively and to their heirs and assigns forever

Two thirds of his undivided estate or interest in all that certain piece or tract of land situated in the district of San Jose between the Pueblo de San Jose de Guadalupe and the mission of Santa Clara and bounded commencing at the south east corner of the bridge across the Rio de San Jose de Guadalupe near the Pueblo Nuevo upward and along said Rio three hundred and nine feet to the stump of an ash tree upon the bank thereof then by a line South  $23^{\circ}25'$  West one thousand two hundred and forty five feet to a stake then South  $10^{\circ}45'$  East three thousand one hundred and five feet to a stake thence  $S59^{\circ}38'$  East one thousand four hundred and fifty feet to the Rio de los Gatos thence upward and along said Rio de los Gatos to a stake upon its bank thence  $N59^{\circ}5'$  West twelve thousand nine hundred feet passing forty eight feet from an oak tree which is marked and which is one hundred and forty two feet within

289 ND  
PAGE 77

the line next referred to Town N 30 55 E. Eight  
thousand two hundred and sixty feet to the Alameda  
Thence by a line parallel to and 20 rods from  
the Alameda South 59 05 E. Three thousand one  
hundred and thirty two + <sup>63</sup>/<sub>100</sub> feet to the angle of  
the Alameda Thence by a line parallel to and 20  
rods from the Alameda N 72 E to the end of  
it thence by a line to the river and thence up  
and along the river to the point of beginning which  
assisted tract is a part of a larger tract granted  
on the 12th day of March A.D. 1844 by General  
Richardson to Roberts and by said Roberts to  
the said party of the first part in the presence of  
James A. D. 1844 The first grant being read  
and at Monterey and the latter at San Jose  
together with all and singular the contents  
burdens and appurtenances thereto  
belonging or in anywise appertaining and the  
promises and covenants contained and  
contained in the issues and profits thereof  
and also all the estate right title interest pro-  
perty possession claim and demand what-  
soever as well in Law as in Equity of the said  
party of the first part as in or to the above  
described premises and any part and parcel  
thereof with the appurtenances To have and to  
hold all and singular the above contents and  
assisted promises together with the appurtenances  
unto the second and third parties their heirs and  
assigns forever in such manner that each of the  
said first second and third parties shall here-  
after possess in undivided equal undivided  
portion and interest therein and further the  
said Antonio Suro for himself and his  
heirs doth hereby covenant and agree that as  
the administrator of his the lawful owner of  
the premises above granted and that he will  
warrant and defend the above premises in the  
quiet and peaceable possession of the said H.  
M. Eagle his heirs and assigns forever with  
the express understanding that the amount  
for which the said Suro is responsible by  
the above warranty is the sum of five thousand dollars  
to be paid by the said party of the first part his heirs  
or assigns on the day and year first above written

Antonio Suro Seal  
H. M. Eagle Seal

83

Antonio Suro Seal  
Henry M. Nagle Seal  
Signed and delivered  
in the presence of  
James M. Jones  
William McNeil and

Trustees of California }  
District of San Jose }

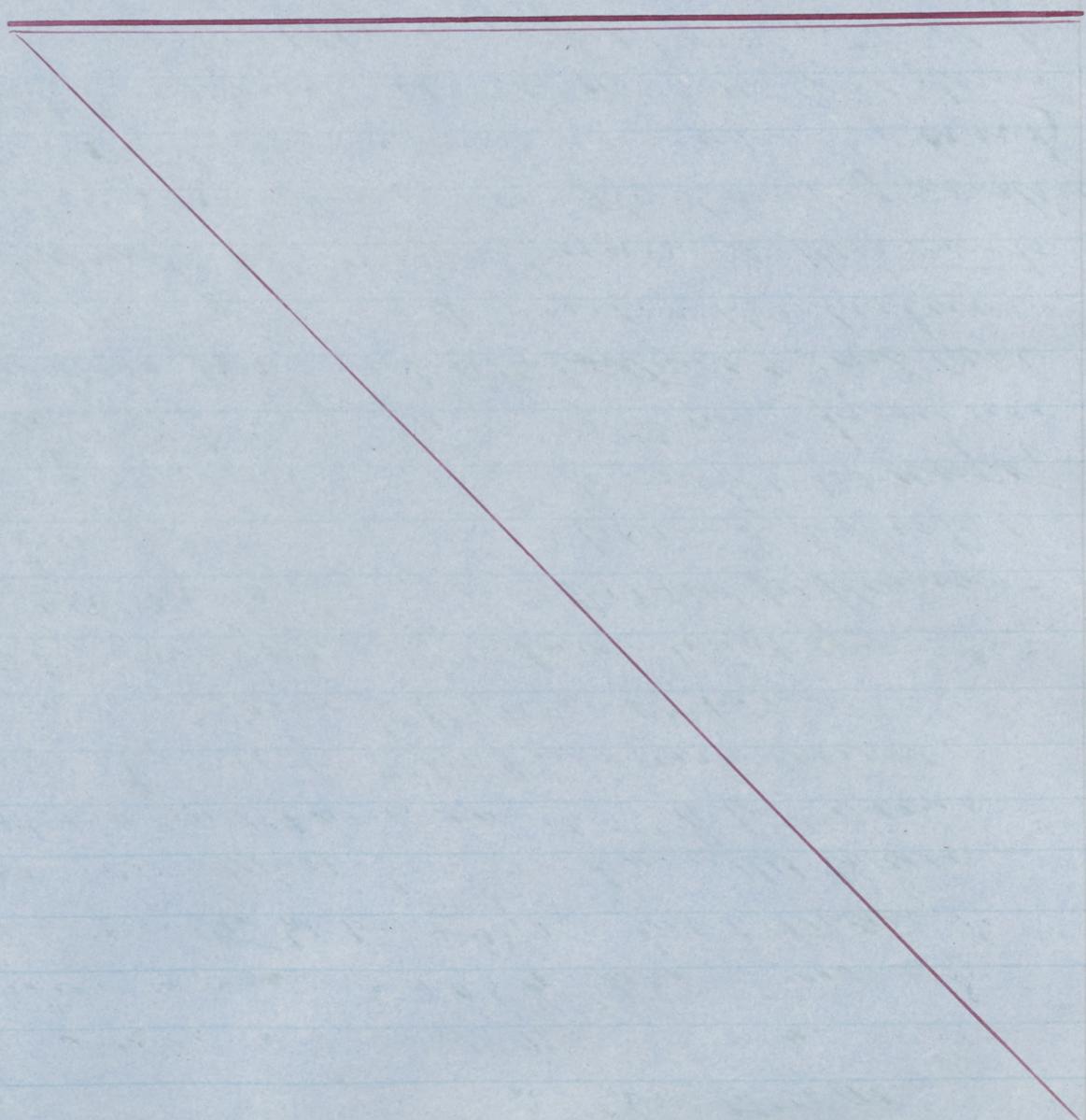
289 ND  
PAGE 78

on this 15th day of Dec  
ember A.D. 1849 personally appeared before me  
Antonio Suro to me known and who when  
asked that he executed the within instrument  
for the purposes therein mentioned

James C. Leary  
Alcalde Dist San Jose

Filed for Record December 15th 1849 Recorded  
in the Alcalde's Office at the Pueblo de San  
Jose in Book 5 Pages 479 480 and 481 Dec 15th  
1849

A. C. Ventura  
Recording Clerk



The first part of the paper  
 is devoted to a general  
 discussion of the  
 subject. It is shown that  
 the theory of the  
 subject is based on  
 the following principles:  
 1. The first principle  
 is that the subject  
 is a part of the  
 whole. 2. The second  
 principle is that the  
 subject is a part of  
 the whole. 3. The third  
 principle is that the  
 subject is a part of  
 the whole.

The second part of the  
 paper is devoted to a  
 detailed discussion of  
 the subject. It is shown  
 that the theory of the  
 subject is based on the  
 following principles:  
 1. The first principle  
 is that the subject  
 is a part of the whole.  
 2. The second principle  
 is that the subject  
 is a part of the whole.  
 3. The third principle  
 is that the subject  
 is a part of the whole.

10  
 10

10

The third part of the  
 paper is devoted to a  
 detailed discussion of  
 the subject. It is shown  
 that the theory of the  
 subject is based on the  
 following principles:  
 1. The first principle  
 is that the subject  
 is a part of the whole.  
 2. The second principle  
 is that the subject  
 is a part of the whole.  
 3. The third principle  
 is that the subject  
 is a part of the whole.

(1)

1844 -

Expediente of Grant by Micheltorrena  
 Expediente promovido por el vecino de S. Jose, Roberto en solicitud de una parte del terreno nombrado los Cochis.

289 ND  
PAGE 79

384 -

(2)

Sello Cuarto Dos Reales.  
 Rehabilitado provisionalmente por la Aduana Maritima del Puerto de Monterey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.  
 Micheltorrena - Pablo de la Guerra

Exmo. Sr.

Lo L.?

Monterey Marzo  
9 de 1844 -

Ynf. el Sr. Jefe del Despacho.

Micheltorrena

El Profeta Ciudadano Roberto, natural de la Misión de Santa Clara y actualmente vecino -  
 dado en el parage nombrado los Cochis, ante V. E. con el mas debido respeto, se presenta, y dice: Que desde el año cuarenta y uno le fue concedido provisionalmente

por el Sr. D. Juan B. Alvarado dicho  
paraje, en el que ha subsistido con  
su familia hasta fecha, teniendo fabri-  
cada una casa, corral, y una huerta  
con arboles frutales, y tambien tiene  
en su posesion treinta reses de ganado  
mayor, dos yuntas de bueyes, y dos  
caballos mansos, Y con motivo á ha-  
bersele estraviado, en posesion de D. Ge-  
nacio Alvarado, su Despacho, que le au-  
guraba su legitima propiedad, por  
cuyo motivo ha dado lugar á que se  
me denuncie dicho paraje, por no  
hallarme con derechos para disfrutarlo;  
Por lo que suplico á V. E. tenga á bien de  
concederme el expresado paraje para  
beneficio de mi persona y familia; es  
decir: un sitio para ganado mayor;  
desde mi casa, hasta Colindan con José  
Hernandez de Longitud, y de latitud, des-  
de el arroyo de la Abra hasta el Cami-  
no de Santa Cruz, y el Camino de  
la Lambda: Por tanto,

A V. E. suplico humildemente se  
digne acceder a mi favor segun de-  
(3) rechos, y justicia -

Pueblo de San José 28 de Feb-  
rero de 1844.

El Suplicante Roberto -

Excmo. Sr. Gobernador

El terreno que solicita el indige-  
na Roberto es de buena estension y  
para los bienes que tiene y para los  
que pueda adquirir seria conveni-

ente, supituro a no pasar de la sien-  
za de la Mision de Santa Clara  
por la parte de los Cochis debiendo ser  
los demas linderos el Rio del Pueblo la  
Lanuda y el Roblar del Torotal; pero  
la disposicion de V. E. sera la mas a-  
cutada.

289 ND  
PAGE 81

Monterey Mayo 11 de 1844.  
Manu. Jimeno.

Monterey fha idem -  
conforme  
Michelt.

- (4) Monterey 12 de Mayo de 1844.  
Vista la peticion con que au  
principio este Expediente los informes  
que procedan con todo lo acausado que  
se tuvo presente y en conuino, de con-  
formidad con las leyes y reglamentos  
de la Materia declaro al indigena  
Roberto dueño de una parte del ter-  
no comprado los Cochis, colindante con  
el Rio del Pueblo de San José, con la  
Lanuda 20 varas distante de ella,  
con el Roblar que llaman del Torotal,  
y con la Cienga de Santa Clara por  
la parte de los Cochis: Librese el cor-  
respondiente despacho tomese razon  
en el libro respectivo y instruyese al  
interesado - El Excmo. Sr. Gobernador  
asi lo mandó, decretó y firmo.

(5) El Ciudadano Manuel Michelt. Gral.  
de Brigada Pa -

Por tanto Roberto natural de Santa Clara y vecino del Pueblo de San Jose ha pretendido para su beneficio personal y el de su familia una parte del terreno nombrado los Cochis - Colindante con el Rio del Pueblo con la Laguna veinte varas distante de ella, con el Roblar que llaman del Frotal, y con la Siempra de Santa Clara por la parte de los Cochis; practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas a nombre de la Nacion Guajicaria he venido en conceder el terreno mencionado suplicandose a la aprobacion de la Exma. Junta Departamental y a las condiciones sigtes:

1<sup>a</sup> No podra venderlo ni hipotecarlo; imponer censo, vinculo ni otro gravamen alguno -

2<sup>a</sup> Podra cercarlo sin perjuicio de las traversias, caminos y servidumbres; lo disfrutara libre y reservadamente destinandolo al uso o cultivo que mas le acomode, pero dentro de un año fabricara casa y estara habitada -

3<sup>a</sup> El terreno de que se hace donacion es de medio sitio de ganado mayor. El Juez que diere la posesion lo hara medio conforme a ordenanza, quedando el sobrante que resulte a la Nacion para los usos

convenciones.

4<sup>a</sup> Solicitará del juez respectivo que le de posesion jurídica en virtud de este despacho por el cual se demarcarán los linderos en cuyos limites pondrá las mojoneras correspondientes.

5<sup>a</sup> Si contravinieren á estas condiciones perderá su derecho al terreno y será denunciado por otro.

En consecuencia mando que terminen por firme y valeros se tome razon de este despacho y se entregue á su interesado. Monterey don de Marzo de 1844 -

Mant. Michetta

Mant. Jimeno  
Fris.

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

I John C. Hayes 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, by virtue of the power vested in me by law, do hereby certify that the six preceding and hereunto annexed pages of tracing paper numbered from one to six inclusive exhibit a true and accurate copy of a document entitled "1844 Es-

911

pediente promovido por el vecino de S. Jose  
Roovito en solicitud de una parte del  
terreno nombrado Los Coelis - 354" - now  
on file and forming part of the said Ar-  
chives in this Office -

289 ND  
PAGE 84

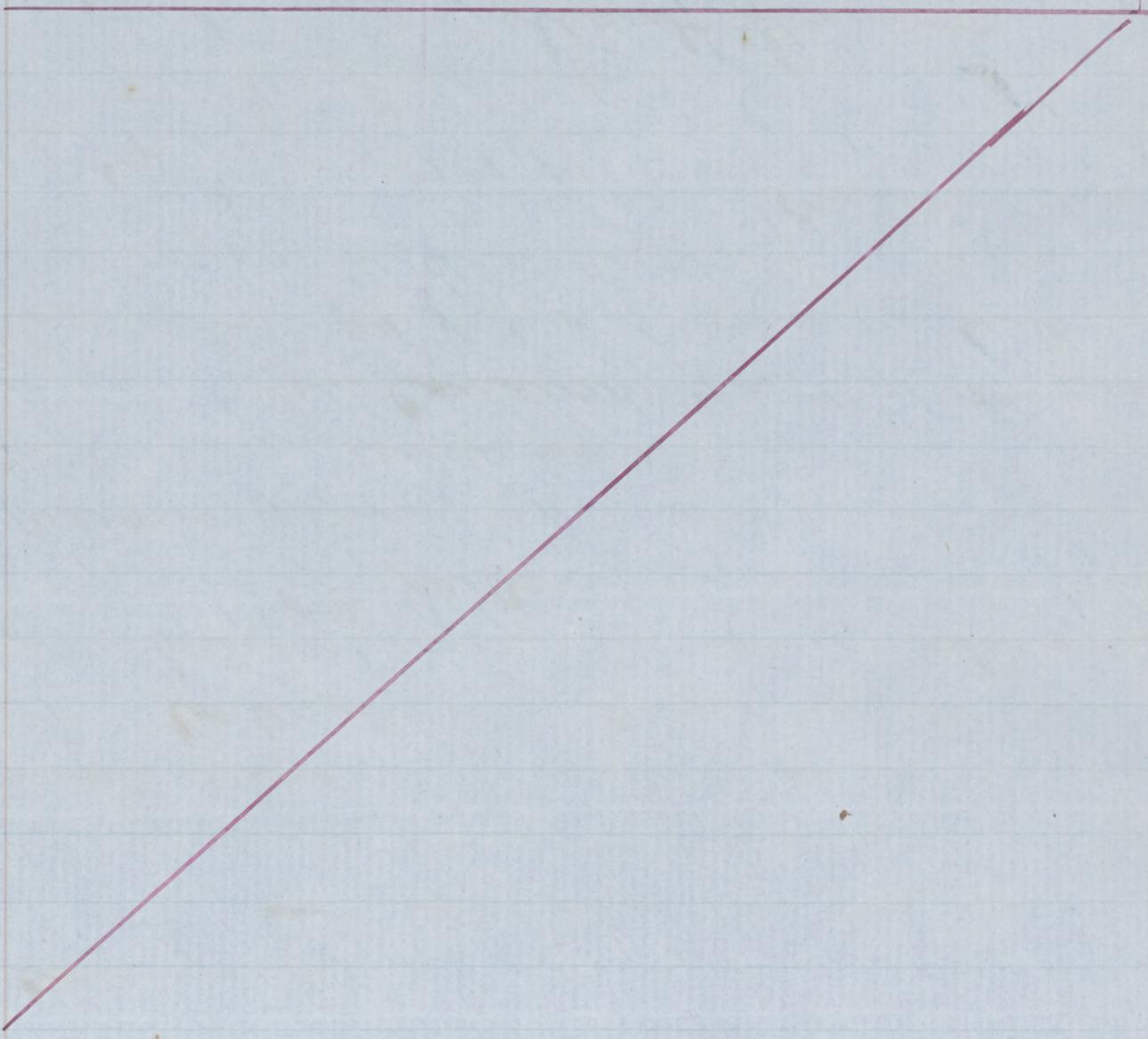
In testimony whereof I have  
herunto signed my name of-  
ficially and caused my Seal  
of Office to be affixed at the  
City of San Francisco this  
fourteenth day of November  
1854 -

L. L. 3

John C. Neays -  
U.S. Sur. Gen. for Cal. -

Filed in Office Aug. 4, 1854 -  
Geo. Fisher

Secy -



289 ND

91

1844

Translation of the Spanish original by the vicario (resident of the Spanish colony in charge of the main household of the grant neighbour) of Don Jose Roberto asking for a part of the land called Los Cochinos

(334)

Stamp Fourth not ready  
Provisionally authorized by the Maritime Customs House of the Port of Montevideo in the Department of the Capitanias for the years 1844 and 1845

289 ND  
PAGE 85

Indultina Pallella Guerra  
} seal of the Customs House of Montevideo  
} House of Montevideo  
} Roberto nature of the  
} Mission of Santa Clara  
} Montevideo March and was domiciled in  
} 9th 1844

The before said by calling with  
Secretary of the most proper respect  
Despatches were presents himself and says  
report that in the year 1841 there  
was granted to him provisionally by Don Juan

Indultina  
Alvarez said place  
in which he has lived  
with his family to this  
date having built a house  
Corral and a garden with  
fruit trees and also having his possession  
thirty head of large cattle two yokes of  
oxen and two large buses and having  
lost in the hands of Don Agustin Alvarez  
his despatch which to him  
his legitimate property and for that  
reason being liable to collect said  
place by a due amount as not having  
ought to enjoy it otherwise he says  
by calling to these goods as to maintain the  
said peaceful over present himself and  
that of his family that is a square league  
from his house to the boundary of the  
Ferreira, in length and in width from

289 ND  
PAGE 86

the arrovala abra to the road to Santa  
Luz and the road of the alameda where  
he only pray you to call to the so good  
and justice of the favor according to right  
and justice of the of San Jose February 28  
th 1844. The Petitioner Roberto  
Most Excellent Your Governor  
The land asked for by the nature Roberto  
is of much extent both for the property  
he has and which he may acquire it would  
be convenient to limit him to not pass  
the Cuzco of the Mission of Santa  
Clara on the side of San Cochens the other  
boundaries being at Rio de San Joaquin the  
alameda and the Roblar de Portal but  
the disposition of your Excellency will  
be the most proper

Montevideo March 11th 1844

Mmanuel Jimenez

Montevideo the same. I agree

Michellumia

Montevideo March 17th 1844

Having seen the petition with which this  
Expediente begins the reports which have  
and all the presents and reports to be  
seen in conformity with the laws and  
regulations on the matter I declare the  
nature Roberto owner of a part of the land  
called San Cochens bounded by the Rio de  
San Joaquin of the alameda to the  
east and from it by the Roblar called de  
Portal and by the Cuzco of Santa Clara  
on the side of San Cochens. Let the corresponding  
dispatch issue take note of it in the respo-  
nse book and deliver it to the party inter-  
ested. The most Excellent Your Governor  
Thus ordered, given, and signed. (The  
follows also of the formal title the same  
is translated in Exhibit Number)

Filed in Office August 14th 1844

Geo Fisher

Secretary

93

167

6

3

Place of  
a stamp in  
the original

Certified  
Copy of Re-  
cord of Grant.

213

Yndigna Roberts on 12 de Marzo  
de 1844 -

Se le dió título del terreno llamado  
los Cochis en estension de medio sitio  
de ganado mayor poco mas ó menos -

289 ND  
PAGE 87

Office of the Surveyor General of the Uni-  
ted States for California -

I John C. Hays Surveyor  
General of the United States for the  
State of California and as such having  
in my office and in my charge and  
custody a portion of the Archives of  
the former Spanish and Mexican Ter-  
ritory or Department of Upper Cali-  
fornia by virtue of the power vested in  
me by law do hereby certify that the  
preceding and hereto annexed page of  
tracing paper numbered 643 exhibits  
a true and accurate copy of an ex-  
tract from a certain Book in which  
a minute of various grants is enter-  
ed during the years 1844 and 1845 now  
on file and forming part of the said  
Archives in this Office -

94

In testimony whereof I have hereunto  
signed my name officially  
and caused my seal of Of-  
fice to be affixed at the City of  
San Francisco this fourteenth  
day of November 1854 -

John C. Hoays  
U.S. Sur. Genl. for Cal.

289 ND  
PAGE 88

Filed in Office Nov. 14, 1854.  
Geo. Fisher  
Secy -

1/16/74

95-

Opinion  
of the  
Board

Antonio Simón et al }  
of } For the place  
The United States } called Sus Cochis  
in Santa Clara  
County containing  
one half square league  
of Land

289 ND  
PAGE 89

The Petitioners claim the promises  
disclosed in their petition by title deriv-  
ing from Roberts under the following  
conveyances which are given in order

First  
a conveyance from said Roberts to said  
Antonio Simón ceding his right in  
the premises dated February 1st  
1847

Secondly a conveyance from Juan  
and Regina Salazar to the heirs of  
Luis of said Roberts (both he and his  
wife having died in the mean time)  
to said Simón conveying all their interest  
in the Rancho called Sus Cochis bearing  
date January 8th 1850 and

Thirdly a  
conveyance made by said Simón to Henry  
Mc Nagle and Paul Simón de San  
Juan who are also petitioners in the  
case to each an individual their part  
of the premises therein described by  
metes and bounds and alleged to be  
apart of the premises granted to said  
Roberts and conveyed by him to said  
Simón this conveyance is dated Decem-  
ber 15th 1849

In proof of title in Roberts  
a grant is proved and filed in the case  
made by General Manuel Micheltorena  
and dated March 12th 1844 The appro-  
val of the Departmental Assembly  
does not appear to have been obtained  
Roberts according to the evidence occu-  
pied the place by promise of the

Trust after the Mission several years before  
he obtained the Grant living upon it  
with his family keeping his stock  
there and cultivating portions of the  
land and he continued so to occupy  
until his death

289 ND  
PAGE 90

It is furthermore urged  
upon the part of the Government that  
the Grant is void for uncertainty in the  
description of the premises

We have before us a true copy from the archives  
of the proceedings on the first applica-  
-tion of Robert for the land in 1840  
- He then patented the entire premises  
are square league known by the name  
of Las Cochis as laid down on a map  
which he presented there with

On this application a decree by Governor Alvar-  
-ado concurred to grant the temporary  
use of a part of the land petitioned for  
without depriving its boundaries and a  
- subsequent application the Grant here  
presented dated March 12th 1844 was  
issued giving to Robert a title in the  
usual form but depriving the prem-  
-ises granted to him by special bound-  
-aries and limiting the quantity to one  
half a square league

In the Grant the  
premises concurred as decreed to be a  
portion of the place called Las Cochis  
bounded by the River of the Pueblo of San  
Jose by the Alameda by the wash known  
called Torotal and by the swamp known as  
of Santa Clara on the side towards Las  
Cochis If these several calls in the Grant  
concur with the Grants and are so  
located relatively as to be consistent with  
each other and with the other terms of  
description of the premises there wants

97

289 ND  
PAGE 91

seem to be no objection to the grant arising from this source. The map attached to the expediente shows the position of the claimed and the Rio Guadalupe otherwise called the Rio of the Puntos of San Jose.

The latter is one of the boundaries of the premises and the map shows also that this boundary was continuous along a stream, which on the map is very temporary, called *Propocera* a stream of considerable magnitude flowing into the Guadalupe. This stream is described as dry at some seasons of the year like most of the streams flowing from the mountains to the plains. Yet of such magnitude as to carry to one witness's statement to take the name of Guadalupe and by all the well known an important Arroyo. Hence also the name of *Sus-Gatas*.

The position of the swamp (*cañal*) of Santa Clara is proved by the witnesses Forbes, Fernando, and Lewis whose introductions by the claimants and their testimony on this point is corroborated by Hoady and Hart's witnesses on behalf of the Government. This swamp is intersected by a line run from the Guadalupe along the claimed area a distance of twenty acres, from which is clearly made the limit of the land granted in that direction.

The oak grove called *Sorotal* is also clearly proved by all the witnesses whose knowledge extends back to near the time of the grant and to the its existence and its name some of that time to have been well known from this proof both oral and documentary.

289 ND  
PAGE 92

I think that is sufficient support for the location of the premises. The boundaries north and north east are the line south of the claim and parallel to and twenty yards from it on the east and south east the line of the boundary and the arroyo delos Santos on the south the oak grove called Pomaal on the west by a line commencing at a point where the line just above mentioned strikes the eastern edge of the swamp (Culaga) and running south along the eastern side of said swamp and thence to the western edge of the grove called Pomaal striking it at such point as to enclose with the boundaries an area of one half a square league of land.

This description is in accordance with the intention and terms of the grant and under the proof is as definite and certain as is required by any rules which are applied in such cases. It accords with the limits which the witness Fernando designated to the grantee soon after the grant was made while acting as alcalde. It accords in general with the map and survey of said lot which was made in 1849 according to the description of the title and with that made by the witness Lewis in 1851.

It has been alleged that the premises may be located by the calls of the grant as well on the north as on the south side of the claim. The witnesses who testify on this branch of the case are led to an erroneous view of this point by the error of fact. The point arises from an erroneous translation of a word in the grant. The description in English given to the witnesses gives

3/10/74

99

289 ND  
PAGE 93

above of the limits of the land, the Spring of Santa Clara whereas the designation in the Grant is the swamp (Cunega) of Santa Clara the Spring is stated to be on the north or east side of the claim and within four hundred yards of Santa Clara but the position of the swamp the true call in the Grant is beyond question as before described on the south side of the claim and at a considerable distance to the East of the Spring.

The second error arises from the supposition of the witnesses that an oak grove which exists on the north or east side of the claim is the Grove referred to in the Grant as shown by the name of Forest.

The witnesses who make this supposition are recent emigrants to the country and none of them allege that the Grove described by them is now or ever was known as the Forest while that which is situated to the south and west of the claim is identified by all the witnesses who have been living in the country as the boundary of the premises in question and as also called by name well known by that name.

If the objects constituting the important land marks of the premises were proved to be on the north side of the claim the location must be proved to be there or near there but the proof does not warrant us in such an inference on the contrary the places above mentioned called for in the Grant are clearly proved to exist and they locate and bound the premises concluded by the boundary in the main.

above indicators. It is also objected that the title of the present claimants to the land in question is invalid for the reason that their grantor being an Indian had no power to convey the premises.

Relative to the grantee as is shown in the case was an Indian born on the place which was granted to him. His father was a chief in that region until he became christianized. Relative was also attached to and educated at the mission where he was known as a neophyte until leaving the mission. His integrity and abilities his capacity to maintain himself. Governor Richard Tomes in March 1844 issued to him formal papers of emancipation in order that he may fully establish himself and seek the means of subsistence where ever he may think proper.

He is also stated to have been every intelligent man. If the land granted to Relative was incapable of being conveyed the invalidity must have arisen either 1 from a restriction expressed in the grant itself or 2 from some incapacity in the grantee imposed by the laws of the nation.

The grant contains a condition that the grantee shall not sell alienate or mortgage the land nor incur any tax or other public or private obligations upon it.

This is a provision contained in a large proportion of the grants issued subject to the approval of the Department and also in many of the conditions of the Commission.

111

We have regarded it as desirable to secure the performance of the conditions of cultivation for cultivation under which these grants are bestowed by the grantee before he can transfer the estate to third persons, in whose selection the Government courts have no voice

289 ND  
PAGE 95

and that when the conditions were in part performed, the right of alienation was perfect. The restriction is not to be regarded as imposed in the case under consideration, because the grantee was of Indian blood, nor does any intention exist that the alienation of the particular property granted, any more than any other concession

It is paying in grants as well to the whites as the Indians and is not limited to concessions of any particular kind or locality. It can therefore have no further operation in this than in any other case and as the performance of the conditions of cultivation and cultivation by Indians before the alienation is proved, we must hold according to previous decisions that the restriction vests right to alienate as a matter of course.

The next inquiry is whether on account of this being an Indian he was under the Law inalienable of conveying the land.

The supposed disability of an Indian to convey land by himself is based upon a provision in the Spanish Law by decree of Philip II made in March 1571 that was granted that when Indians wished to sell their property whether in person

or real estate should be used at auc-  
 - tion after notice given in a sufficient  
 manner under case of personal prop-  
 - erty of less than \$50 in value a justice  
 might authorize a disposition of the  
 same at private sale and any sale  
 which was not then made was deemed  
 to be void and of no effect (Luz 27 title 1  
 1. Recode Indras)

The Royal Audiencia  
 - of Mexico adopted an ordinance  
 on the 23rd day of February 1763 in  
 which after recital of the imperor  
 - ials and consequent poverty and  
 agricultural of the Indians of the  
 Indies in disposing of their property  
 it is ordered that no case and under  
 no pretext should there be executed  
 any sales mortgages leases or other species  
 of alienation of lands by Indians not  
 only of such lands as were set apart  
 for common use but also of such as  
 had been or should be acquired as  
 private property by Indians or by  
 other means of acquisition unless  
 such sale lease or other alienation  
 should first receive the license of  
 the Supreme Government the General  
 court of the Indies or the Royal  
 audiencia after a previous hearing  
 of the Fiscal and upon proof of the  
 necessity and utility thereof

and all  
 - contracts and alienations made  
 without such license were deemed  
 void and the justice or ascribano  
 before whom they were executed  
 was made liable to a penalty of five  
 hundred dollars and loss of office for an  
 - arzas de tierras y aguas 108) That  
 the restriction on the Indians to convey  
 - lands was more personal disability

113

289 ND  
PAGE 97

based upon his superior merit of intellect and providence in the management of his property is evident from the terms of the decree, also notes. The provisions contemplate the acquisition by Indians of property to which they claim a right by aboriginal possession either as individuals or communities.

They might possess themselves of property in any of the methods in which a Spaniard might acquire it by inheritance by purchase by composition and the disability by default without the requisite theme is unprovable upon all.

In the case of *Spicer vs. Humball* (6 Martine Cases 262) the Supreme Court of Louisiana and so regarding the restriction and holding it to the disability of minors and the Court in that case held that under the decree of 1571 aboriginal title of an Indian Community was not void although not made at auction as required thereby but valid only and that by the grantee alone and the sale in that case not having been disavowed or annulled, the title to the purchaser was sustained.

The principle adopted by that highly respectable Court whereby it seems to me sustains the case from *Roberts vs. Smith* unless disavowed by the purchaser. The case stands for such as are advanced under the existing provisions the law of Indians made after *Roberts* death in affirmation of his conveyance. In Louisiana the American jurisdiction on the acquisition of the country found the laws of Spain as such in full force.

Not so in California under acquisition  
 The laws of Mexico were the laws of the  
 land and during nearly thirty years  
 of independence the account decrees  
 of the old Spanish Monarchy being ne-  
 cessarily undergone much change  
 prior to a determination as to the validity  
 of these account provisions near the  
 time of the conquest we must look to  
 Mexican history and jurisprudence

The early history of Mexico shows from an  
 early the Indian race was subjected  
 to the dominion of the conquering Europe-  
 ans distributed with the land on  
 which they lived they were reduced to  
 the most abject servitude and were  
 too often treated as a race of savages with  
 in the face of humanity.

The decree of all Spanish monarchs were more humane  
 and however the practice of Span-  
 ish officers under their and repeated  
 decrees in their behalf which are found  
 in the early codes should have been the  
 task to abolish the cruel oppressions  
 with which they were treated.

It was not until about the time when the con-  
 motion which resulted in Mexican  
 Independence commenced that the  
 importance of the Indian population  
 then comprising about three fifths  
 of the total population of Mexico began  
 to be appreciated.

The native born white population has long been anxious  
 to throw off the rule of foreign officers.  
 all of whom were appointed by the crown  
 of Spain the country was divided  
 into castes and the most bitter hostil-  
 ity existed between the races of

6/10/74

115-

289 ND  
PAGE 99

different colors. These laws were finally combined in unity of action in the laws of 1830, which were finally adopted by the national representatives of the people and which were the result of the struggle for the redress of the wrongs of the colored people. The revolution which followed was based on the principle that each race among the mixed bloods which composed the large majority of the population were to be recognized as equal in the new organization.

The fourth article of the laws of 1830 declares that all the inhabitants of the republic without any distinction of European, African or Indian, are citizens of this monarchy with the option of all employments according to their merits and virtues. From this time to the present all distinctions in the condition, rights and privileges of the three races which the Mexican and the negro have ceased to exist in Mexico.

It has been suggested that the equality as applied to the Mexican population effects nothing more than to give them the right of suffrage and of holding office and does not release them from that condition of servitude which prohibits the sale of their property without special permission in each case by the public authorities.

Such a restriction improves no one entire race of men constituting three fifths of the citizens of the new Republic. It is the most palpably inconsistent with the avowed aim and object for which all countries in the struggle

111

289 ND  
PAGE 100

for an Independent Government  
Restrictions of this character in the  
minor in the Senate the edict or  
the individual may be regarded as  
an individual provision for the benefit  
of the individual whose power of taking  
care of his own interests is not yet ma-  
tured or has become impaired

But  
when such restrictions are imposed on  
an entire race of men with respect to  
and to individual capacities of decision  
something more than a simple  
guardian ship, public or private  
Individual it is then an oppressive  
burden on his race making an ineq-  
uality with his fellows and leading  
him with a sad fate to the  
right in power hypothesis of disposing  
of his property

But the conditions  
of things which obtain in the Span-  
ish dominion in the New world, where  
every public function was of Span-  
ish birth and all others were in a state  
of comparative subjection it is not  
surprising that this constitution was  
imposed on the Indian race nor  
can it be doubted that it was of the  
protection and privilege to them

But  
when the foreign rule was broken  
and the American rulers & rulers  
when the oppressed race were their  
directors, even then from master  
and even government was formed  
of which they constituted a material  
part and were by the most solemn  
pleas made equal with their fellows  
it would seem a strange inconsistency to  
continue the former restrictions on  
their rights or the ancient guardian ship

7/10/74

117

289 ND  
PAGE 104

our other business transactions. The  
 new Government was based on the very  
 nature of the capacity of the members of  
 its citizens, who were of Indian blood,  
 as well as those of American origin  
 to perform the highest functions under  
 its provisions. There was no franchise  
 limit that the Indians are not  
 enjoying. He was eligible to the highest  
 office in the Republic, was his com-  
 petent in the duties of the most elevated  
 station in the army, the judiciary  
 and the Political Government.

It would indeed be strange if with the  
 advent of the new Government there  
 acknowledged the capacity of this  
 large class of its citizens and securing  
 to them the broadest rights under its  
 provisions and ancient decree of the  
 King of Spain of the Mexican when  
 founding the nation by the efforts  
 of themselves and their fellow, Americans,  
 still subject of respect to subject their  
 acts in the most simple business  
 transactions to the judgment of  
 others or to the grade them to the condi-  
 tion of minors or maniacs.

The new  
 Government did more than to declare  
 the Indian race competent to take  
 care of their own individual business  
 matters and declaring them competent  
 to perform the highest functions of the  
 citizen and of the civil officer.

If the  
 decree of the new Government proclaims  
 its their superiority and subjects them  
 to the decisions of the tribunals, please  
 to dispose of their property, the charter  
 of the new Government, their eligibility  
 to the very positions from which it

100

These judgments were to come and  
committees to their discretion the  
granting of such leave Thus the citizen  
of Indian blood himself incompetent  
from a presumed want of discretion  
to dispose of a fifty thousand dollar  
property without leave of the duly  
constituted tribunal masters of com-  
petent public duties of the day appear  
to which such a judicial trust as to his  
fellows was entrusted

We must look  
to the authority of Mexico to ascertain  
whether this circumstance in fact was  
regarded as existing

In a discourse on  
Mexican Law, Senor Peña late pres-  
ident of the Supreme Court of Justice  
in Mexico the distinctions between  
and the Indians of the day Spanish  
decried all comments and among  
them it is asserted that they could not  
alienate their property and effects with  
out a decree of the Judge

All this was  
provided and observed among other  
conditions in the terms of the absolute  
Government of Spain but when a free  
Government was adopted Indians  
were regarded as equal with other  
Spanish subjects

and much more  
were they regarded with all Mexicans  
Citizens inasmuch as our Indian and  
being established and protecting it  
was founded on the basis of equality  
of civil rights among all the free  
Inhabitants of our country what  
our rights have been their origin in  
the four quarters of the world, It was  
also the opinion of this writer that  
even under the Spanish Constitution

8/16/77

119

289 ND  
PAGE 103

of 1812 prior to the revolution in Mexico the Indians were released from the state of perpetual minority previously imposed and which restricted them to the right to alienate their property and he asserts that it was so declared by the King of Spain in the presence of the Council of State (Ex Dec 1818 Senado Res 31 Cong. In Ferrero Mexicanos tom 1 Chap 19) the conditions of persons in Mexico is discussed and among the distinctions which the author asserts are not now recognized in the Republic he mentions that of race and color.

In the ancient Law he declares there are also other distinctions between men on account of their races and colors and of these the principal was that between Indians and Spaniards.

To odious classification has not existed in the Republic since he says it declared itself sovereign and independent (Decree of October 1818) and principally since the Plan of Iguala declaring all its inhabitants to be equal in rights between Europeans Africans and Indians.

It would seem that in some few cases of minor importance where the Indians had been exempt from taxation which their poverty had rendered burdensome to them or some peculiarity of their condition required such exemptions was still retained but there is nothing to counteract the idea that the presumption in capacity to own property was retained after the separation from Spain to Guzman and La Pasena also and commutator and the author of the work last cited (Four page 257)

bvcl

say again that account of the Indians  
were reported as minors under the age  
of twenty five years although they had  
passed through the law but never expressly  
decided that being considered equal  
to all other citizens they are emancipat-  
ed from the state of minority.

In the  
Sala Mex case the following remarks  
are found. The absolute ignorance in  
which the doctrine of quasi-administration  
suggested to the Government of Spain  
to keep the Indians taking for an actual  
stupidity an accidental state of their  
understanding or of the want of develop-  
ment of the faculties (considered as  
a defect of the race) gave rise to a  
prejudice so much the more pernicious  
as the belief in its truth by the very  
persons who suffered it was stronger.

They  
actually degraded them by assuming to  
preserve them the advantages of a per-  
petual minority favors which could  
only be considered as the result of  
other acts of greater injustice and unhappily  
abolished.

Admit that this class in  
which education is not very common  
abounds with the individuals who  
ought to be subject to guardianship  
but let not the color be taken  
as a general sign of stupidity and let  
the magistrates taking into consideration  
individual cases apply to them (perhaps  
frequently) the general laws practices  
relative to minority. Sala Mex case  
tom Dec 34 page 398 In the deposition  
of Antonio Maria P. in the case  
the witness states that the laws of Mexico  
as he understands them are the usage  
and custom in California Indians

111

had the same right to see and abrogate their laws as the Whites because No 3 and in several other cases where this question is involved similar testimony has been given as to the Law usage and custom by several of the principal and most intelligent of the older residents of California.

289 ND  
PAGE 105

I have before me a manuscript opinion in reference to the Law in Mexico on this subject by Don Mariano Salas an eminent Lawyer at the Capital Department in the case that I cannot refrain from quoting his words,

After referring to the ancient Laws in relation to the Indians found in their Statutes in capacity in the transactions of their business affairs he proceeds to state that these dispositions were more or less necessary in proportion as the Indians were less barbarous and the opinion of their incapacity diminished and some of the Laws concerning them were falling into disuse in whole or in part.

Such was the state of things when the Spanish constitution of 1812 was promulgated which declaring the Indians to be Spaniards in all legal sense and ordering that the civil and criminal Laws should be the same throughout the entire monarchy established the equality of rights between all Spaniards without distinction whether with respect to conditions or other objects of privilege.

At the proclamation of Independence of Mexico Art 12 of the Plan of Iguala established the complete equality between all the inhabitants of Spanish

without any distinction of Europeans  
Americans or Indians and this declaration  
has formed the basis of all subsequent  
Laws and of legal practice

Since that  
time the Indians have not enjoyed  
the privileges nor been subject to the  
prohibitions of the ancient Laws of  
the Indians. They are no longer pro-  
hibited from drinking wine nor is this  
prohibition from being carried to their  
huts. Nor are they prohibited to ride on  
horseback nor exempted from paying  
taxes to all quadrants and business they  
are subject to fines the same as other people  
and they have no fiscal or administrative  
authorities in their contracts law  
suits and suits

They freely sell their lands  
of private ownership without auction  
and without the intervention of any  
magistrate. This is the case in all parts  
of the Republic and not only in practice  
but in our practice have questioned  
different Lawyers and notaries Public  
if they had ever known of any case  
successive Independence (of Mexico)  
in which any judicial intervention has  
been required in the sale of private  
Lands of Indians and none has indi-  
cated to me a single case saying on  
the contrary that in all cases in which  
they had intervened or of which they  
had received any notice of the sale of  
private ownership of real estate of Indi-  
ans they proceeded without any more  
formalities than those used by other  
Classes because no one ever doubted  
or entertains any doubt of there being  
a complete equality of rights among  
all the inhabitants of the Republic

19/10/74

113

289 ND  
PAGE 107

By the Spanish Constitution of 1713 and the Legislation of the Cortes, many of the ancient Laws were introduced to be superseded by more liberal provisions in favor of the personal rights and freedom of all classes of the inhabitants of the Monarchy and when the Independence of Mexico was established all of the ancient Laws in conflict with the new order of things were expressly declared to be null and void.

In such case are the laws which are intended to be annulled but the case ancient law cannot be judged by comparing its import and effect with the principles of the new organization.

It is not always easy to determine under this test whether a former Law is thus repudiated and repealed or not and where any doubt exists in a particular case the construction which has been practically put upon it by the tribunals of the Nation by the practice and common consent of the community and by the most eminent writers and jurists must be authoritative of the instrument.

Have therefore cited miserably than I believe were should have done such Mexican authorities as were at any command in their subject concerning them conclusive on the question.

and under them I cannot but regard it as clear that the transit of the ancient decrees on the annihilation of their private property by Indians as such has never been in force since the Mexican Revolution.

114

289 ND  
PAGE 108

holds that so far as any thing is made to appear in the case was seen -  
- intent to make the duty to sumo and  
by the title passing to the latter.

has been suggested that the Supreme Court of the United States of California has held that the court has declared this duty making in the case of Sumo vs. Hupburn (see Sup. 254) and it is claimed that the tribunals of the United States are bound by the decision of that court in such a case.

In the construction of the statutes of a state the United States courts adopt the decisions of the highest judicial tribunal of the state and in regard to the statutes of the United States and in questions arising under foreign laws or treaty stipulations the decisions of local tribunals have more been recognized as obligatory.

The rule of decision by this Commission is declared in the act of Congress, under which it is organized to be the treaty of San Felipe, the Law of Nations, the Law, usage, and customs of the Government from which the Commission derives the principles of equity and the decisions of the Supreme Court of the United States so far as they are applicable.

The rules which are laid down as the basis of the decisions of this Commission are not made the basis of a precedent in the judicial decisions of the state courts and their decisions of such cases cannot, not many rational principles obligatory and tribunals acting under this Law. Besides if the rule of decision was the

115

same in both tribunals the basis of the  
primary matter not be binding on the  
latter. The validity or invalidity of the  
and from which must be determined  
by the Mexican Law which is con-  
ceded to have continued in force at  
the time of its execution.

289 ND  
PAGE 109

and in the con-  
struction of such Laws as the basis of  
private rights the decisions of state  
tribunals have never been considered  
or claimed to be binding on any but  
their own subordinate and inferior  
courts.

To conclude that the rights of aborigin-  
al and non-american have been decided  
by the United States Government the  
action of the United States Government  
executed under Mexican authority  
must depend on the constitution given  
by the state tribunals and not taken  
from the United States Government the  
power to carry out in fact, for the  
provisions of the treaty stipulations  
and to confirm the most solemn guar-  
antees of the private rights of the citizens  
of the United States to tribunals not  
appointed to administer its Laws and  
not guided by their provisions.

The decisions  
of the highest judicial tribunals of the  
state are at all times entitled to our  
most respectful consideration and  
the opinion of the eminent Judge  
who pronounced the views of the court  
on this question is distinguished for  
the research and ability which it  
contains.

But upon a careful examina-  
tion of the testimony in the case and of  
the authorities above cited we are com-  
pelled to believe that under the Law

EXCE

ND

usage and customs acknowledged by the Mexican authorities at the time of the occupation of the country by American forces a conveyance by Roberto would have been valid to convey his estate in the premises and is entitled to that effect in the proceedings by this Commission

A decree of confirmation will be entered in the case regarding the interests of the said Petitioners in the premises

"Confirmed"

Filed in Office March 20th 1855

Signed by Fisher  
Secretary

Recorded in Record of Decisions Volume 2 Page 388

Signed by Fisher  
Secretary

Decree of Confirmation Antonio Serrano of the United States

Antonio Serrano of

the United States

In this case

after hearing the proofs and allegations it is adjudged by the Commission that the claim of the said Petitioner is valid and it is therefore decreed that the same be confirmed to him to him and to his heirs the premises being comprised in the respective interests and parcels herein after specified

The land of which confirmation is made to said Petitioner Antonio Serrano is situated in Santa Clara County and is the same known by the name of Las Lecheras and which was granted to and formerly occupied by

117

289 ND  
PAGE 111

Roberts a map of the area is prepared and described as follows. Boundaries on the north and north east by a line on the south side of the domain parallel to it and at the distance of twenty yards from it on the east and south east by the River Guadalupe a distance calling the River of the Puerto of San Jose and the Arroyo de las Batas also called Arroyo San Juan de la Mojana on the south by the oak Grove called Tonal and on the west by a line commencing at the point where the line just above mentioned strikes the eastern edge of the Swamp (Cinigua) and running thence southerly along the eastern side of said Swamp and thence to the edge of the Grove called Tonal running such course and striking the Tonal at such point as to include in said boundaries an area of one half a square league of land excepting from the said premises the interest therein and portion thereof which is described and comprised in the Petitioners names in the case

The said lands comprising to the Petitioners King, Mr. Magle and Paula Serrano de Sarrivain is to each an equal and undivided third part of that portion of the premises included in the boundaries above specified which is bounded and described as follows to wit:

Commencing at the south east corner of the Bridge across the River at San Jose a Spaniards Lupo near the Puerto thence up and along said River three hundred and nine feet (309 feet) to the stump of an ash tree upon the bank thence thence by a line south twenty three degrees twenty

five minutes west (S 23° 25' W) one  
thousand two hundred and forty five  
feet (1245 feet) to a stake thence south to  
two degrees forty five minutes east (S 100  
- 45° E) three thousand one hundred  
and five feet (3105 feet) to a stake

thence  
south fifty nine degrees five minutes  
east (S 59° 5' E) one thousand four  
hundred and fifty feet (1450 feet) to the  
Rio Colorado thence up and along  
said Rio Colorado to a stake upon its  
bank thence north fifty nine degrees five  
minutes west (N 59° 5' W) twelve thou  
sand nine hundred feet (12900 feet) pas  
sing forty eight feet (48 feet) from cur  
rent line which is marked and which is  
one hundred and forty two feet (142 feet)  
within the line next referring to thence  
north thirty degrees fifty five minutes  
east (N 30° 55' E) eight thousand two  
hundred and sixty feet (8260 feet) to the  
Alumna

Thence by a line parallel to  
and twenty chains from the Alumna  
on the south side of it south fifty nine  
degrees five minutes east (S 59° 5' E)  
three thousand one hundred and twenty  
two <sup>63</sup> feet (3122 <sup>63</sup> feet) to the angle of  
the Alumna thence by a line parallel  
to and twenty chains from the Alumna  
and on the south side thereof south twenty  
two degrees east (72° East) to the end of  
thence by a line to the river and thence  
up and along the river to the point of  
beginning

The true intent and meaning  
of this decree is to comprise to the above  
named three petitioners the portion last  
above described of the entire premises  
to hold the same in equal undivided  
shares and interests

119

and to confirm the said Summ all the  
summarized papers and promises first  
above described to which in his own right  
and in Summ

Alphons Felony

Alleg Thompson

SB Farnell

Commissioner

Felony in Office March 20th 1855

Signis

Geo Fisher

Secretary

Records in Records of Deacons Vol  
2 page 100

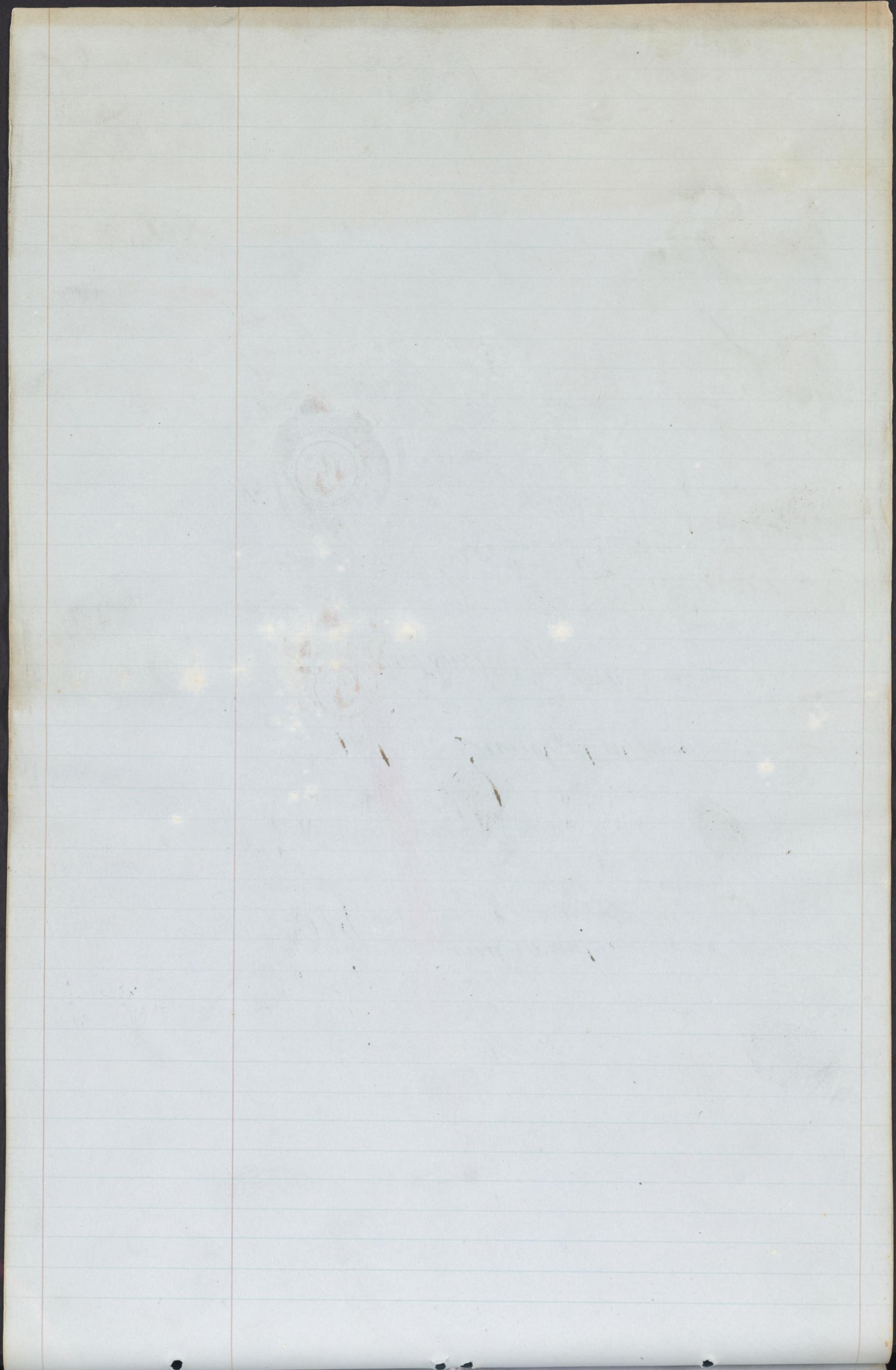
Signis

Geo Fisher

Secretary

And it appearing to the satisfaction  
of the Board that the laws and by laws  
indicated and situated in the Northern  
District of California it is hereby  
ordered that two transcripts of the  
proceedings and of the decision  
in this case and of the papers and  
evidence upon which the same are  
passed be made out and sent  
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

289 ND  
PAGE 113



Office of the Board of Commissioners,

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

289 ND  
PAGE 114

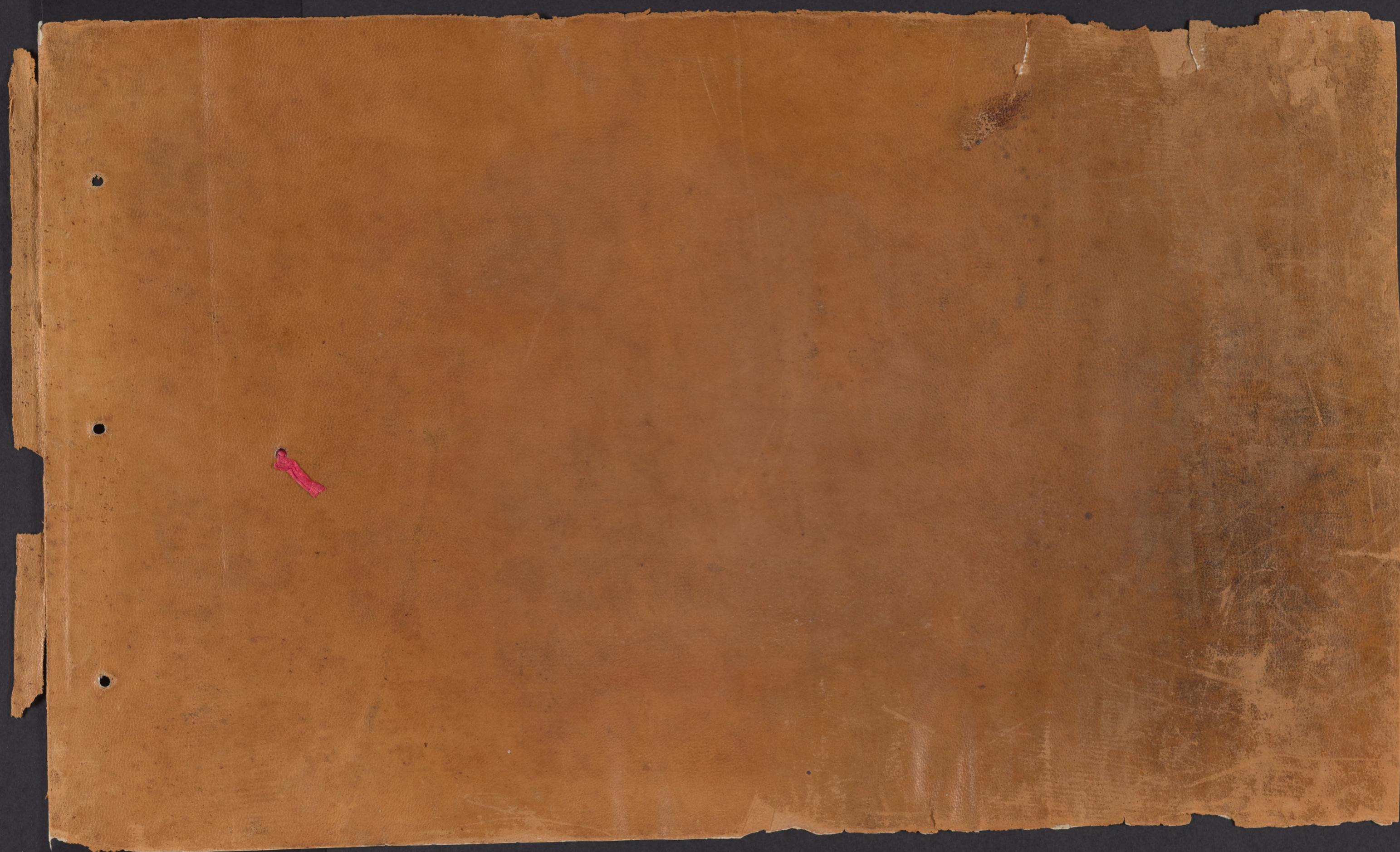
*J. George Fisher* Secretary to  
the Board of Commissioners to ascertain and settle the Private  
Land Claims in the State of California, do hereby certify the  
foregoing *One hundred & nineteen* pages, numbered from  
1 to 119, both inclusive, to contain a true, correct and full Tran-  
script of 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. 167, on the Docket of the said Board,  
wherein

*Antonio Sund, et al,* are —  
the Claimant against the United States, for the place known by  
the name of "Los Cochinos."

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 sixth* day of *September*  
A. D. 1855, and of the Independence of the  
United States of America the ~~seventy~~ *eighty eighth*.

*J. Geo. Fisher*  
Secy.





Office of the Attorney General of the United States,

Washington, 10. October, 1855.

167/ "Las Lochas"

Antonio Suñol et al. Claimants.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 15<sup>th</sup> day of September, 1855, the appeal in the district court of the United States for the *Northern* district of California will be prosecuted by the United States.

Cushing

Attorney General.

No. 289

United States Dist. Court  
Northern Dist of Cal.

United States

Antonio Suro et al

Notice of Appeal in  
Case no. 167.

Filed Nov: 22. 1855.

J. Cheever  
Deputy.

289 ND  
PAGE 116

No 289.

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

The United States, appellants } Transcript No 167.  
vs. }  
Antonio Suiol et al appellees } Answer of appellees.

Antonio Suiol, Paula Suiol de Sansevain, and  
Henry M. Naglee, appellees, appear by their  
Attys, and for answer to the petition of the  
United States filed herein say:

That their title to the tract of land called  
"Los Cochos," as set forth and described in their  
petition to the Board of Commissioners and in  
the documentary and other evidence filed in  
this case is a good and valid title. The  
land claimed is situate in the Northern  
District of California.

Wherefore they pray this Honorable Court  
to affirm the decision of the Board of  
Commissioners, and to decree their title  
to be valid.

Halleck Peachy & Billings  
Attys for Appellees.

No 289

The United States, appellants  
vs.

A. Smith et al appellees

Answer of appellees

Filed Feby 14. 1856,  
by Charles  
Deputy.

289 ND  
PAGE 118

Hallam Penning & Bellin's  
Attys for appellees

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

The United States  
Appellants

vs

A. Samuel et al

No. 289.

The Petition of the United States by  
their attorney represents: that this Cause  
is an application for a review of the  
decision of the Board of Commissioners  
whereby the Claim of the said Appellee  
was confirmed as appears by reference  
to the records in the case: That a  
transcript of the said Records was filed  
in this Court on the 1<sup>st</sup> day of May  
1835 - : that a notice of appeal  
was filed on the day of 1<sup>st</sup> Sept  
1843 - & that the land claimed lies in  
the said District.

That the said claim is invalid.  
Wherefore appellants pray that the  
said decision of the Board be reversed  
& that this Court decree the said title  
to be invalid. Respectfully

J. W. Anger  
U. S. Dist. atty.

No. 289

U. S. Dist. Court

Wm de Stams

or  
A General Agent

Petitioner

Filed Febry 14. 1856,

by Charles  
Deputy.

289 ND

PAGE 120

W. Russell

No 289

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

289 ND

PAGE 121

The United States, appellants  
vs.  
Sunol, Sansucaine & Naglee, appellees } Transcript No 167

Stated Term April 15<sup>th</sup> 1856

On appeal from the final decision of the Board  
of Commissioners to ascertain and settle Private  
Land claims in the State of California

### 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  
Private Land claims in the State of California  
under the act of Congress approved on the 3<sup>d</sup> of  
March A.D. 1851. Upon the Transcript of the pro-  
ceedings 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  
has been duly filed according to law, and  
counsel for the respective parties having been  
heard it is by the Court hereby ordered adjudged  
and decreed, that the said decision <sup>upon the validity of the claim</sup> be and the  
same is hereby ~~in all things~~ affirmed; and it  
is likewise further ordered adjudged and decreed  
that the claim of the appellees is a good and  
valid claim, and that the said claim be  
and the same is hereby confirmed to the extent  
and quantity of one half a Square League.

being the same land described in the grant and of which the petition was proved to have been long enjoyed. Provided that the same quantity of one half a Square League now confirmed to the claimants be contained within the boundaries called for within the said grant, and the Map to which the grant refers; and if there be less than that quantity within the said boundaries then we confirm to the said claimants that less quantity.

John Hoffman  
U. S. Dist Judge

No 289

In the U.S. Dist Court,  
Northern Dist of Cal.

---

The U. States, appellants  
vs  
A. Smith et al appellees.

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Decree

Filed April 15, 1886,  
W. H. Chivers,  
Deputy Clerk.

289 ND  
PAGE 123

At a *Stated* Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the *Court Room* in the City of SAN FRANCISCO, on *Wednesday* the *24th* day of *December* ~~*November*~~ in the year of our Lord one thousand eight hundred and fifty-*six*.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States  
v.  
Antonio Sunol et al

Case No 289  
Transcript 167

The Attorney General of the United States having given notice that no appeal to the Supreme Court of the United States will be prosecuted in this case, and a stipulation having been entered into by the District Attorney that no further appeal shall be taken on the part of the United States, and for leave to the claimants to proceed under the decree of this Court heretofore rendered in their favor.

On Motion of the District Attorney, it is ordered, adjudged and decreed, that the claimants have leave to proceed under the decree of this Court heretofore rendered in their favor as on Final Decree.

Ogden Hoffman  
U. S. Dist. Judge  
~~Hull & Peckham & Pillsbury~~  
~~Attys for appellus~~

No 389,

United States District Court, Northern  
District of California.

The United States

vs.

Antonio Sañol et al

Case No 289  
Transcript 167

order

Filed December 24, 1856,

J. A. Monroe,

CLERK.

J. M. H. Cheves,

DEPUTY.

289 ND  
PAGE 125

California Land Claims.

Attorney General's Office

14 Nov 1851.

Sir:

In the case of the claim of Antonio Surrol  
et al: confirmed to the claimant by the Commission-  
ers, case no. one hundred and sixty-seven (167),  
appeal will not be prosecuted by the United  
States.

I am

Respectfully

Yours

Wm Standing Esq

U. S. Attorney

San Francisco

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

The United States

vs  
3

Case No. 289  
Transcript 167.

Antonio Suñol et al

Pursuant to a notice  
from the Attorney General of the United  
States, herewith annexed, it is hereby  
stipulated and agreed that no further  
appeal shall be taken in this case  
on the part of the United States, and  
that the claimants have leave to  
proceed under the decree of this  
Court heretofore rendered in their  
favor, as under Final Decree.

Wm Blomding  
Dist Atty  
Hall & Peckham & Billings  
Attys for appellees

United States No. 289,  
District Court

The United States

v

Antonio Sunol et al

Case No. 289

Transcript 167

Stipulation

Filed Dec. 24. 1856,  
W. H. Cheney,  
Deputy Clerk.

289 ND  
PAGE 128

Leonard  
The United States  
vs  
A. Linnol et al

3<sup>rd</sup>

289 ND

289 ND  
PAGE 129

This claim in this case was  
unanimously affirmed by the  
late of Board of Commissioners.  
It has been submitted to this  
Court on the proofs taken before  
the Board and without argu-  
ment on the part of the  
appellants or the statement of  
any objection to its validity.

In reference to the opinion  
of the Board we find but  
two questions discussed which  
seem *in thura* discussed  
and which it is presumed  
were the only two points made  
on the part of the U. S. -

The first relates to the loca-  
tion of the grant - The Board  
after an elaborate and thor-  
ough examination of the test  
may arrive at the conclusion  
that the calls in the grant  
and the delineation of the  
tract on the *desimo* are a-  
sufficiently sufficient to enable  
a surveyor to locate the  
On examining the transcript

This opinion of the board seems fully sustained by the proofs, and the doubts or difficulties felt by some of the witnesses as to the proper location of the land, seem to have originated in a misapprehension of the true meaning of some of the calls in the grant. The grantee is shown to have occupied his land from a period anterior to his grant to have lived there with his wife and children and to have made considerable improvements.

In the discussion of the second and more important question whether before the original grantee being an Indian had a right to receive grants of land under the Mexican laws and to convey the land so granted the Board devote a large portion of their opinion.

But that last question has been settled in the Supreme Court in accordance with the views expressed by the Board & is no longer open for argument in this Court.

These The genuineness of the original documents is not questioned - and the title of the present claimants appears to have been regularly derived from the original grantee & his heirs and to have been lawfully gained by possession

289 ND  
PAGE 131

A decree affirming the decision of the Board must therefore be entered -

April 15.

*Handwritten text, possibly "The Hunter's Club"*

H-289

*R. Samuel &*

*Pinions*

17

289 ND  
PAGE 132

*Faint handwritten notes on the right side of the page, including "2. 20" and "1. 20"*

289 ND  
PAGE 133

Office of the Board of Commissioners,

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

San Francisco, Sept. 26<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. 167 on the Docket of the said Board, wherein Antonio Sund, et al, are

the Claimants against the United States, for the place known by the name of "Los Cochinos."

and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

Geo. Fisher