

CASE NO.

360

NORTHERN DISTRICT

RIO de JESUS MARIA GRANT

JAMES M. HARBIN, et al]

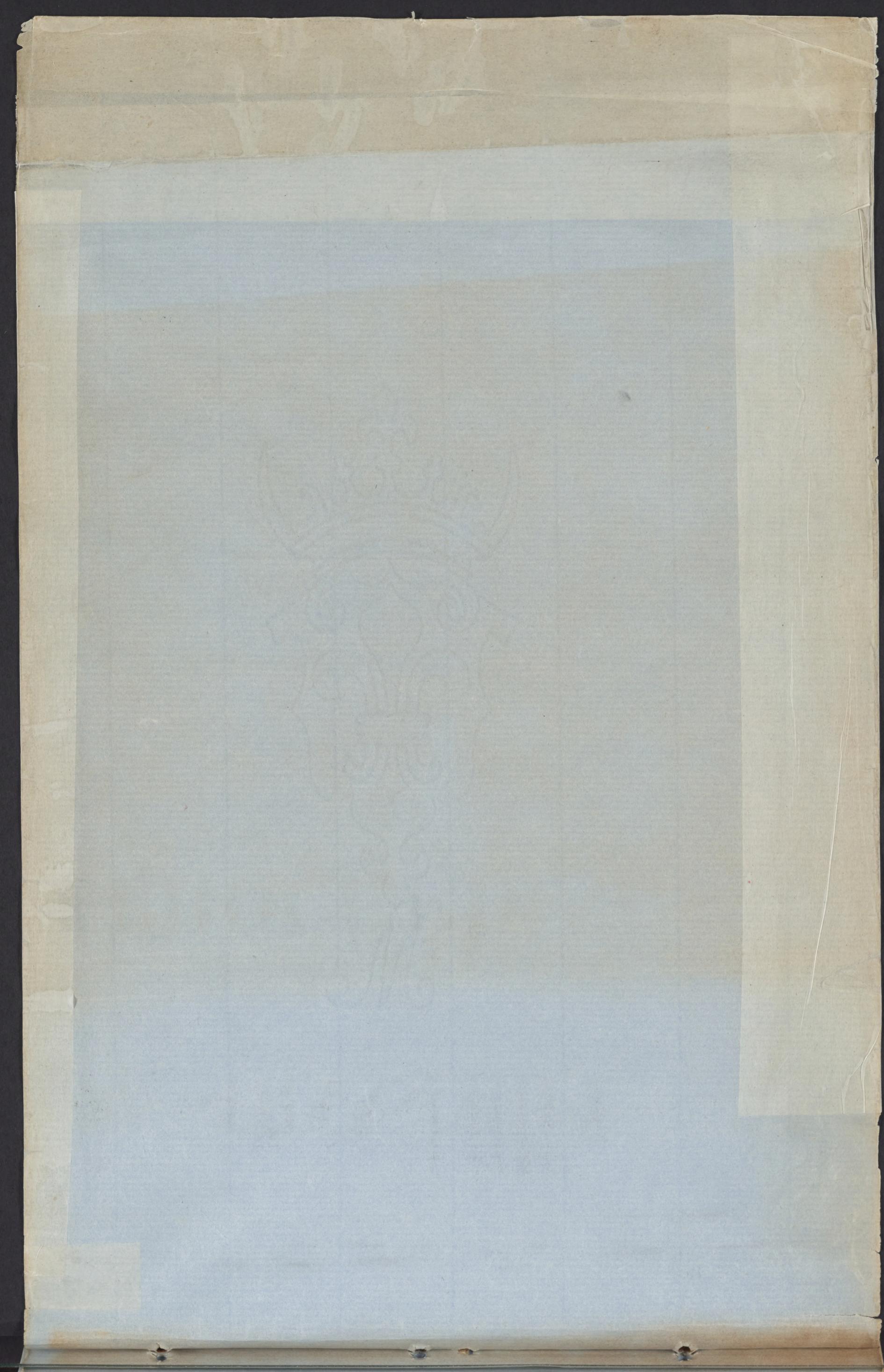
CLAIMANT

LAND CASE 360 ND 230 pgs.

DEC 13 1962

FEB 22 1963

B61  
Q10 e 11



261 Dup

360 ND  
PAGE 1

# TRANSCRIPT

OF THE

# PROCEEDINGS

IN CASE

NO. 261.

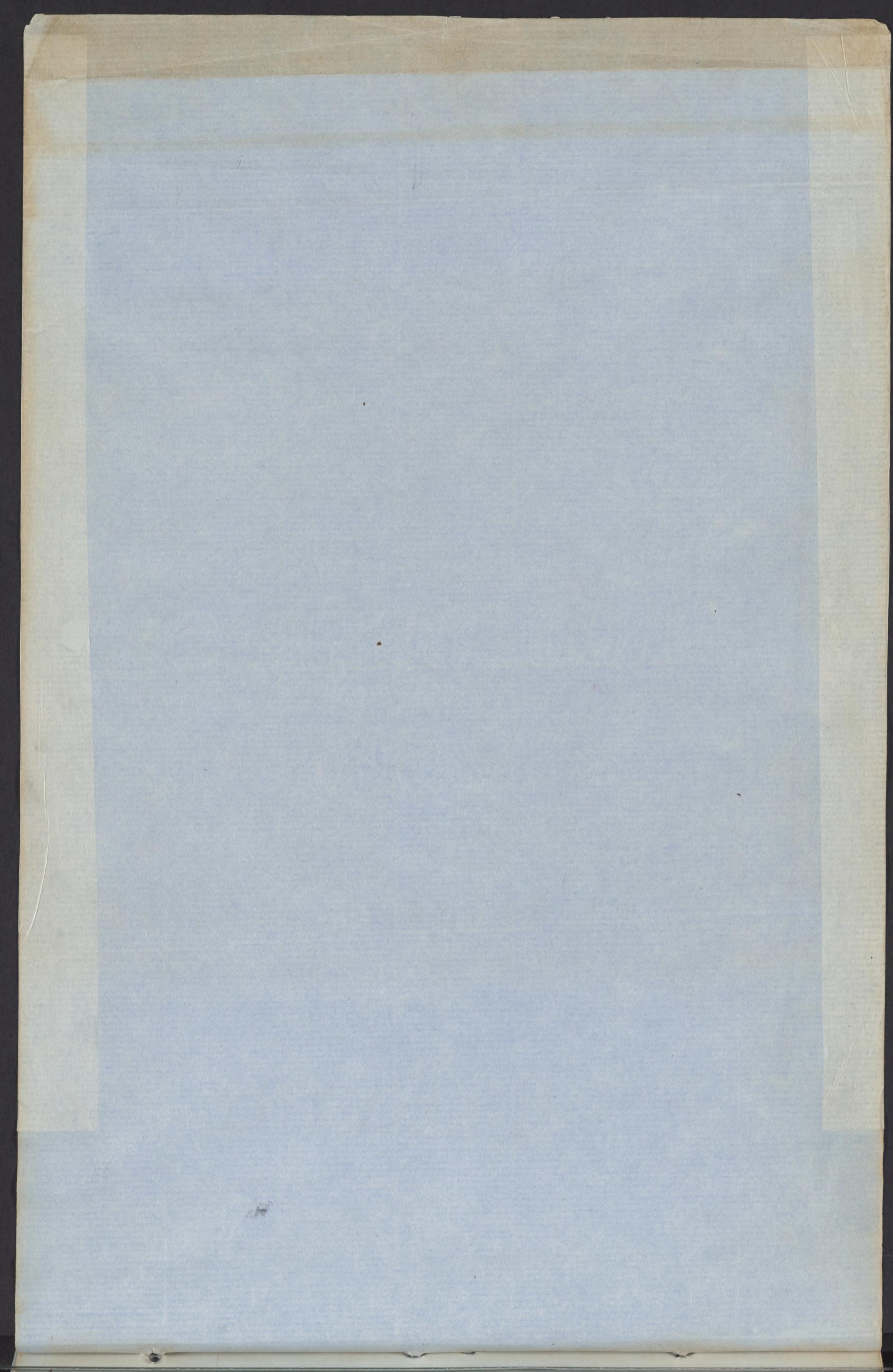
James M. Harbin, et al. CLAIMANTS.

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"*Rio de Jesus Maria.*"



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

360 ND  
PAGE 2

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

The Petition of James M. Harbin, et al. for the place named "Rio de Jesus Maria" was presented, and ordered to be filed and docketed with No. 261 and is as follows, to wit:

(Vide page 9 of this Transcript.)

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

San Francisco December 21, 1852  
In case 261-261. James M. Harbin et al for the place named "Rio de Jesus Maria" the deposition of John A. Sutter, a witness in behalf of the claimants taken before Commissioner Henry J. Thornton, was filed.

(Vide page 13 of this transcript.)

San Francisco January 29, 1853  
In the same case the deposition of Jacob P. Luce, a witness in behalf of the claimants taken before Commissioner Harry J. Thornton, was filed  
(Vide page 15 of this transcript.)

San Francisco February 11, 1853  
In the same case the deposition of W. G. Wallis a witness in behalf of the claimants taken before Commissioner Harry J. Thornton, was filed

(wide page 17 of the transcript)

~~~~~ San Francisco September 23, 1853

law which was called; on motion of the counsel  
for the claimants ordered to the front of the  
docket

360 ND  
PAGE 3

~~~~~ San Francisco October 15, 1853

In the same case the deposition of Eugene La Rock  
a witness in behalf of the claimants, taken  
before Commissioner Thompson Campbell was  
filed:

(wide page 19 of the transcript)

In the same case the deposition of James H.  
Harkins a witness in behalf of the claimants  
taken before Commissioner Thompson Campbell  
was filed.

(wide page 21 of the transcript)

~~~~~ San Francisco February 3, 1854

In the same case the deposition of William Gordon  
a witness in behalf of the claimants taken  
before Commissioner Thompson Campbell was  
filed.

(wide page 23 of the transcript)

~~~~~ San Francisco February 9, 1854

In the same case the deposition of M. G. Vallejo  
a witness in behalf of the claimants taken  
before Commissioner Thompson Campbell was  
filed

(wide page 27 of the transcript)

~~~~~ San Francisco March 9, 1854

In the same case the H. A. Law agent  
filed the following motion, vizit:

(wide page 228 of the transcript)

which motion was taken under advisement

San Francisco, March 21, 1854.

In the same case Commissioner Aspinwall Welch delivered the decision of the Board, upon the motion of the U. S. Law Agent, filed Sanitation Board; on the 9<sup>th</sup> inst, asking leave to strike from the files of evidence in this case, the deposition of James W. Harbin, concerning said motion and denying the prayer of the U. S. Law Agent.

~~~~~  
San Francisco May 27, 1854

In the same case the deposition of John Bidwell, a witness in behalf of the claimants, taken before Commissioner Peter Late was filed;

(vide page 29 of this transcript)

~~~~~  
San Francisco Sept. 19, 1854

Case, No 241 on motion of the U. S. Law Agent, was ordered to be placed at the foot of the 2<sup>nd</sup> Clash case on the trial docket

~~~~~  
San Francisco Oct 16, 1854

In the same case the deposition of Thaddeus W. Leavenworth, a witness in behalf of the U. States, taken before Commissioner Peter Late, was filed

(vide page 37 of this transcript)

~~~~~  
San Francisco Oct. 19, 1854

In the same case, the deposition of W. G. Vallejo, Samuel Morris and Thomas F. W. Price, witnesses in behalf of the United States, the two first taken before Commissioner Aspinwall Welch, and the last taken before Commissioner Peter Late, were filed;

(vide pages 43, 49 & 53 of this transcript)

San Francisco Oct 20, 1854

In the same case the counsel for the claimants filed the following affidavits of A. C. Peachy James M. Estell and H. W. Haller, taken before Commissioner S. B. Farwell  
 (vide pages 167, 169 & 171 of this transcript)

360 ND  
PAGE 5

-----  
 San Francisco October 25, 1854

In the same case the deposition of John McC., Dangal, a witness in behalf of the claimants taken before Commissioner Peter Late, was filed  
 (vide page 39 of this transcript)

-----  
 San Francisco October 26, 1854

In the same case the deposition of Thomas Fallon, a witness in behalf of the claimants taken before Commissioner Alpheus Welch.  
 (vide page 67 of this transcript)

-----  
 San Francisco October 31, 1854

In the same case the Law Agent filed the following affidavit heretofore:

(vide page 159 of this transcript)

Whereupon it is ordered, That the case be placed at the foot of the 3d class cases on the trial docket.

-----  
 San Francisco November 3, 1854

In the same case the deposition of Charley F. Reed, a witness in behalf of the claimants taken before Commissioner Peter Late, was filed  
 (vide page 79 of this transcript)

-----  
 San Francisco Nov. 9, 1854

In the same case, the depositions of David J. Bird, David P. Diggs and George L. Hinney perhaps, in behalf of the United States, taken before Commissioner Peter Late were filed.

8-

(vide pages 85, 89 & 111 of this transcript)

San Francisco Dec. 11, 1854

In the same case the deposition of Peirson P. Redding, a witness in behalf of the claimants, taken before Commissioner R. Amy Thompson, was filed.

(vide page 113 of this transcript)

San Francisco, Feby 26, 1855

In the same case the depositions of William W. Hamil, John Barnes, George Davis, negro, witnesses in behalf of the United States taken before Commissioner Peter Late, were filed;

(vide pages 115, 126 & 131 of this transcript)

San Francisco March 9, 1855

In the same case, the counsel for the claimants filed the following motion and affidavit, to wit:

(vide page 163 of this transcript)

which motion was overruled and leave granted to cross examine the witness mentioned therein

San Francisco March 21, 1855

In the same case the deposition of Henry L. Ford, a witness in behalf of the claimants taken before Commissioner Peter Late was filed.

(vide page 117 of this transcript)

San Francisco March 22, 1855

Cause No. 281 was apportioned for hearing on the 3d day of April next.

San Francisco March 27, 1855

In the same case the depositions of Jonas Sput and George Patterson, witnesses in behalf of

6

the United States, taken before Commissioner Peter  
Latt, were filed."

(Find page 1354145 of this transcript)

360 ND  
PAGE 7

San Francisco May 8, 1855.  
In the same case upon the motion of the Law  
Agent, a rule of nisi was entered against, S.C.  
Hartings and A.B. Mizner, witnesses on behalf  
of the United States, to appear on the 9th instant  
and show cause why an attachment  
should not issue against them for a con-  
tempt of this Board.

San Francisco May 9, 1855  
In the same case the U.S. Law Agent moved for  
a continuance thereof, upon the facts set forth  
in the following affidavit return:

(Find page 161 of this transcript)  
which motion was granted, and the case con-  
tinued until Tuesday next 13<sup>th</sup> inst.

In the same case the following order was made  
to-wit:

Ordered, That witness S.C. Hartings a  
witness in this case, having duly sub-  
sworn, having this day appeared and testified  
before this Board as hereinafore required, the  
rule of nisi entered against him on the 8<sup>th</sup>  
instant be dismissed.

It is further ordered that  
the time for the appearance before this Board  
of L. M. Mizner, a witness in this case speci-  
fied in the rule of nisi entered against him  
on the 8<sup>th</sup> instant, be extended to 10 o'clock  
A.M. Tuesday next the 13<sup>th</sup> inst.

200  
In the same case the deposition of S.C. Hartings  
a witness in behalf of the United States,

7

taken before Commissioner R. May Thompson,  
not filed".  
(vide page 147 - of this transcript)

San Francisco May 15, 1855.  
In the same case the deposition of Jacob P.  
Leise and L. B. Wignow, witnesses in behalf  
of the United States. Taken before the Commissioner  
sitting as a Board, not filed".  
(vide page 155 + 157 of this transcript)

360 ND  
PAGE 8

In the same case the following order was  
made, to wit:

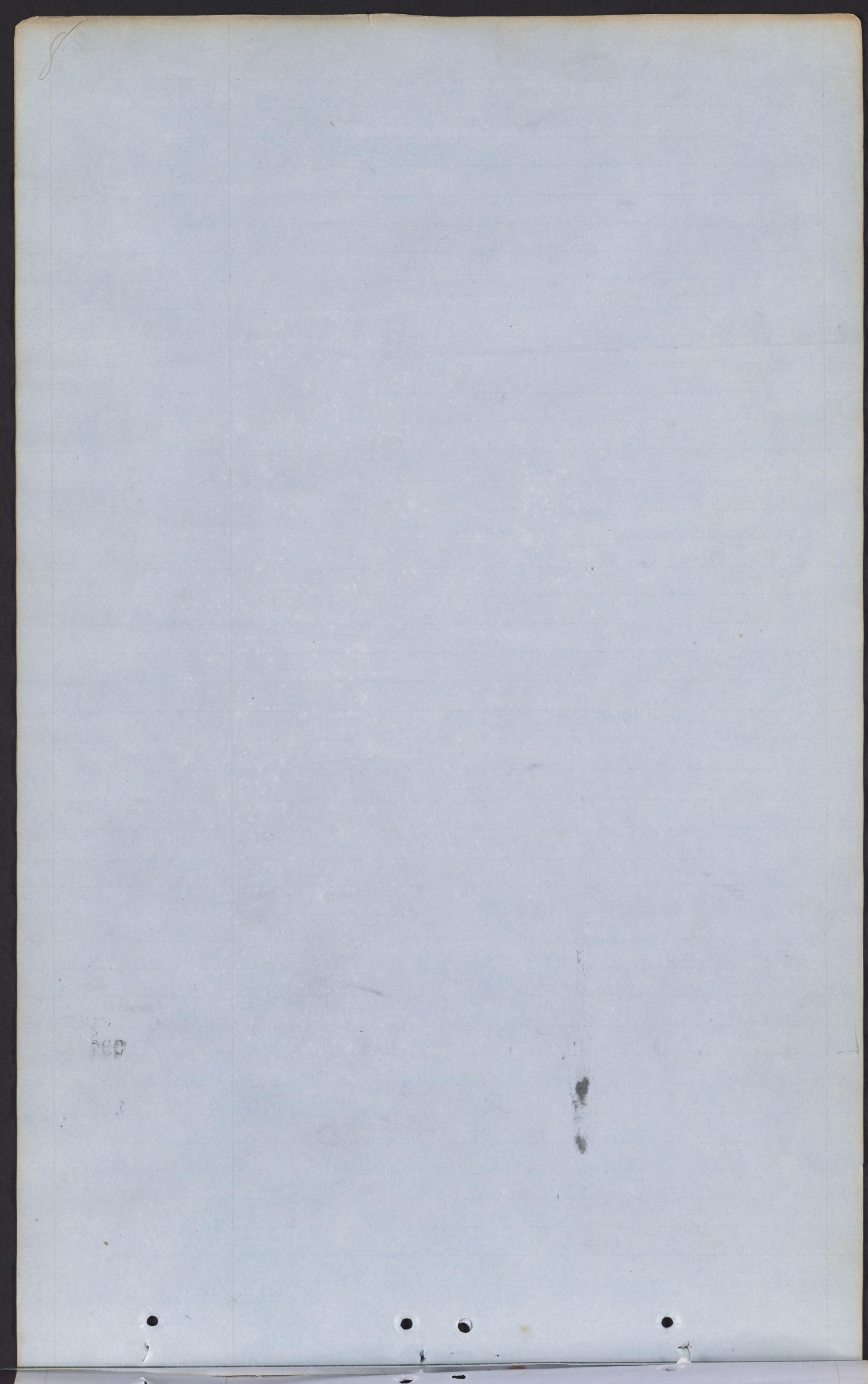
Oakland. That witness L. B.  
Wignow a witness in this case, hitherto duly  
subpoenaed, having this day appeared and  
testified before this Board as aforesaid, the  
rule of nisi estando against him on the  
8<sup>th</sup> inst, and extended to the 15<sup>th</sup> be dismissed.

Case No 261 was submitted on briefs and taken  
under advisement by the Board.

San Francisco July 26, 1855.  
In the same case Commissioner J. B. Tarnell  
delivered the opinion of the Board con-  
firming the claim.

(vide page 227 of this transcript)  
and the following order was made, to wit:  
(vide page 231 of this transcript)

N.



Petition

360 ND  
PAGE 9

261

To the Honorable Commissioners to settle  
Private Land claims in California.

The Petitioners James M. Hardin -  
James M. Estelle; George Taylor, John G. Parish  
John H. Hippom and Charles R. Hippom  
respectfully shew

That on the 23 day of October  
A.D. 1843 Manuel Micheltorena Governor of  
California by virtue of authority in him vested  
granted to Tomas M. Hardy called also  
Tomas Hardy The tract of land called "Pio  
de Jesus Maria" situated in the then District  
of Sonoma, and the now County of Yolo con-  
taining six square leagues of land with the  
boundaries described in said grant and the  
corresponding map, all of which is shown in  
the original excepting a certified copy of  
which is submitted herewith marked "A" with  
a translation marked "B"

That the Petitioners further aver  
that the aforesaid grant was subsequently ap-  
proved by the Departmental Assembly of  
California all of which was fully shown in the  
original title papers in possession of the said  
Hardy at the time of his death, but which papers  
have not come into the possession of the Petitioners  
They expect however to be able to produce them  
before the trial of his cause or to account for  
their absence and prove their contents

And the Petitioners further shew, That the  
said Tomas M. Hardy died intestate in the month  
of A.D. 1848 in the State of California and  
his Estate was duly administered on in the then  
District of Sonoma and subsequently by order of

of the Probate Court of Sante Fe County, the aforesaid tract of land was sold and conveyed in due form of law to the Petitioners James M. Hartin, James M. Estell, George Tyler, and John G. Parish a certified copy of which order of the Probate Court and the act of sale and conveyance is submitted herewith marked "C"

That on the 19<sup>th</sup> day of March AD 1852 the aforesaid George Tyler sold and conveyed to the aforesaid James M. Hartin all his right title interest and estate in and to the aforesaid tract of land, save and except a reserve of six hundred and forty acres called "Virginia Rancho" as is more fully shown in the said conveyance a copy of which is submitted herewith marked "D"

That on the 19<sup>th</sup> day of March AD 1852 the aforesaid John G. Parish sold and conveyed to the aforesaid John A. Hoppin and Charles P. Hoppin all his right and title, interest and estate in and to the said tract of land save and except the aforesaid six hundred and forty acres called "The Virginian Rancho" as is more particularly set forth in the conveyance a copy of which is submitted herewith marked "E" thus leaving the aforesaid Petitioner the present owner of the said tract of land called "Chonipas or Rio de Jesus Maria" as originally named in the grant by Governor Michillorina to said Hardy as aforesaid

And the Petitioners further show that the said Tomás M. Hardy and the Petitioners as deriving title from him, have performed all the conditions of said grant necessary to make it perfect and absolute.

That the said tract of land has not been surveyed

Surveyed by the Surveyor General of the United States, but that its extent is definite and its boundaries fully described in the grant and corresponding Map and are well known.

That the said Hardy and the Petitioners have been for more than ten years and the Petitioners now are in the possession, occupation and cultivation of said tract of land.

That they know of no conflicting claims.

That they rely for confirmation of title upon the original papers referred to in this Petition upon the records and minutes in the Archives now in charge of the Surveyor General and upon such other and further proofs as they may be advised are necessary.

Wherefore the Petitioners pray the Commissioners to confirm to them the aforesaid tract of land.

By their Attorneys

Hallock Peachy & Bellings

Filed in Office June 8<sup>th</sup> 1852

(Signed) Geo. Fisher

B. Peachy

13

13

## San Francisco

Oct. 21. 1859

On this day before Court Maud Hall  
Deposition came John A. Sutter a witness in behalf  
of the claimants James M. Martin et al  
Petition No 261 and was duly sworn his  
evidence being given in English.

360 ND  
PAGE 12

The U.S. Associate San Fran was present.

In answer to inquiries by counsel for the  
claimants the witness testified as follows:

My name is John A. Sutter, my age  
is 47 years, and I have lived in California  
since 1839.

I know Thomas M. Flory; he was also  
called Thomas Flory. He died in 1848 near  
Benicia. I know the Rancho called "Rancho  
de San Maria" it lies on the west side of  
the Sacramento River opposite the mouth  
of the Feather River. Flory occupied this  
Rancho in 1843 and until his death. He  
built a house on it in 1843, which he occu-  
pied. He also cultivated a small piece of  
the ground and had a few cattle & horses.  
He was a Carpenter by trade and often  
worked for me. He came to me about 1844  
for sundries & provisions and I told him his  
Rancho was on the side of the river over which the  
Alcalde of Sonoma claimed jurisdiction. Mr. Martin  
one of the claimants now occupies a part of this  
land.

Notice acknowledged and no question asked  
R. Greenhow (signed) J. A. Sutter  
At San Fran

14

Sent and Sworn to  
Before me  
Alford Hall  
Comr

360 ND  
PAGE 13

Dated in Office Dec. 21<sup>st</sup> 1832

(Signed) Chas. Fisher

C. F. S.  
10

200

15-

San Francisco

Aug 29<sup>th</sup> 1853

Deposition  
of  
Jacob P. Sise

(On this day before Hon. H. S. Thornton  
came Jacob P. Sise a witness in behalf of  
the claimant James M. Hartman et al. Petition  
No 261 and was duly sworn. His evidence being  
given in English)

360 ND  
PAGE 14

My name is Jacob P. Sise; my age  
is 43 years. I have lived in California 20  
years. In the year 1844 Tomás M. Hardy  
applied to me as Alcalde of the District of  
Sonoma for judicial possession of the Ranchos  
called "Cíp de San José" which he then  
occupied and exhibited to me his title papers  
I did not give him the possession because  
there was a dispute about what district  
his Rancho was in Gen. Vallejo claimed  
jurisdiction to the Sacramento river, while  
Capt. Sutter claimed that his District ran  
down to Vacas, Paucho. Dr. Hardys land  
was in the disputed territory, I postponed  
giving him judicial possession till the question  
was settled.

(Signed)

J. P. Sise

W. Swan, Agent present

Swear and Subscribed  
before me this 29<sup>th</sup> of Aug 1853

(Signed)

Hon. H. S. Thornton

Filed in Office Aug 29<sup>th</sup> 1853

(Signed) G. Stimers

16

17

San Francisco

Feb. 11<sup>th</sup> 1853

Deposition  
of  
M G Vallejo

360 ND  
PAGE 15

On this day before Hon<sup>r</sup>ble Harry I.  
Shonter came M<sup>r</sup> G. Vallejo, a witness in  
behalf of the claimant James M. Hardin  
et al Petition #261 and was duly  
sworn his evidence being given in English

In answer to question by the Counsel  
for the claimant the witness testified as follows

My name is Manano G. Vallejo; my  
age is 45 years, and I have lived in  
California all my life.

I know the Rancho called "Rancho  
Suis Maria" it was granted to Tomo Hardy  
in 1843 or 1844 I saw the original title  
papers in Hardys hands in 1844, when he  
was acting for judicial possession. There  
was a dispute with Capt Sutter about  
the limits of his district and a difficulty  
about who should give the possession.  
Hardy occupied this land till his death  
which occurred some 3 years ago.

M. S. Law Agent,

(Signed) M. G. Vallejo

Swear to and subscribed  
before me this 11<sup>th</sup> Feb 1853

(Signed) Harry I Shonter  
Comm

Filed in Office Feb 11<sup>th</sup> 1853

(Signed) Geo. Fisher

18

880

19

Opposition  
of  
Eugene So Poche.

360 ND  
PAGE 16

Office of the Board of  
Commissioners of S. L.

This day before Com. Thompson Campbell  
and Eugene So Poche, a witness in behalf  
of Cunningham, Dancer, Mr. Hartman et al No 661  
who after being duly sworn deposed as follows

What is your name age and place of  
residence

My name is Eugene So Poche, I am  
generally known by the name of Henry Ruth  
I am about 57 years of age and I reside  
at the Marine Hotel

Did you know anything about Thomas  
Mandy and if so where did he live

I do know him he was sailing a  
vessel from San Francisco to Sacramento  
I think he died some time in the winter of  
1848 and 49

Do you know anything of any title papers  
relating to land belonging to Thomas Mandy and  
discovered or seen by you after his death and  
if so state all you know in relation to their  
contents and where they were found and what  
became of them

After we left Sacramento the vessel  
Provident which was a store ship was  
moved to Sutter on board of the old vessel  
There were several old seamans charts kept there  
for safe keeping. One day McKenall requested  
me to have them placed on the beach and  
have them opened to see if they contained  
anything of value the only thing I found  
which

360 ND  
PAGE 17

which I considered of any value were these  
title papers of Hardy some of the papers being  
in Spanish, I was requested by Mr. Ongar  
to translate them. I read them and found  
them to be a title to Hardy given I think by  
George Washington to Hardy granting him  
a certain tract of land situated in the  
Isis Maria. I don't remember the boundaries  
the quantity granted was six leagues, I placed  
the papers in my own safe in board the  
vessel, and I never saw them again ever  
John McOngal is the gentleman referred to  
I think Gardner was present and perhaps  
some others which I read the papers, this took  
place in the summer of 1849.

Associate Law Agent Present  
Searched and Subscribed  
before me this 15<sup>th</sup> day of  
October AD 1853

(Signed) Thompson Cumphus

(Signed) Eugene Safoke

Signed in Office Oct. 15<sup>th</sup> 1853

(Signed) Geo. Fisher

Deposition  
of  
J. H. Martin

360 ND  
PAGE 18

Office of the Board of  
Commissioners.

This day before Com<sup>t</sup> Thompson Campbell came  
James H. Martin a Miller in behalf of claimants  
James M. Martin et al., #1261, who after being  
duly sworn deposed as follows:

What is your name age and place of residence  
My name is James H. Martin, I am thirty  
two years of age and I reside in Yolo County,  
State of California

State what you know about the original title  
papers in the case of James M. Martin et al.  
now pending before the Board of United States  
Land Commissioners and of their loss,

I may think of the existence of said papers  
from what I was told by Hardy who was the  
original grantee of the land. In 1847 and 1848  
I was living joining the land. I was in a Trade  
with him for a portion of the land in September  
1848, I met with him on my way to Saca-  
ramento and we rode together, when the question  
of the trade came up and he partially agreed  
that I should have the land. The agreement  
was that I should meet him at the old  
Pegue Province at the place where Sacramento  
city now stands on a certain day at which time  
he would show me his title papers and give  
me satisfaction as to the title of the land. He  
told me all his title papers were in a trunk  
which he pointed out to me, and which as  
near as I can recollect was sitting outside  
of the ship. I returned in a few days and  
when I enquired for him I was told he had

die<sup>d</sup>

died on his way to San Francisco, that was  
the last I heard of him. This trunk was sent to Sutterville and was there broken open and  
the contents taken out and sold for storage  
as I was informed. These title papers were found  
to be in Spanish and were taken out and read  
by a man by the name of Booth, who was a  
Spanish Scholar and who read and translated  
Hardy's title papers. He then remarked that they  
were useful papers. I was not present when  
the trunk was opened and all I have said  
in relation to the paper at that time is hearsay.  
Associate Law Agent objects to all  
the foregoing answer of the witness.

Do you know where said title papers  
now are, and have you made any exertions  
to obtain them?

I do not know where they are, and have  
made all the exertions in my power to procure  
them and find where they were but have failed  
in doing so. I now believe them to be lost or  
withheld by some person. I know that some of  
the other claimants have also made exertions  
to obtain said title papers and they have  
failed to find them, at least they state  
to me they have not been able to find them.

Question by Associate Law Agent

Are you interested in this claim?

I am interested in it by purchase of over  
Titled in Office one-half of the grant.

Oct 15<sup>th</sup> 1853

Mr. Greenhow objects to all the testimony  
given by Mr. Hardy in this case and I am one  
of the claimants. (Signed)

Sweard Subscribed before S. M. Martin  
me the 15<sup>th</sup> day of Oct 10, 1853

Thompson Campbell

Deposition  
of  
William Gordon

360 ND  
PAGE 20

United States Land Commission  
San Francisco Feb. 8<sup>th</sup> 1854

On this day before Commissioner Thompson  
Campbell, came William Gordon, a witness  
in behalf of claimants James, M. H. Hardie  
et al., case No 261 who after being duly  
sworn deposed as follows

1<sup>st</sup> Ques.

What is your name age and place  
of residence?

Ans. My name is William Gordon  
I am fifty three years of age and I reside  
in Yolo County California. I have been  
a resident of California for thirteen years  
and have lived in my slinch going on  
twelve years.

2<sup>nd</sup> Ques.

Did you know Thomas Hardy  
the original grantee of the tract of land  
claimed in this case?

Ans. Yes I knew him. I first  
knew him here in the year,

3<sup>rd</sup> Ques.

Do you know the land claimed  
in this case?

Ans. Yes I do know it. It joins  
the land on which I now live on the East side

4<sup>th</sup> Ques.

You will please state all you know  
in regard to the settlement and occupation of  
the land you have referred to by Thomas Hardy  
The time

The time when, and all the circumstances connected with it.

Ans Sometime as near as I can recollect in 1844. I saw Mr. Hardy on the bank of the Sacramento river where Fremont now stands about which time he built a little house. I cannot say exactly when the house was built, he was living in the house when I passed which was sometime in the year 1844. By referring to some memoranda which I have in my possession I am satisfied it was in the year 1845 instead of the year 1844 when I first saw him on the bank of the Sacramento river. Hardy was a Carpenter by trade and had a great many tools, they were worth some five or six hundred dollars. He had one yoke of oxen in the place and also two or three milk cows, and a few horses and mares. He told me that he had made his home there for some time. After that time he claimed that as his home until he died. He was frequently off at work, sometimes working for Cooper Sutter, but when he was not working for the Cooper he was generally at home.

#### 4<sup>th</sup> Question

Will you please describe Hardy's Western boundary line.

Ans. Mr. Hardy came to me and requested me to show him as nearly as I could where my eastern line ran. I went with him and designated a large oak tree which he marked with his bowie knife, on the West side of said tree he made the first mark and thought he also marked the South side, said tree is situated on the South side of the "Río de Jesus Maria" about a quarter of a mile from the river. This tree I think is still standing. My Eastern and Western boundary lines

25-

360 ND  
PAGE 22

lines run nearly North and South but not exactly  
My Western line runs over a mound, called "hatchee"  
and takes in a greater part of the Mound is in  
the South side of the "Riu de Yana Mania" and  
in the North side of said River, the said Western  
line passes within about one hundred yards of  
a mound called "troopa" which mound is on the  
West side of said line, My North and South  
lines are parallel and are two leagues long and  
my East and West lines are also parallel, and  
are one league long

Associate Law Agent Present  
(Signed)

William Gordon

Swear to and Subscribed  
before me this 8<sup>th</sup> day of  
February A.D. 1854

(Signed)

Thompson Campbell  
Commissioner

Filed in Office February 8<sup>th</sup> 1854

(Signed) Geo. Fisher  
F D

26

Deposition  
of  
M. G. Vallejo

360 ND  
PAGE 23

United States Land Commission  
San Francisco Feb 9<sup>th</sup> 1851

On this day before Com<sup>r</sup>. Thompson Campbell  
came M. G. Vallejo, a witness in behalf of Ca-  
mionero James M. Harbin et al Case No 261  
who after being duly sworn, deposed as follows  
his evidence being interpreted by the Secretary

1<sup>st</sup> Ques.

What is your name, age and place of  
residence?

Aw. My name is M. G. Vallejo. I am  
forty six year of age, and reside at the City  
of Sonoma.

2<sup>d</sup> Ques.

Will you state if you ever saw the title  
papers of Thomas Hardy for the place called  
Río de Jesus Maria derived from the Mexican  
Government, and if so, state if you remember  
the contents of said title papers by whom made  
and the time when the same were executed

Ans. I have seen the title papers of Thomas  
Hardy for the place named "Río de Jesus Maria"  
which he worked for me in the years 1844 and  
1845 he deposited said papers with me, I  
have read said papers there was amongst  
them a grant to said Thomas Hardy by  
Governor Michelena for a tract of land con-  
taining four or six leagues. I don't recollect  
what the grant referred to was made I  
think in the year 1843. The land granted as  
aforesaid was situated on the West side of the  
Sacramento river and opposite the mouth of  
Feather river said land lies on both sides of  
the said river "de Jesus Maria" and bounded

on

on the West by me Gordon remade, said Rio de Jesus Maria is now known by the name of Cash Creek. At the time Hardy made his said application for the grant in question I was director of Colonization on the Northern frontier he made his application to me, and referred him to the Governor, all of which I think will more fully appear on the papers which compose the Speciale.

I returned said title papers to the said Thomas Hardy in 1844, 1845, and 1846 I was in his house which he had in said place. The said Hardy worked for me and in our settlement I gave him twenty five mares and one stallion and fifty Quarters which he took to his farm upon which he lived. That was his home.

Associate Law Agent present  
Sworn to and Subscribed (Signed)  
before me this 9<sup>th</sup> day M. G. Vallejo  
of February A.D. 1854  
(Signed) Thompson Campbell  
Conway

Filed in Office February 9<sup>th</sup> 1854

(Signed) Geo. Fisher  
B. S. C. P.

29

United States of America  
State of California

Deposition  
of  
John Bidwell

360 ND  
PAGE 25

San Francisco May 27 1854  
This day personally came before me John Bidwell  
a Commissioner for taking Testimony to be used  
before the Board of U.S. Land Commissioners  
in said State John Bidwell a witness on  
behalf of the Plaintiff in Case No. 161 in  
the Circuit of said Board wherein James  
M. Hardy & al are claimants and said  
Witness being duly sworn, on oath deposed  
in the English language as follows:

The U.S. Law Agent is present

Question by Plaintiff's Attorney

Question

What is your name age and residence  
Answer My name is John Bidwell my  
age 35 years my residence Butte County  
California

Question

Had you ever in your possession  
any paper or document supporting to the  
a grant of or relating to a grant of land  
to Thomas Hardy if you will and what  
was the paper and for what has become  
of it

Answer I had the original title granted  
to Thomas Hardy in Massachusetts in my pos-  
session it was placed in my hands in 1845  
by Thomas Hardy for the purpose of taking it  
down

down to Los Angeles to get the approval of  
the Departmental Assembly I kept it till  
the Spring of 1846, and then when the hos-  
tilities broke out in this country I returned  
it to Hardy himself.

360 ND  
PAGE 26

3d Question

Apold, do you leading familiar with the title  
papers of original Spanish grants and was  
the document in the usual form of such  
grants, and do you know General Michel-  
Torena's Hand writing and was said document  
signed by his genuine signature?

Answer. I am familiar with  
such documents, and this was in the usual  
form of such grants I think Michel-Torena  
signature having often seen him write it  
and the title of Hardy bore Michel-Torena  
Genuine Signature.

4<sup>th</sup> Question

State the content of said document

Answer. It was a regular title in the  
usual form. It was a simple grant of  
a tract of land containing one leagues, sit-  
uated in the West Bank of the Sacramento  
river opposite the mouth of Feather River  
extending back from the river Sacramento  
on both sides of Rio de San Maria.

The Grant was made by General Michel-  
Torena to Thomas Hardy with the usual  
condition of occupying imme-  
diately &c. It was dated in the year  
1843.

Cross Examined by W. S. Saw. At

1<sup>st</sup> Question

Who did you first know Thomas M. Hardy? The granite of whom you testify?

Answer I think it was in the latter part of 1843 I do not recollect where tho' I think it was at Cork C. I recollect most distinctly of hearing him in 1844 when he was employed as a ship carpenter by Capt. Sutler in preparing a launch.

2<sup>d</sup> Question

Where did you see him at Cork last and what was he doing?

Answer I met him usually at the house of William Gordon before he commenced his improvements of the place mentioned.

3<sup>d</sup> Question

Who were present when you he gave you the granite, where and under what circumstances was it given to you?

Answer He gave me the granite at Capt. Sutler's Office where I was acting as Butler Clerk in the Summer or Fall of 1845 There might have been Persons present tho' I do not now remember.

4<sup>th</sup> Question

Who did you keep said granite while it was in your possession?

Answer I kept it locked up in my desk with other valuable papers at Capt. Sutler so long as it remained in my custody.

5<sup>th</sup> Question

5<sup>th</sup> Question

Did you mention it to any one during the time you so had it, that you had the said grant.

360 ND  
PAGE 28

Answer, I cannot remember whether I did or not.

6<sup>th</sup> Question

Who were present when you delivered it to said Flory.

Answer, I cannot remember whether any one was present there were generally people in and about the office, it was there at the Fort that I gave it up to him, but I cannot say who was present at that time.

7<sup>th</sup> Question

Did you give it up at his request or of your own volition?

Answer, I remember having mentioned to Mr. Flory that it would be impossible for me to proceed to San Augustin on account of the difficulties in the country. I think the said he would take the said title and I delivered it to him.

8<sup>th</sup> Question

Has that grant kept in a place where other persons could have access to it besides yourself.

Answer, No, it was not.

9<sup>th</sup> Question

What persons does Mr. Flory know of your having said grant in your possession?

33

Answer I do not know positively that any one knew of my having that paper, tho' I think it must have been known to Capt. Sutter and others from the fact that it was a well known fact that I had taken charge of most of the land titles in that part of the country before the purpose of going to San Fran with them.

360 ND  
PAGE 29

Mr. Durstine

Did you ever take this grant out from its depository during the time you kept it, if yes how often and for what purposes

Answer I recollect one circumstance that enables me to say that I once took it out I did so for the purpose of making two copies of the Map for Mr. Ward of the Land I made the copies and placed them with the original and put them all in a wrapped and returned them to the place where I kept them. I do not recollect taking it out at any other time tho' I may have done so.

Mr. Durstine

Have you examined the documents in the Archives with reference to this grant recently

Answer I have not

Mr. Durstine

When did you first read the grant

Answer I cannot remember to have read it before it was placed in my hands in 1845 tho' I might have done so

Mr. Durstine

*13<sup>r</sup> Question*

How many times did you read  
it through?

*Answer.* I cannot remember that  
I read it after that time. I read it at the  
time of receiving it, enough to learn its contents.

*14<sup>r</sup> Question*

How do you recollect so accurately  
the contents of a paper read 20 years since?

*Answer.* From my memory

*15<sup>r</sup> Question*

What other grants had you in  
your possession besides this one?

*Answer.* I had the Howell grant,  
I had the Expediente of the Plaza Side grant,  
the papers of the Quailcubird grant, the papers  
of the Sechart grant, and I believe of the  
Cordova grant, the papers of the Nel grant  
at Bull Creek, the papers of the Ayo land,  
Arthur's grant on the Sacramento, and I think  
I had others which I do not now remember.  
I do recollect the papers also of the Dickey  
grant.

*16<sup>r</sup> Question*

Can you recollect the condition  
of the documents in each of the cases you  
have named with as much accuracy as  
you recollect those of the Hardy grant?

*Answer.* I remember the main  
particulars in all of them there may be  
some points in which my memory might not  
be as accurate in one as in another.

35-

17<sup>th</sup> Question

Give the words of description of the land in the Shady grant.

Answer, I do not remember the precise words, all I recollect is the substantial description of the land on both sides of the Jesus Maria, and on the Sacramento.

360 ND  
PAGE 31

18<sup>th</sup> Question

What direction does the Jesus Maria run?

Answer, It runs in an Easterly direction.

19<sup>th</sup> Question

What direction does the Sacramento river run and where would a line drawn with the general direction of the Jesus Maria river touch the Sacramento river?

Answer, The direction of the Sacramento at that point is in a perfect horse shoe bend and a line drawn in the general direction of the Jesus Maria, would strike said Sacramento about opposite the mouth of Feather River or perhaps a little below it.

20<sup>th</sup> Question

How far is it between the nearest point of the Jesus Maria and the main channel of the Sacramento river?

Answer, I scarcely can answer the question in that form for the reason that the Jesus Maria empties into an extensive Tule Marsh which I do not suppose any one has ever penetrated far enough to know exactly where said stream joins that marsh, runs to within a few rods of the Sacramento river in many places. I

I suppose the place where the Jesus Maria sinks in the summer season in the Tule marshes must be some 9 miles from the Sacramento river, I think in low water in mid-summer that would be the nearer point between the two streams.

21<sup>st</sup> Question

What distance in each side from the Jesus Maria did the Statuary grant of which you took evidence by the terms of the grant?

Answer. It was either  $\frac{1}{2}$  or  $\frac{3}{4}$  of a league and I do not recollect.

22<sup>nd</sup> Question

How do you know that fact?

Answer. The impression is fixed upon my mind from my having had so much to do with the papers.

23<sup>rd</sup> Question

Did the lines run parallel with the Jesus Maria?

Answer. Yes they ran parallel.

24<sup>th</sup> Question Did the Grant call for such lines if not how do you know they so ran?

Answer. Lines were not usually laid down in grants and that title did not describe the boundaries with any other accuracy than as lands lying on the Sacramento and on both sides of the Jesus Maria, and I knew the lines ran so from the map which accompanied the grant.

(Signed)

J. Bidwill

Subscribed and sworn to

before me on this 27<sup>th</sup> day of May A.D. 1854

(Signed) Peter Lou Commission H.

Filed in Office May 27<sup>th</sup> 1854

(Signed) Geo. Fisher

United States of America  
State of California

Deposition

San Francisco Oct. 14<sup>th</sup> 1854

This day came before Peter Long, Commissioner  
T. M. Leavenworth for taking testimony to be used before the Board of  
U. S. Land Commissioners in said state Thaddeus  
M. Leavenworth, a Witness on behalf of the United  
States in Case No 61 in the Booklet of said Board  
in which James M. Harting et al are claimants  
and said witness being sworn deposed as follows

360 ND  
PAGE 33

The Counsel for claimants Mr. Peachy is  
present

Questions by U. S. Law Agent

1<sup>o</sup> Question

What is your name age and residence  
Answer. My name is Thaddeus M. Lea-  
venworth, my age 46 years, my residence in  
Seward County California

2<sup>o</sup> Question

Had you ever in your possession  
papers belonging to the Estate of Thomas M  
Hardy if yes from whom and how did you  
become possessed of them, how long were they in  
your possession and when how and to whom  
did you deliver them

Answer. I had such papers in  
my possession I received them from the member  
of a Mercantile firm named Bauden formerly  
of the town of Sutter, Sacramento county who  
told me that said Hardy had left them with  
that firm for safe keeping, said Hardy being

with

in the employment as Captain or Major General of their Ranch. Hardy died before I received the papers and Mr. Bowden told me the Mercantile firm had an account against said Hardy. Upon my suggestion that his real Estate had been sold Mr. Bowden said that the papers might be of value and I might deliver them to the purchasers of the Real Estate provided they would pay said account. I found Genl Estelle to be interested in the Estate of said Hardy and I delivered the papers to said Estelle. I had the papers in my possession perhaps 2 or 3 months and it was sometime more than a year ago that I delivered them to said Estelle upon his paying to me the said account of said Mercantile firm, and a small amount over.

3<sup>d</sup> Question

Can you identify the person Hardy of whom you speak as being the same person to whom the Escheat in this case marked A.P.L. Exhibited in this deposition and heretofore filed in this case, purport to have been issued.

Answer. I remember now that the signatures to those papers were Thomas Hardy and the handwriting looked like his signature in this document. I do not know that I could identify him as the same in any other way by this document.

4<sup>d</sup> Question

State what those papers purported to be?

Answer. There were some 8 or ten papers. They purported to be petitions to the old

39

old authorities relating to land on the Sacramento river They were all Spanish documents They embraced I think also some responses to the petitions, one of the petitions I think was addressed to Genl Sutter

5<sup>th</sup> Question

State whether these papers related to land on the West side of Sacramento river and to a grant of land on the west side of said tract having been made to the same party near the mouth of feather river

5<sup>th</sup> Question. Objected to as leading by Alannah Connell P.L.

This question upon being objected to is waived by the Law Agent

6<sup>th</sup> Question

Where did the land lie, to which said papers related.

Answer. The papers seemed to have originated in some misunderstanding between said Hardy and one Gordon, relating to land on the West side of Sacramento river near the mouth of Feather river, or in that vicinity. Hardy complained that Gordon interfered with his occupancy of land which he Gordon claimed or which the Hardy sought to have granted to him. I do not recollect which way it was.

7<sup>th</sup> Question

Was anything said about the land being a surplus lying between a former concession to the same party, and the Sacramento river, if yes what was stated about

it and what were the dates of the papers as near as you can tell

7<sup>th</sup> Question Objected to as leading by Claimants Counsel  
R.L.

360 ND  
PAGE 36

Answer The papers related to land between two grants, one to Gordon and one to Hardy I do not recollect which one claimed it, Hardy stating that Gordon had his land, or could get it near the Mountains or farther west, I think the papers were dated before 1846. I am not certain.

Cross, examined by Claimants Counsel.

1<sup>st</sup> Question

What became of the Powder who delivered the papers to you and what was his Christian name?

Answer He went to the mines, and I think he is still in the mines. His name was Joseph Andrew

2<sup>d</sup> Question

Of what firm was he a member

Answer I think his partners were George McDougal Williams, C. Parker and Judge Blackburn now of Santa Fe.

3<sup>d</sup> Question

What amount of money was due from said Hardy to that firm,

Answer It was between fifty and One hundred dollars.

4<sup>th</sup> Question How much did Genl. Estelle pay

41

pay you for those papers?

Answer. It was something over \$100 I do not recollect the amount exactly Mr. Borden was poor and indebted to me

5<sup>th</sup> Question.

360 ND  
PAGE 37

Did those papers contain an original grant from the Governor to said Hardy?

Answer. I saw no paper purporting to be a grant to any one.

(Signed)

J. M. Brewerton

Subscribed and sworn to before me, on this 16<sup>th</sup> day of October A.D. 1854

(Signed) Peter S. Cole

Commissioner

Filed in Office October 16<sup>th</sup> 1854

(Signed) Geo. Fisher

S. P. Day

42

280

43

Deposition  
of  
Mariano G. Vallejo

360 ND  
PAGE 38

United States Land Commission

San Francisco Oct 19 1854

On this day before Commissioner Alpheus Fitch  
came Mariano G. Vallejo witness on behalf of the  
United States Case No 261 who after being duly  
sworn deposed as follows

Questions by Mr. McNamee Law Agent.

1<sup>o</sup> Question

Please state your name age and place  
of residence?

Answer. My name is Mariano G. Vallejo  
my age is forty seven years and I reside at  
Sonoma.

2<sup>o</sup> Question

You state in your Deposition Taken  
February 9<sup>th</sup> 1854 in this Case that you sold  
Thomas Hardy the original Grantee in this Case  
some cattle. Where was you when you sold  
them. How many and what description of cattle  
did you sell and at what place did you  
deliver them?

Answer. The sale was made at So-  
noma I sold nine four hundred dollars worth  
but I do not recollect the number of the cattle  
They were all heifers. I think I delivered them  
to him at Petaluma or Sausal I do not recol-  
lect which, I delivered myself to said Hardy  
This was in 1845 or 1846 I do not recollect  
the precise time

3<sup>o</sup> Question

Had you ever seen the Rancho claimed  
by Hardy before the sale of those cattle

Answer

Answer I Had.

4<sup>th</sup> Question

Was the occupation of the Rancho mentioned in your former Deposition before or after the sale of the cattle.

360 ND  
PAGE 39

Answer, I am inclined to believe that he lived on the Rancho before he came for the cattle. I had never seen him there before that time. The first time I saw him on the Rancho must be some six months or a year after the sale. He was working at Carpenter's business making corrales &c.

5<sup>th</sup> Question

When you first saw him there was said Hardy living on the quiet spoken of as the place occupied by him by Samuel Norris in his Deposition this day taken in this case.

Answer, He was not. He was living in a square house made of rails fastened to posts and filled in with mud, and with a tile roof. It was some fifteen or twenty feet long and about the same width.

6<sup>th</sup> Question

When was you next there?

Answer, The last time I was there was in 1846 I was there often but cannot now tell the particular times; I was there in Indian expeditions and in exploring the country I was there in 1844 and 1845 but I cannot tell how often.

7<sup>th</sup> Question

Was their an Indian village at

45-

at that place in 1844 and 1845

Answer. There was,

8<sup>th</sup> Question

Which way and how far was it from  
the house in which Hardy subsequently lived?

Answer. It was both sides but more  
particularly on the North side; The Indian village  
was along the River.

9<sup>th</sup> Question

How late in the year 1845 was  
you at the place?

Answer. I do not recollect but I  
think I was there in the Summer of 1845.

10<sup>th</sup> Question

At that time was Thomas Hardy  
in the place.

Answer. I think so,

11<sup>th</sup> Question

How often did you see the house  
in which you say Hardy lived and between what  
times can you swear that it existed?

Answer I saw it in 1844, 1845  
and 1846.

12<sup>th</sup> Question

Was that house on the present site  
of the town of Fremont and opposite the mouth  
of Feather River.

Answer. It was below Feather river  
from a quarter to a half a mile below the mouth  
of that river. It was near the banks of the  
Sacramento River.

13<sup>th</sup> Question

How early in 1844 and how late in 1846 did you see the Horse?

Answer. I do not recollect precisely how early in 1844, I think I saw it in June, July and August 1845. I do not recollect whether it was in the fore part or latter part of 1844 when I first saw it. I saw it in June 1846.

14<sup>th</sup> Question

When you first saw the Horse in 1844 was it rarely riding there.

Answer. I believe so.

15<sup>th</sup> Question

When did he leave Sonoma to ride elsewhere?

Answer. I cannot recollect.

16<sup>th</sup> Question

Was it before the middle of the year 1845?

Answer. I do not recollect.

17<sup>th</sup> Question

How many times did you take notice of the improvement and quietuation of said Rancho before 1846?

Answer. A great many times but I cannot state how many.

18<sup>th</sup> Question

How long did the Indians remain their at that village?

Answer. I do not know whether they are there now or not.

47

19<sup>th</sup> Question

Who built the house in which you saw Hardy living?

Answer. I believe Hardy built it but I do not know.

20<sup>th</sup> Question

How do you know that the cattle you sold to Hardy were driven to the Rancho Pio de Jesus Maria?

Answer. He took the cattle and put them in the barn. I saw him.

21<sup>st</sup> Question

Did he still continue his occupation as a carpenter after you sold him the cattle?

Answer. He did.

22<sup>nd</sup> Question

What was done with his cattle during the time he was absent from his Rancho.

Answer. I do not know.

23<sup>rd</sup> Question

How far is it from the place where you delivered the cattle to the Rancho.

Answer. From eighteen to twenty leagues.

24<sup>th</sup> Question

How long after you delivered the cattle was it before you was at said Rancho.

Answer. I have already answered that question.

25<sup>th</sup> Question

Did you go with Shady to the  
Rancho at the time he took the cattle there?  
(Answer. I did not)

26<sup>th</sup> Question

How far on the road towards  
his rancho do you know that he went with  
the cattle.

(Answer. I saw him start with them  
on the road in that direction but did not  
go with him.)

(Signed) M. G. Vallejo

Mr. Pecky Attorney for  
Claimant was present  
and attended to the taking  
of this deposition but  
proposed no questions to  
the witness

Subscribed and  
sworn to before me this 19<sup>th</sup>  
day of October 1854

(Signed) Stephen. Teel  
Comm<sup>r</sup>

Filed in Office October 19<sup>th</sup> 1854

(Signed) Geo. Fisher

49

Deposition  
of  
Samuel Morris

360 ND  
PAGE 44

United States Land Commission

San Francisco Oct 19<sup>th</sup> 1854

On this day before Com<sup>r</sup> Alpheus Pelch  
came Samuel Morris a witness on behalf of  
the United States Care Model, who after  
being sworn deposed as follows.

Questions by Mr. McHine Law Agent.

1<sup>st</sup> Question

Please state your name age and  
place of residence?

Answer. My name is Samuel  
Morris, my age is about thirty two years and  
I reside at Sacramento in California

2<sup>nd</sup> Question

Are you acquainted with Thomas  
Hardy the original grantee in this case and  
with the land claimed therein. If yes, how  
long have you known them and what is  
the character of your acquaintance  
with them?

Answer. I have known said  
Hardy since 1843 and have known said  
land since the fall of 1844. In 1844 when  
I first saw the land Hardy was residing  
at Sonoma, do not know when he first  
went onto the land; in 1846 or 1847 I  
passed the land again, Hardy was not  
there at that time. From the time last  
mentioned I saw Hardy frequently up  
to the time of his death, sometimes he was  
at the place where Fremont now is which  
is on the West bank of the Sacramento River  
opposite

opposite the mouth of Feather river, and sometimes I saw him at different places.

3<sup>d</sup> Question

What was Hardy's regular business from 1844 until his death?

360 ND  
PAGE 45

Answer. He was a Carpenter by Trade and worked at it when he could get work.

4<sup>th</sup> Question

What kind of a house did he occupy opposite the mouth of Feather River

Answer. It was a Tule Hut or an Indian Mud made of Tule

5<sup>th</sup> Question

Who built it?

Answer. I don't know

6<sup>th</sup> Question

Had he any other building on the place up to the time of his death?

Answer. I do not know of any other. I have passed there hundreds of times and never saw any other.

7<sup>th</sup> Question

Had said Hardy any cattle at any time in said Rancho if you know many.

Answer. I knew him to have a yoke of oxen and some three or four horses. He had no others to my knowledge. He had no stock there, what we call stock.

8<sup>th</sup> Question. State if you know whether said

said Hardy abandoned his claims to said Rancho before his death.

Answer. That I do not know. Hardy left for the mines when the gold was discovered and I do not know that he ever returned. He died either at Benicia or on his way between Sacramento and Benicia. I should probably have known it if he had ever returned to his Rancho after going to the mines.

Q<sup>st</sup> Question

When you first saw the place in the fall of 1844 was there any house at the place where you afterwards saw Hardy living in the Pile Hat?

Answer. There was no house there then but there was an Indian Village at the place the habits of the Indians there at that time were exactly the same kind as the hut in which Hardy afterwards lived.

C (Signed) Samuel. Wom's

10<sup>th</sup> Question

How often have you been on said Rancho? State particularly the character of your intimacy with Thomas. Hardy.

Answer. I have been there very often. I cannot tell how often. I have camped on the place many times both when he was there and when he was not there. He never had any accommodation for any person to sleep with him. I often camped with him.

11<sup>th</sup> Question

In the Fall of 1844 when you first visited said Rancho could there have been a house eighteen or twenty feet square on or

on or near the West bank of the Sacramento  
River within one half mile below the mouth  
of Feather River without you knowing it.)

Answer. I do not think it possible

(Mr. Peachy objects to this Question Answer)

12<sup>d</sup> Question. Do you know from conversations  
with Thomas Hardy or from any other source that  
such a house was never built by him

Answer. I do Hardy always told me that  
he was not able to build. He said he had not  
the means to improve

13<sup>d</sup> Question. Was there any cultivation made  
on the place by said Hardy

Answer. Now that I know  
(Signed) Smb Norris

Mr. Peachy for Clamant was present on his  
behalf at the taking of this Deposition. After the  
Deposition was closed and signed by the witness  
(the first signature appearing above) the testimony  
of M. G. Vallejo was taken in the case and then  
the witness was recalled and the remaining part  
of this Deposition taken; Mr. Peachy not objecting  
to the recalling of the witness but objecting to the tes-  
timony given by him on the ground that it was  
designed to impeach the testimony just given by  
said Vallejo who was a witness called by the law  
agent in behalf of the Government and said McRune  
alleging that the Deposition of said Vallejo was in  
its character but the cross examination of said Vallejo  
as a witness in behalf of the said Clamant before that  
time examined and whose deposition is on file in the  
case.

Subscribed and sworn to before  
me this 19<sup>th</sup> day of October A.D. 1854

(Signed) Alpheus Peck

Filed in Office Oct. 19<sup>th</sup> 1854

(Signed) Geo. Fisher  
Secty

United States of America  
State of California ss

San Francisco October 18, 1854

Deposition  
of

Thomas F. W. Price

360 ND

PAGE 48

This day came before Peter Pott, Commissioner  
for taking testimony to be used before the Board of  
U. S. Land Commissioners in said State Thomas  
F. W. Price a Witness in behalf of the United States  
in Case No. 261 in the Docket of said Board  
wherein James M. Harbin et al are claimants  
and said witness being sworn deposed as follows

The claimants Counsel Cap<sup>t</sup> Muller is  
present

Question by U. S. Law Agent

1<sup>st</sup> Question

What is your name age and residence  
Answer. My name is Thomas F. W. Price  
my age 32 years my residence in Yolo County, Cal.

2<sup>d</sup> Question

How long have you resided in Yolo  
County

Answer. I first came to Yolo County in  
September or October 1849, and that has been my  
residence since that time, though I have been  
abroad at times.

3<sup>d</sup> Question

Were you present at the sale of the  
Pancho? claimed in this case by the Administrator  
if yes, where was said sale made and who were  
present.)

Answer. I was at the sale. It was  
held at the Virginia ranch on Cache Creek, occu-  
-pied

occupied then by Tyler and Parish. There were about 30 or 40 persons present, possibly not more than 25 tho I think there were more.

*C*  
4<sup>th</sup> Question

380 ND  
PAGE 49

Did you see the notice of that sale if yes what place did it designate for said sale?  
Answer, I saw the notice of said sale I am not positive tho it is my impression it stated that the sale would take place on the premises advertised

*C*  
5<sup>th</sup> Question

What is the extent of the premises as thus understood,

Answer, I think it was offered for sale as six leagues of land

*C*  
6<sup>th</sup> Question

State the extreme length and breadth of said tract

Answer, All that I know about it is that they had a pencil sketch there at the sale which would make the claim about 4 by 6 miles in Extent. But I have another idea about it which is that the claim runs from the town of Fremont to Gordon's land that would make the place some 12 or 15 miles long I do not know positively what the extent of it is,

*C*  
7<sup>th</sup> Question

Did the Administrator or any one else prior to the sale inform you precisely where said sale would take place if yes, where was it?

55-

Answer The Administrator informed me that it would take place at the Virginia Ranch.

8<sup>o</sup> Question

Did he inform others of the sale?

Answer I do not know whether he did. He told me of it at Napa City about 4 or 5 weeks before the sale, I first heard of the land would be sold by Major See after the notices were up the Administrator on the day before the sale told me when and where the sale was to be held.

9<sup>o</sup> Question

How many persons bid at the sale?

Answer It strikes me that there were 3 though I now recollect but two who bid.

10<sup>o</sup> Question

Were any means used at the sale to prevent competition in bidding if yes by whom and what were the means.

Answer I cannot say, there were any such means used, I can say there were not I can state what took place I went to one of the persons who was bidding I do not recollect his name and asked him to stop till I could speak with you a little while, He asked the Administrator to wait till he could talk with me, The Administrator did wait. The bidder and I and another gentleman walked off a short distance, I told him we were living on the land at that at the time of moving onto it we thought it Government land, and asked him if he bought it whether he would arrangements to let us have our homes, as we had believed it

Government

Government land, & he said there was a company of them and that if he bought they would not be authorized to sell, and if it were not for his expenses he would have nothing more to do with it. I told him I thought I could promise them that he would get his expenses, which he said were about \$200, which we would be willing to raise for him rather than run the risk of being turned off of the place. He said it was all right, and I think he did not bid after that when the sale was resumed.

(This Answer is objected to by Plaintiff's Counsel as incompetent testimony)

11<sup>th</sup> Question

Did you previous to that time conversed with either of the purchasers concerning the sale?

Answer Yes, I had.

12<sup>th</sup> Question

Did either of them authorize you to converse with this bidder on their behalf?

Answer They did.

13<sup>th</sup> Question

From whom was that \$200 to come?

Answer I expected at the time to have it to pay myself in order to secure my place on the grant supposing that if I did, Mr. Harbin would probably pay it back to me if he purchased.

14<sup>th</sup> Question

Do you know from the Purchasers or any other source who did pay the \$200 or whether

57

or whether any further sum was paid to prevent  
said bidder from attacking the sale

Answer. I do not know that it  
was ever paid. I never saw the man afterwards  
I suppose it was paid from the fact that  
he never called on me for it. I do not know  
of any other sum being paid to prevent said  
bidder from attacking said sale

(signed)

T. H. M. Price

Subscribed and sworn to  
before me on this 18<sup>th</sup> day of  
October A.D. 1834

(signed) Peter Lyon Commissioner &c

Filed in Office October 19<sup>th</sup> 1834

(signed) Geo. Fisher  
Sccy

5-8

360 ND  
PAGE 53

360

59

United States of America  
State of California

San Francisco Oct 24, 1854

Deposition  
of  
John McDougal

360 ND  
PAGE 54

This day come before Peter Lott Commissioner for taking testimony to be used before the Board of U.S. Land Commissioners in said state John McDougal a witness in behalf of the claimants James M. Hartline et al in Case No 261 on the docket of said Board, and said witness being sworn deposed as follows

The U.S. Law Agent and Associate Law Agent both present.)

Question for claimant by Mr. Peachy Attorney,

1<sup>o</sup> Question.

What is your name age and residence.

Answer. My name is John McDougal my age 35 years my residence in San Francisco County California

2<sup>o</sup> Question.

Where did you reside in 1849 and what business did you then pursue?

Answer. I lived in the town of Sutter on the Sacramento River and was engaged in Mercantile business.

3<sup>o</sup> Question

State whether you ever had in your possession any papers belonging to the late Thomas Hardy if you how you became possessed of them to what did they relate and what became of them?

Shiver About the first part of July 1849. I had occasion to open some boxes which had been in storage for a long time in our store shop at the town of Sutter and upon opening a large square box which was unmarked I found among its contents a bundle of papers tied by a string say 4 or 5 papers which were endorsed in Spanish on the back and not understanding the Spanish language I got a West India Clerk we had by the name of Both who understood Spanish to examine what the papers were. Both had also another name La Roche, upon examining the endorsement on the papers he said they were the land titles of Thomas Hardy deceased I took the bundle and placed it in an iron safe in our store shop and wrote to Major Cooper at Benecia who was the Administrator of said Hardy's Estate, that I had found such papers and requesting him to come or send for them. A few weeks afterwards having left the country in Sutter I took these papers and placed them in my trunk on shore at Sutter they remained there till about the first of December following Major Cooper not calling for them in the meantime I placed the trunk which contained also my clothing and papers in charge of an English servant named "Billy" whilst I went to San Jose to attend to my official duties in the Legislature on my return to Sutter early in the Spring the servant "Billy" informed me that some one whom he did not know had called and stated that he was sent by myself for the trunk and that the "Billy" had delivered the trunk to the stranger. I never have heard of the

61

of the trunk since and never recovered any of its contents. I never had sent any one for the trunk and do not know who could have taken it.

3<sup>rd</sup> Question

Had you a partner in that Mercantile Concern at Sutter named Bowden or Borden?

360 ND  
PAGE 56

Answer. Yes One of the partners in the Concern was an Englishman named Bowden.

4<sup>th</sup> Question

Did Thomas Hardy owe anything to said Mercantile concern at the time of his death, and if he had would you have known it?

Answer. I do not think Hardy owed a cent to the Concern when he died, If he had I should have known it as I kept the books of the firm, and made all collections due to said firm at that period.

5<sup>th</sup> Question

Has said Bowden ever accounted to said firm for any money paid to the firm by the Estate of Thomas Hardy deceased or by any person on account of said Estate.

Answer. Not to my knowledge.

6<sup>th</sup> Question

Did you ever know or hear of any papers belonging to Thomas Hardy deceased being sold by T.M. Leavenworth to any of the claimants in this case or to any other person in consideration of such persons paying to your said firm a debt due to it by the late Thomas Hardy.

62

Answer. I know of no such papers or transaction, and never heard of it till this morning in conversation here with Claimants Counsel respecting the testimony of F.M. Leavenworth heretofore taken in this case in the Part of the Government.)

360 ND  
PAGE 57

7<sup>th</sup> Question

Since you left those papers in the trunk when you went to San Jose have you ever heard of them, do you know where they have been, in the meantime or where they now are?

Answer. I have never heard of them, and do not know where they have been since or where they now are.

8<sup>th</sup> Question

Have you any reason to suspect any particular individual of having taken that trunk under the circumstances mentioned?

Answer. From several circumstances I have reason to suspect the said Bowden the partner before named, one circumstance is that he broke open my private trunk before that time once when I was absent in San Francisco another circumstance is that the said servant Billy was also a former servant of Mr. Bowden, and after that time they lived together for a long time and occupied the same room, and after hearing that he had offered papers of Mr. Hardy for money my suspicion is still stronger.

9<sup>th</sup> Question

Did Major Cooper, said Administrator, ever apply to you for those papers after

after the trunk was stolen

Answer. He either came or spoke to me when we met, asking me for the papers and stating as a reason for not coming up for them that he did not think it necessary to put the estate to the expense of his going for them upon which I informed him of the loss of the trunk and papers.

360 ND  
PAGE 58

Cross-examined by U. S. Associate Law Agent.

1<sup>st</sup> Question

Were there any circumstances to show that said Broder had broken open your trunk?

Answer. Yes. He acknowledged it and I chastised him for it.

2<sup>d</sup> Question. Have you ever had any conversation with said Leavenworth on the subject of said Hardys papers?

Answer. I never have.

3<sup>d</sup> Question

State under what circumstances the box containing these papers was originally placed in your storehouse.

Answer. Just previous to Mr. Hardys death he was on his way to Benicia where he died he left the box in storage.

4<sup>th</sup> Question

Why was it opened?

Answer. The number of boxes on storage had so increased that we were obliged to advertise

advertise and give notice that unless they were taken away they would be sold to pay storage, this Box nor being marked it was opened to ascertain its contents that it might be identified for such sale by its contents.

5<sup>th</sup> Question

Were those papers ever unfolded in your presence?

Answer. I think not, my impression is that the Clerk may read the endorsement. I was busy at the time and did not pay strict attention tho I think they were not unfolded.

6<sup>th</sup> Question

In what language was that endorsement written and in whose hand writing?

Answer. It was in the Spanish language and the hand writing I did not know.

7<sup>th</sup> Question. How many papers were endorsed

Answer. I do not recollect seeing more than the outside one I was quite busy at the time.

8<sup>th</sup> Question

About how many words did that endorsement contain?

Answer. My present impression is that there were 3 or 4 lines written across the folded paper.

9<sup>th</sup> Question

Did Hardy's name appear in the said endorsement?

Answer. I do not recollect whether

68-

it did or not)

10<sup>th</sup> Question

Were those papers ever read, while they were in your possession?

Answer. They were not within my recollection.

360 ND  
PAGE 60

11<sup>th</sup> Question

Do you know anything which would defeat the grant in this case?

Answer. I know nothing about it except what I have here testified in this deposition.

12<sup>th</sup> Question

Were you personally acquainted with said Hardy deceased, if yes, how do you know he left the box for storage?

Answer. I never was personally acquainted with him and I was informed when we found that the contents belonged to him, by the Clerks and partners there, that Hardy had left such a box, on his way down the river.

(Signed)

Geo. M'Kongal

Subscribed and sworn to

before me, on this 24<sup>th</sup>

day of October A.D. 1851.

(Signed) Peter Son.

Commr D

Filed in Office October 25<sup>th</sup> 1851

(Signed) Geo. Fisher

3<sup>rd</sup> Oct

66

200

67

United States of America  
State of California

San Francisco Oct 26<sup>th</sup> 1854

Deposition of  
Tho. Fallon

360 ND  
PAGE 61

This day before Commissioner Alpheus Fitch came Thomas Fallon, a witness on behalf of the claimant James W. Martin et al. Case No 261 who after being duly sworn deposed as follows.

1<sup>st</sup> Question.

What is your name age and residence  
Answer. My name is Thomas Fallon, my  
age 31 years, my residence in Santa Clara County  
California

2<sup>d</sup> Question

How long have you resided in California

Answer. I have lived ten years and seven  
months in California excepting five months absence  
recently

3<sup>r</sup> Question

Were you acquainted with Thomas Hardy, if yes state where he resided and whether  
he claimed any land in California, and if yes  
where that land was situated.

Answer. I knew Thomas Hardy's in  
1844, He resided in The Sacramento Valley on  
the West Bank of the Sacramento river opposite  
the mouth of Feather river. He claimed a ranch  
there on which he lived. It was known by the  
name of Hardy's ranch.

4<sup>th</sup> Question

State what you know of the in-  
provement

occupation and settlement of said Rancho by said Hardy?

Answer, I saw Hardy there in the summer of 1844. He had a house there in which he lived. He had a small corral. He had some horses there and American cows. The enclosure which had been used for a corral, I think was broken up for planting in May 1844. There was a house also in the place built by one Shaddow and in the early part of 1844 said Shaddow was living in it with his family, this was a hewed log house covered with clap boards about 25' by 35' feet, one story high it was a good house for those times, Hardy's house was a small affair built of poles and covered with tule and it was plastered with mud.

#### 5<sup>th</sup> Question

State whether there was any other house on that land.

Answer, Yes there was another house on the south side of Cache Creek, built by Shaddow just outside of the fence on the western edge. That was also a log house.

#### 6<sup>th</sup> Question

State why and when Shaddow left that land?

Answer, Shaddow left that Rancho in the fall of 1844. I understood that he left it because Hardy procured some authority from the Government to put Shaddow off the land because the (Hardy) had got a grant of the land. Hardy bought out Shaddow's improvements and took possession of them -

69

7<sup>th</sup> Question

How many horses and cattle had  
Wardy there in 1844.

Answer. He had six or seven horses  
I am not positive about the cattle though I think  
he had a small lot of young cattle and I think  
one or two yester of cattle now.

360 ND  
PAGE 63.

Cross-Examined by U.S. Law Agent.

1<sup>st</sup> Question

Where have you resided since you  
have been in California?

Answer From the spring of 1844 till the fall  
of 1846, I lived in the Sacramento valley North  
of where Sacramento City now is and since 1846  
till now, I have lived in Santa Cruz and  
San Jose.

2<sup>nd</sup> Question

State particularly where you resided  
and in what you were employed in 1844?

Answer. In the summer of 1844 I owned  
and occupied a part of what is called the  
Farnell ranch ad the Arroyo Chicoy or Seco  
about 90 miles North of Sacramento City  
I was employed in improving my ranch. I  
was there off and on during that year from about  
June to about October as near as I can recollect  
I lived there though I was out hunting etc  
and travelling about a good deal.

3<sup>rd</sup> Question

Where was you before that  
time?

*Answer.*

I was principally at Sutter's Fort though I travelled about & went on an exploring expedition to Fort Ross. I think we started in the latter part of March 1844, on that Expedition, we were gone several days, about 10 days after that before I went into the Farwells rancho I was at Sutter's Fort and at Gordons rancho, where I went several times

*4<sup>th</sup> Question*

When and where did you first know Thomas Hardy

*Answer.* I knew him first in the Spring of 1844 at Sutter's Fort and on the place which Hardy claimed which I before spoke of in this deposition

*5<sup>th</sup> Question*

Where were you in January February and March of 1844?

*Answer.* In January I was with Col Fremont East of the Sierra Nevada Mountains, and we arrived at Sutter's Fort I think the 10<sup>th</sup> day of March

*6<sup>th</sup> Question*

Was said Hardy at Sutter's Fort when you arrived there

*Answer.* I do not recollect seeing him immediately on my arrival there though a short time afterwards, say 3 or 4 weeks I became acquainted with him and frequently talked with him

*7<sup>th</sup> Question. Was that before or after he moved*

71  
moved from Sonoma?

Answer. I did not know he lived at Sonoma;

8<sup>th</sup> Question

Did you see Hardy before you went to Fort Ross.

Answer. I do not recollect seeing him before I went to Fort Ross,

9<sup>th</sup> Question

How long after you returned was it before you saw him?

Answer. I cannot recollect exactly how long it was. I was not more than three weeks or a month. I forgot whether I saw him first at the Fort or on his place I cannot say exactly at what time or under what circumstances Precisely it was that I first made his acquaintance,

10<sup>th</sup> Question

How long was you absent from the Fort in your first visit after you returned from Fort Ross to Gordon,

Answer. I think I camped one night at Gordon and returned the next day

11<sup>th</sup> Question

How long on your second visit?

Answer I cannot recollect, I went there so frequently that I cannot call to mind how long I remained. I was there some times a day and sometimes a week nearly

12<sup>th</sup> Question. How many times can you recollect

recollect distinctly being at Gordons from the time you returned from Fort Ross to the time you went to the Farwell Rancho.

Answer I am pretty sure that I passed there five or six times I went several times to Shaddens

380 ND  
PAGE 66

13<sup>th</sup> Question

Had you any business to the Fort during that time?

Answer Part of the time I was in the employment of Captain Sutter, I was employed by him about two weeks in building a place to thresh grain I do not recollect that he gave me any other employment after I returned from Fort Ross

14<sup>th</sup> Question

How long was it after you built the place for threshing before you went to the Rancho de Farwell?

Answer I was bid a short time. I think it was in time that I went to that Rancho The threshing place was completed the last of May or very first of June.

15<sup>th</sup> Question

After you returned from Fort Ross and before you built the threshing place how many times did you visit Gordons Rancho for Sutter

Answer I recollect of once and I think I went often but cannot say for certain on this account.

16<sup>th</sup> Question

On which of these expeditions do you recollect first to have seen Thomas Hardy

Answer I cannot say which expedition

73

it was, I do not recollect).

17<sup>th</sup> Question

Do you recollect now that you ever saw him after returning from Fort Ross and before you went to the Rancho de Bidwell, if you where and when?

360 ND  
PAGE 67

Answer. He was standing near the house,

19<sup>th</sup> Question

Who was present?

Answer. No one but a squaw

20<sup>th</sup> Question

How long did you stay there?

Answer. But a few minutes, I do not think I got off my horse.

21<sup>st</sup> Question

Was this before or after you went to Fort Ross?

Answer. I think it was after, I may have seen him there when I went up as I had to pass his place. I think John Bidwell was with me the first time I saw Hardy on his place, but am not positive. This was either the time when I went to Ross or to Gordons or on my return Bidwell was with me on two trips and I think it was no one of those times that I saw Hardy there.

22<sup>d</sup> Question

Did you have any conversation at that time with Hardy.

Answer. The first time I saw him on his place, I had a few minutes conversation with him

with him. I do not recollect the conversation.

*33<sup>rd</sup> Question*

Did you ever have any subsequent conversation with him at his Rancho?

360 ND  
PAGE 68

Answer. I think I had at this place but I cannot say how often. I know that I had at the place, I do not recollect any particular conversation with him at his place.

*34<sup>th</sup> Question*

Was it before or after the conversation mentioned at the place that you had the conversation at the Fort?

Answer. It was after that. I had the conversation at the Fort the substance of which I recollect.

*35<sup>th</sup> Question*

Was the conversation at the Fort before or after you went to the Rancho de Farwell.

Answer. I think it was in the Spring before I went to Farwells place it might have been in the summer months and after I returned from the Rancho de Farwell. There was a difficulty between Hardy and Shaddow which had commenced the conversation referred to. The difficulty between them was then in full blast.

*36<sup>th</sup> Question*

Do you recollect an Indian village on the West Bank of the Sacramento River opposite the mouth of Feather river? if yes which way from that was Hardys house mentioned by you?

Answer. I know the Indian village well

75-

I have camped there. Hardy's house was a little below down the river from the Indian village, I camped at the Indian village when I went to the mines in 1848, but I knew the place before that.)

360 ND  
PAGE 69

37<sup>th</sup> Question

Was Hardy house there when you camped there?

Answer, I do not know. I got there in the night and left before it was fully light in the morning.

38<sup>th</sup> Question

How long had Hardy house been built when you first saw it?

Answer, I do not think it had been built long; it looked quite fresh,

39<sup>th</sup> Question

Had the tiles been out that year with which it was covered?

Answer, I think so but it was the growth of the previous year. The work looked fresh. The last time I saw the house I think was in 1846 in the summer.

40<sup>th</sup> Question

What was the size of the house?

Answer, It was not more than fifteen by twenty feet. He did not live in it in 1848 I think he bought Shaddox's house which was built on the same place a short distance above and close to the bank of Sacramento River and I think he had moved into the house before I was there in 1846, I cannot say that

that this was so with certainty but I am under that impression.

41<sup>st</sup> Question

How do you know that Hardy built the house?

Answer. By general reputation it was called his house. I do not know that he built it with his own hands.

42<sup>nd</sup> Question

Who called it his house?

Answer. Nearly every body that I heard speak about it. It was called Hardy's place. I cannot name any person that I heard say it was his.

43<sup>rd</sup> Question

In 1844, 1845 and 1846 did you hear any person speak of the house in any way, if yes who?

Answer. I am confident I did. I think Shadlow was one, Bidwell another and Hardy himself another.

44<sup>th</sup> Question

Did either of those gentlemen tell you that Hardy built the house you have mentioned?

Answer. In direct words, I do not think they did, but they called it in a general conversation Hardy's place or Hardy's house.

45<sup>th</sup> Question

Can you swear that a house such as you

as you have described existed at the place you have mentioned in the years 1844 1845 and 1846.

Answer. I cannot say whether that house itself was there. It might have been destroyed and rebuilt. It was a temporary thing very easily rebuilt that is the first house.

360 ND

PAGE 71

46<sup>th</sup> Question

What kind of a house was it that Shaddoo said you?

Answer. A wooden house, built with logs covered with boards and was considered then a good sized house I think <sup>it was</sup> thirty or thirty quite feet long.

47<sup>th</sup> Question

When you first saw that house and when did you last see it?

Answer. I first saw it in the summer of 1844 and the last time was in 1848.

48<sup>th</sup> Question

Who do you know that Shaddoo sold that house to Hardy.

Answer. Shaddoo himself told me so. He had had a horse that he said he received for his improvements. He told me so in the fall of 1844.

49<sup>th</sup> Question

How often was you at Hardy's Rancho after you went to Farwells Ranch and before 1846.

Answer. I cannot say I was travelling all about there and I cannot recollect. I am pretty sure, it was less than ten times and it might not have been more than four.

50<sup>th</sup> Question

Did you see Hardy there at any of these times,  
Answer I did I saw them in 1844 and again  
in the Spring or summer of 1845.)

51<sup>st</sup> Question

What was he doing at those times,  
Answer I am pretty sure I saw him drawing up horses  
once, There was a small band not more than six or seven  
I cannot recollect what he was doing at the other times  
(He had one York of view and I am not sure but  
two on the place.

52<sup>nd</sup> Question

Is that all you know about his having stock there?  
Answer That is all except your hearsay.

53<sup>rd</sup> Question

When did he have those horses and cattle there  
from to your knowledge

Answer In the spring of 1844

## Questions by Mr. Peachy

Mr. McElroy

objects to this  
Question, Because

it is new matter  
and hearsay evidence,

Did any person ever tell you that he had  
wild cattle on the place, and if so where they came

from?

Answer Shaddow told me that he understood  
that Hardy was going to get young cows from Sonoma  
and afterwards he told me that Hardy had got  
his cattle there. This was sometime in 1844 I think  
in the fall. Shaddow and I were on good terms  
and frequently talked together.

(Signed) Thomas, Hallou.

Subscribed and sworn to

before me this 25<sup>th</sup> day of October 1854

(Signed) Alpheus Peck -

Filed in Office October 26<sup>th</sup> 1854 <sup>Commonwealth</sup>

(Signed) Geo. Fisher

79

United States of America  
State of California

San Francisco Nov. 1. 1854

Deposition

of  
Chas. F. Reed

360 ND  
PAGE 73

This day came before Peter Lou Commissioner  
for taking testimony to be used before the Board  
of U. S. Land Commissioners in said state  
Charles F. Reed a witness on behalf of the claimants  
James M. Martin et al. in Case No 261  
on the docket of said Board, and said witness  
being sworn deposed as follows.

The U. S. Law Agent is present

Questions by Mr. Peachy for claimants

1<sup>o</sup> Question

What is your name age and residence

Answer. My name is Charles F. Reed  
my age 29 years my residence in Yolo County  
California

2<sup>o</sup> Question

Are you acquainted with the land  
claimed in this case?

Answer. I am acquainted with it

3<sup>o</sup> Question

How long have you lived in Cal-  
ifornia, and how near to said land?

Answer. I have lived in California  
nearly six years, part of that time I have lived  
on the land and part of the time within three  
miles of it

4<sup>o</sup> Question

State whether you ever made a survey  
of this

of this land, whether you ever measured any of its lines and if ye what is the distance from Gordon's Eastern boundary measured through the middle of this Rancho, and in the general direction of that part of Cache Creek, or the Rio Jesus Maria which flows through it, to the West bank of the Sacramento river.

360 ND  
PAGE 74

Answer. I have made a survey of the land and measured some of its lines, and the distance called for in this question, according to the direction proposed is about sixteen miles and a half. I have measured it very accurately with a surveyor's chain.

### 5<sup>th</sup> Question

What length of river bank on the Sacramento would be contained between two parallel lines, a league apart, drawn in the general direction of that part of the Rio Jesus Maria, which flows through this land, equidistant from said Rio Jesus Maria, and produced to the Western bank of the Sacramento river, and what part of the bank of the Sacramento river would be included between those lines?

Answer. Owing to the curves in said Sacramento River, the two lines produced as proposed would include about six miles of the bank of said river. I have not measured it, but this is my best Judgment of the distance. From the lower of the two lines the Sacramento river curves sharply to the West. The lower of the two lines would be some four miles longer than the upper one. The portion of the bank of the Sacramento included between said lines lies opposite to the mouth of Feather river.

The lower

The lower line is nearer the mouth of Feather  
river than the upper one.

*G*  
*6<sup>th</sup>* Question

How much land do you suppose  
would be contained between Gordons Eastern  
line, the Sacramento river, and the two lines  
before referred to, said lines being produced  
to meet Gordons said Eastern line?

360 ND  
PAGE 75

Answer. A little short of six square leagues

Cross examined by U. S. Law Agent

*P*  
*1<sup>st</sup>* Question

From what data do you ascertain  
Gordons Eastern boundary?

Answer. Mr. Gordon showed me the  
trees which were marked on his Eastern line,  
which made it a very distinct line. I have  
no other information upon that point. The  
marks on said trees were old marks, ap-  
parently made several years before I saw them

*P*  
*2<sup>nd</sup>* Question

Do you know how that line was  
established

Answer. Only from what Mr. Gordon  
told me.

*P*  
*3<sup>rd</sup>* Question

How many marked trees did he show  
you in said line?

Answer. Some 24 or 5

*P*  
*4<sup>th</sup>* Question

How were they located with respect  
to

with respect to each other?

Answer. They were on a line in a direction nearly North and South. The extreme trees which I saw, were marked, were about a mile apart.)

#### 5<sup>th</sup> Question

360 ND  
PAGE 76

How far was the Southern most marked tree from the South West corner of the six leagues you speak of in your answer to 6<sup>th</sup> Question in this?

Answer. The most Southerly marked tree which I saw was on the bank of the Rio Jesus Maria. I should think it was from a half to three quarters of a mile from the South West corner of the said 6 leagues, though it is mere supposition.

#### 6<sup>th</sup> Question

How far was the most Northerly of the marked trees you saw, from the North west corner of said six leagues as described by you?

Answer. I should judge it to be a mile and a quarter more or less. I cannot state it with accuracy.

#### 7<sup>th</sup> Question

Upon what data do you ascertain the said corners of which you have last spoken.

Answer. I ascertained the North West corner spoken of by measurement and marked it by driving a stake there, and the South West corner, is mere guess work with me. I never put any stakes on the Southerly line.

8<sup>th</sup> Question

Upon what data did you establish such lines as were established by you on the land claimed in this case?

Answer. By Mr Gordons showing me this line and by having the grant in this case and also in the Carmel case before me for reference.

360 ND  
PAGE 77

9<sup>th</sup> Question

What words in the Hardy grant did you use for reference?

Answer. I cannot recollect the very words of the Grant without having it before me but I remember enough of the description to say that it called for six leagues of land lying between Gordons Eastern line, and the Sacramento River, lying a half league on either side of the Rio Jesus Maria.

(Signed)

Chas H. Reed

Subscribed and sworn to  
before me, on this 1<sup>st</sup> day  
of November, A.D. 1854

(Signed) Peter Lou, Comm<sup>r</sup> H.C.

Filed in Office November 3<sup>d</sup> 1854

(Signed) Geo. Fisher

B. S. J.

84

100 50

United States of America  
State of California

Deposition  
of  
David P. Diggs

360 ND  
PAGE 78

San Francisco Nov. 6<sup>th</sup> 1854

This day came before Peter Sou a Commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State David P. Diggs a witness in the part of the United States in Case N<sup>o</sup> 261 in the docket of said Board wherein James M. Martin et al are claimants and said witness being sworn deposed as follows

Mr. Peachy Counsel for claimant is present

Questions by U. S. Law Agent

1<sup>st</sup> Question

What is your name age and residence?

Answer. My name is David P. Diggs my age 28 years. My residence in Yolo County California

2<sup>d</sup> Question

How long have Yolo County

Answer. Ever since June 1850

3<sup>r</sup> Question

Were you present at a sale made of what is called Mervay's grant claimed by James M. Martin and others in Jesus Maria river or Cache Creek in Yolo County If you state where and where such sale was made and under what authority and by whom, and state also how many persons were present

present and who they were.

Answer. I was present at the sale mentioned. It took place in the latter part of June 1851 at a place known then as the Virginia Range or Cache Creek. The sale was made by Stephen Cooper who claimed to sell under authority of the Probate Court in Administrators of Thomas Hardy deceased. There were about 25 persons present among them were George Tyler, Mr. Jamish, James M. Martin, Gul. Estelle, There were purchasers and there was, Hopkins M. Wm. Story, William Hamcock W. G. Hunt, A. H. and James W. Overton, Pease Wiley, George L. Henning, Thomas F. N. Price and Bryant John C. Dawson Thomas Cochran, since deceased Brantley Hunt and several others whose names I do not at present recollect.

### *3<sup>d</sup> Question*

Did said Cooper the Administrator make any statement upon offering said land for sale, as to notice given of the sale the time thereof, extent in quantity of the land offered if any, give those statements in full answer. He did make statements at the sale. I recollect he said when he got up to say the sale, that he had concluded to sell the land at that place from the fact that it was more convenient and expedient for the purchasers as there was more of a settlement about that part of the grant than any other instead of selling it at the place specified in the Notice of sale, or at Fremont which was the place named in the notice.

He said Hardy's Estate was indebted  
(I think he said)

(I think the said) \$500 and that he would start the sale at that sum if any one would bid it. We also asked the question publicly whether it would be better to sell the whole of the land together or in small parcels. Mr. Barnstaple a bystander said if it be all sold in a body there was no objection made to that course. Cooper then commenced crying the sale. Mr. Goad said in the course of his remarks that there were six leagues of the land.

### 4<sup>th</sup> Question

Did you see or read the notice of the sale of the land or have any conversation with either of those who purchased. If you state fully what the notice contained, and the conversation you had with whom.

Answer I saw the said notice. It was a written notice put up I think I saw in more than one place. I read it but once and do not remember particularly its contents more than that it was a notice of the sale of said land, while the sale was going on Bryant made a bid shortly after this bid I had a conversation with George Tyler. He was not a purchaser by this own bidding, but was interested in the bids made by others as a Partner.

### 5<sup>th</sup> Question

Did any one bid on the land. If you state who bid first, second, third, and so on and how much each one bid. State also if the bidding was suspended during sale of gear the cause of it, and what was done and said in connection therewith, and whether the purchasers were present all the time,

Answer. There were bids made. The first was by James M. Hartin \$300 or about that sum, second by said Bryant \$300 more than Hartin third. Hartin \$300 more than that was all the bidding the land was then knocked off to Hartin, after Bryant made his bid he was called aside by Tyler & Price, and as he started out to talk with them the Crier <sup>P</sup> suspend the crying of the sale a few minutes while he talked with those men. The Crier waited a short time after consulting Bryant, Tyler and Price returned to the sale. The Crier went on, Hartin made his second bid no more and no other bids, the land was struck off as I before stated.

After the consultation I spoke to between Bryant, Tyler and Price, Tyler told me upon my asking him what he said to Bryant "I threatened him with the Squatters Bryant then said that if it were not for the cost and trouble of coming up he would not care, or would quit bidding, that he did not wish to have any difficulty. I then told him I would give him two hundred dollars and pay his expenses." This is about all he told me at that time. The purchasers were all present at the bidding and saw what was going on, they did not hear this conversation between Tyler and myself.

The claimants caused Mr. Peachy object to all the foregoing questions and answers as irrelevant and incompetent and declines cross-examining the witness  
 (Signed) D. P. Diggs  
 Subscribed and sworn to before me  
 on this 7<sup>th</sup> day of November A.D. 1851.

(Signed) Peter Son, Notary  
 Filed in Office Nov. 9<sup>th</sup> 1851  
 (Signed) Geo. Fisher  
 D. P. Digs

Deposition  
of  
David T. Bird

360 ND  
PAGE 82

United States of America  
State of California

San Francisco Nov. 7. 1854

This day came before Peter Lou Com-  
missioner for taking testimony to be used before  
the Board of U. S. Land Commissioners in said  
State David T. Bird, a Witness on behalf of  
the United States in Case No 261, in the  
Docket of said Board wherein James M.  
Harbin et al are claimants, and said witness  
being sworn deposed as follows

The Counsel for claimant Mr. Peachy  
is present.

Questions by U. S. Law Agent.

1<sup>o</sup> Question

What is your name age and residence

Answer. My name is David T. Bird  
my age 35 years my residence in Yolo County  
California.

2<sup>o</sup> Question

How long have you been in California  
and in what portion have you mostly been.

Answer. I arrived in California on  
Cache Creek about June or July 1844. The  
longest time I have passed at one place  
was at Sutters Fort I have lived where  
I now do, about 14 years.

3<sup>o</sup> Question

Did you know Thomas M. Hardy  
if yes, state when and where you first knew or  
saw him, and where did he stay from the time  
you

you first knew him till 1848.

Answer. I know said Hardy, first saw him about November 1844 on Russian River. From that time to 1848 he left most of us wandered about a good deal. Hardy was a Carpenter, the world I think when I first knew him, at Sonoma, and went wherever he could find work and made his home where he worked.

### A Question

Were you ever on the West side of Sacramento river opposite the mouth of Feather River. If you state when you were first there and how frequently, whether you knew the place well and if up to 1848 there was a house near that point.

Answer. I was first at the point named in the summer and fall of 1844. I have been there as often as five or six times a year, from that time till the present and yet tolerably well acquainted with said place. In 1845 I found Mr. Hardy camped in a small pile that it could not have been more than half a mile from the mouth of Feather river, I staid all night with him I think it was in the spring or early summer of that year. It was after the quit work for Capt. Sutter that I saw Hardy in his camp in the late Spring. There was at that time a house in which Mr. Davis lived and which he built some 3 miles, about West from the mouth of Feather River. There and some Indian huts in which the Indians sometimes lived are all the houses of any kind near that point at that time I do not know that Davis individually build the house he lived in.

5<sup>th</sup> Question

From your first knowledge of said place, till 1848, was there any stock herded or running on said land, if you state what stock and when you saw them and also whether stock could have run there without your knowing it?

360 ND  
PAGE 84

Answer, I saw a few horses running there in 1845 and from that year on to 1849. I understood they were put there by Mr. Hardy and were running at large the same as any other stock would on a ranche, they were not herded when I saw them at least they had no herders with them. This is all the stock I saw there some 8 or 10 head at first and the increase of each year. I think if there had been other stock there I would have seen them. Hardy said he had a yoke of oxen about there which had strayed, there might have been a yoke without my knowing it. I never saw them.

6<sup>th</sup> Question

What quantity or number of animals was then regarded as stock to stock a ranche or grant?

Answer, I believe it consisted of an indefinite number, I have been told that there was some fixed rule of 100 or 500 head to the league, but I think there was no general rule in California.

7<sup>th</sup> Question

Do you know the land between the sink of Cache Creek and Sacramento opposite the mouth of Feather river, if you state the distance and what the quality of the

the land between those banks

Answer. I am well acquainted with said land, It is not more than 4 or 5 miles it may be less I am not certain of the distance between said side of Sacramento river. There is but little good land it is principally

Tule land

360 ND  
85

PAGE

### 3<sup>rd</sup> Question

Did you know a man named Shaddow if yes where, what was his full name, and did he build a house or houses if yes when, where, and who built with him if any one, and all you know of the occupancy of said house and its description

Answer. I did know such a man his full name I do not know. I became acquainted with Mr. Shaddow in the Summer of 1844, at a house build by him and others about three miles west of the mouth of Feather river. There were living in the house at that time said Shaddow and his family and his Father in Law (a Mr. Sumner) and his family and his brother in Law (a Mr. Geo. Davis) and his family. These are the persons who I suppose build the house with Shaddow. Shaddow left with his family this house early in the Spring of 1845, I think Sumner left with his family late in that Spring and went to the Eastern States, and Davis moved out late the next fall and went to live in Cache Creek near Gordons line, the house was then left vacant. The house was built by setting posts in the ground and boarding up with Clap boards. I think it was clap-board roof. I think it was not more than 15 or 16 feet square, no room.

93

### 9<sup>th</sup> Question

Did you converse with Shaddow about the disposition to be made of the house of which you have been speaking of your state when and where it took place, and what was (said)

360 ND  
PAGE 86

(9<sup>th</sup> Question objected to by Clamans  
as incompetent, hearsay and  
irrelevant)

Answer. Some years afterwards he conversed about it I asked him why he did not contend with Hardy and try to get a title to the land he said he did not care about it from which I inferred he had voluntarily abandoned the house and place, I think this conversation took place in 1847 in the Cosumnes river.

### 10<sup>th</sup> Question

Were there any other houses besides those you have mentioned between Gordons line and the Sacramento river, and did Hardy ever occupy them or either of them

Answer. There was a small house on the west side of Cache Creek built as I understood by Shaddow and Davis. It was a shanty of poles stuck in the ground and some boards over it. It was in a decaying condition in 1845 when I saw it. It had been partly burned from the fire in the prairie and east of where Gordons line now is there was a house ~~xxxxx~~ which Gordon himself had built supposing it to be on his land, that is the house which Davis moved into when he left the house in which I first knew him. I recollect no other houses there then, Mr. Hardy never to my knowledge lived

94

lived in any of the houses I have named except  
the Tule house in which I before said he  
lived.

11<sup>th</sup> Question

360 ND  
PAGE 87

When you first went to the land  
herein claimed state whether there were any  
evidences of inhabitation or cultivation or any  
stock in it or any cultivation after that time?

Answer In 1844 when I first  
knew the place Shaddow, Sumner and Davis  
with their families were living there, Hardy  
came in in 1845, I saw no cultivation in  
1844 Mr. Hardy undertook to plant a small  
garden in I think 1847 during Hardy's life  
time I knew of no other cultivation there

12<sup>th</sup> Question

Did you hear Hardy say he  
had changed his grant, if you state when  
where and what he said about it?

(12<sup>th</sup> Question objected to by claimants  
Council)

Answer In 1845 when he worked at  
Sutter's Fort, I heard him say in conver-  
sation with me, that he either had changed  
his grant or intended to have it changed  
so as to run to the mouth of Feather River  
on account of Cache Creek going dry.

13<sup>th</sup> Question

What was the size of the Tule  
quit in which Hardy lived?

Answer About 10 feet in diameter  
made of Tule in Indian fashion with  
poles coming to a point making a cone

280

95-

14<sup>th</sup> Question

State the precise locality of the Shaddow house, where they all lived when you first went there?

Answer. It was 3 miles or more above Flamont or the mouth of Feather river not over 20 or 30 feet from the Sacramento river.

360 ND  
PAGE 88

15<sup>th</sup> Question

Where did Hardy live before, and after October 1844,

Answer. Before that date he lived at Sonoma or that neighbourhood at work I think for Genl Vallejo, and after that date he lived at Sutters Fort in 1845 I saw Mr. Hardy in 1847 having logs to build a house 5 miles below the mouth of Feather river on the Sacramento river, He was camped there where he was at work.

16<sup>th</sup> Question

Did you frequently after that last mentioned time pass by the land west of the mouth of Feather river on the Sacramento, if you did you ever see Hardy there,

Answer. I have frequently, and I do not think I have seen Hardy there since the time I saw him having the logs as stated, some miles below there.

Cross examined by Mr. Peachy.

1<sup>st</sup> Question

When were you first on the Rancho claimed in this case?

Answer

I was first there in the Summer of 1844, perhaps about August.

2<sup>d</sup> Question

Was Hardy there at that time  
Answer, I did not see him there

360 ND  
PAGE 89

3<sup>d</sup> Question

On what part of the Rancho were you  
in your first visit

Answer, When I first came in and stopped  
on Cache creek I was sometimes on this ranch and  
some times on Godons The first time I went down  
to the mouth of Feather river, we went a tolerably  
straight line down Cache Creek and if the  
rancho lies where it is understood it does, I  
must have gone the whole length of Harays  
ranch.

4<sup>r</sup> Question

When were you next on said ranch?  
Answer, After I left that neighbourhood  
and went to Russian river which was in the fall  
of 1844. I do not think I was again on this  
ranch till about April or May 1845

5<sup>r</sup> Question

How long were you on this Rancho, when  
you were first there?

Answer, When I first came in there I  
was on this land nearly every day for some three  
months

280 D

6<sup>th</sup> Question

Who was living on the land when you  
first went there?

Answer, Davis, Sheldon and Summer  
and their families and no body else that I know  
of.

7<sup>th</sup> Question

Was Hardy there at your second visit to said Rancho?

Answer. He was not or at least I did not see him there.

8<sup>th</sup> Question

When did you first see Hardy on this Ranch?

Answer. It was late in the spring or else in the summer of 1845 after he left Capt. Sutler's where he had been at work.

9<sup>th</sup> Question

Did you ever see Mr. Hardy before you saw him on his ranch?

Answer. Yes I saw him on Russian River at a Mr. Alexander. I think it was about November 1844 as near as I can recollect.

10<sup>th</sup> Question

What was he doing there.

Answer. I think he came there on some business I do not recollect what it was.

11<sup>th</sup> Question

When did you first hear that Mr. Hardy claimed this land?

Answer. I do not remember the exact time, though I think it was very soon after I first arrived in the country. It was generally talked of among the settlers there.

12<sup>th</sup> Question

Did you ever hear of any dispute between Mr. Hardy and Mr. Shadduck about the possession

possessor of this land.

Answer. I never did

*13<sup>th</sup> Question*

To what place did Shaddan remove  
when he left the house where you first knew him?

Answer. He went up somewhere on the East  
side of the Sacramento river either on or in the  
neighbourhood of the Farwell ranch. I was never  
at his place up there and do not know the  
exact spot.

*14<sup>th</sup> Question*

Where is Shaddan now and where  
did he leave California?

Answer. I think he is living in Oregon  
and to the best of my recollection he left California  
about 1849 or 1850 or later.

*15<sup>th</sup> Question*

How often did you see Shaddan after  
he removed from Hardy's Ranch, which you say  
was in 1845?

Answer. I cannot say how often. I  
have visited his house on the Cosumnes river, several  
times. I have seen him in Sacramento, and  
I once saw him when he was mining from Santa  
Cruz to the Cosumnes.

*16<sup>th</sup> Question*

Why did Shaddan leave Hardy's  
Ranch?

Answer. From what I before said about  
my asking him why he did not intend with Hardy  
and try to get a grant there I inferred from  
his saying he did not care about it that he

*left*

left there voluntarily. I know no particular reason that he had for leaving

*17<sup>th</sup> Question*

Will you describe particularly the house in which Hardy resided and its locality?

360 ND  
PAGE 92

Answer. I was situated not more than a half a mile below the mouth of Feather river near the West bank of the Sacramento. It was a conical hut made of poles and tule about ten feet in diameter at the base

*18<sup>th</sup> Question*

How often did you see Mr. Hardy in that house?

Answer, I never saw him in it, but the one time when I staid all night with him in the summer of 1845.

*19<sup>th</sup> Question*

Did you ever see him any other time in the Rancho.

Answer Yes, I saw him once driving up his horses. I think in the same year when I saw him chewing the logs in 1847. I did not suppose nor do I now suppose he was on this rancho, I wish to explain a little. It was customary for grantees to claim more than the land granted, and in 1847, I believe Hardy claimed that where he was having the logs was on his rancho and I did not then know enough of his grant to doubt it but since I have learned who and what is understood to be Hardy's land, I suppose that place to be outside of it. It is some five miles below Fremont in the mouth of Feather river.

20<sup>th</sup> Question

For what purpose was he hewing logs?

Answer For building a house

21<sup>st</sup> Question

Where was the house to be built.

Answer It was to be opposite the mouth of Feather river or in that vicinity

22<sup>nd</sup> Question

Did Hardy build that house.

Answer I am quite sure he did not as I saw some of the logs lying there after Hardy was reported to be dead, and if it had been built I must have seen it

23<sup>rd</sup> Question

Did you never see any cattle in that Rancho?

Answer I do not remember ever to have seen any there in Hardys time since that I have seen cattle there

24<sup>th</sup> Question

Did not Shaddow or his people have cattle there?

Answer It seems to me they had some but I do not recollect to have seen them

25<sup>th</sup> Question

Had not Gordon cattle in the adjoining Rancho

Answer Yes he had,

26<sup>th</sup> Question

Did you never see Gordons cattle on any

on any part of this ranch?

Answer. I do not think Gordons cattle ranged there in Hardys life though they might have done so.

P<sup>o</sup> Question

Have you interest in this land opposed to the Confirmation of the Grant?

Answer. I have none.

P<sup>o</sup> Examined by U.S. Law. Agent

P<sup>o</sup> Question

In 1845 and 1846 were you familiar with the localities opposite the mouth of Feather river and the Indian Rancheria at that place, if yes, which way and how far was Hardys Tule ~~the~~ from that Rancheria

Answer. In 1845 and a portion of 1846 I was familiar with those localities. I knew where the Indian Rancheria was. It was on the bank of the river and Hardys hut was not over a half mile below on the river.

P<sup>o</sup> Question

During those years was there any other house built between said Rancheria and said hut?

Answer. None that I ever saw, and I think if there had been I must have seen it.

P<sup>o</sup> Question

Have you had any conversation with

102

with Mr. Hardy respecting his ability to manufacture and stock said faucet, if you what was it.

Answer I do not recollect that I ever had.

360 ND  
PAGE 95

(Signed) A. S. Bird

Subscribed and Sworn to  
before me on this 8<sup>th</sup> day  
of November 1854

(Signed) Peter Son

Comm<sup>r</sup>

Filed in Office November 9<sup>th</sup> 1854

(Signed)

Geo. Fisher  
Beg

260 87

No 3

United States Land Commission  
San Francisco Dec. 11<sup>th</sup> 1854

Deposition  
of  
Pearson B. Readings

360 ND  
PAGE 96

(On this day before Commissioner of Aug Shirf-  
ton, came Pearson B. Readings a witness in  
behalf of the claimants, James M. Martin et al.  
in case #1<sup>o</sup> 261 who after being duly sworn de-  
posed as follows)

Present A. C. Peachy Counsel for claimants  
and J. H. McKone U. S. Law Agent.)

In answer to questions witness states that his name  
is Pearson B. Readings his age 37 years and residence  
Shasta County California, and that he has resided  
at Sutter Fort and at his present residence since  
the month of November of the year 1843.

1<sup>st</sup> Question by claimants Counsel

Did you know Thomas Hardy the original  
grantee of the land claimed in this case and do  
you know said land. If yes state what you  
know of the occupation and improvement of the  
same by said Hardy

Answer I knew him well, my acquaintance  
with him commenced in March 1844 and con-  
tinued up to the time of his death about the year  
1848 or 49. I knew the land on the Western  
bank of the Sacramento River opposite the mouth  
of Feather river which was claimed by said Hardy  
under a grant from the Mexican authorities. I  
never saw the title papers. In the spring of 1843  
I passed over the land claimed by said Hardy  
and found him living on the tract at a point  
opposite the mouth of Feather river. He had at  
that time upon the rancho stocks of both horses  
and

and cattle. His house or tannery was built of sticks set up in an oval form well thatched with tile similar to many houses built of Mexican baulhas at that time. About two hundred yards above the Sacramento River, was standing a substantial frame of yellow timber but uncovered, a corral was built near said frame, also a fence enclosing a field in cultivation. The field was a small one but contained several acres, and was cultivated in onions and other vegetables and I think some wheat but I am not certain. Hardy was there living in the corral which was regarded as his domicile; He subsequently joined Col. Fremont's Battalion and served a part of the time during the Mexican war, and was honorably discharged at Los Angeles or Monterey sometime in 1847. In the spring of 1846 I saw on the same land owned by Mr. Hardy a house and enclosed field of several acres built by Mr. Thomas Shaddan, who asked me if he could hold that land against a grant made by the Governor of California, and I told him that he could not. He then told me that he would abide a suit some month afterwards. He told me that in that suit which was tried in Sonoma he was defeated by Hardy, and he subsequently left the land.

### Question by same

Do you know a man named David T. Bird, who living in Yolo County whose deposition was taken in this case on behalf of the United States on the 7<sup>th</sup> of November 1851 and filed at the 9<sup>th</sup> of the same month.

Answer I know David T. Bird and never knew or heard of but the one of that name

name in California. He was I think a hatter by trade and was in the employment of Capt Sutter about the year 1846.

3<sup>d</sup> Question by same

When did you first go to reside at Sutter's Fort and where did you leave there?

Answer. I went to reside there in March 1844 and left there in the Spring of 1845.

4<sup>th</sup> Question by same

When did David J. Bircl come to California?

Answer. I am certain he was not there as early as September 1845, but I do not know the precise time when he came.

Cross Examined by U.S. Law Agent

1<sup>st</sup> Question by same

Where did Hardy reside and in what was he engaged during the year 1844.

Answer. I do not know - About March 1844, I travelled with him from San Rafael to Sonoma, that was the commencement of my acquaintance with him. I subsequently saw him occasionally at Sutter's Fort during that year.

2<sup>d</sup> Question by same

I had no occasion to travel on the West side of the Sacramento as far as the mouth of Feather River during the year 1844. If you was Hardy residing there at that time

Answer. I did not travel on the West side of the Sacramento River to the mouth of

Feather

Feather River during that year and went say  
whether Hardy resided there or not.

3<sup>rd</sup> Question by same

How many times in the year 1845 did you  
visit said Ranch.

Answer. I recollect visiting there once  
and may have done so often but do not recoll-  
ect distinctly any other time.

4<sup>th</sup> Question by same

How long was you there at that time?

Answer. I was there only a few  
minutes & only passed by.

5<sup>th</sup> Question by same

What was Mr. Hardy doing when  
you were there, and what other improvements  
besides those you have mentioned were on the  
place.

Answer. He was sitting in house doing  
nothing. There were no other improvements there  
than I have mentioned.

6<sup>th</sup> Question by same

Was there at that time an Indian  
village in the vicinity of the Tule Hut now  
Chico mentioned, and if yes how far and in  
what direction?

Answer. There were many Indian villages  
on the Sacramento River, though I do not  
recollect that my attention was drawn to any  
in that immediate vicinity.

7<sup>th</sup> Question by same

Who were the houses in the said  
Indian

Indian villages built, and in what respect did they differ from the one you have described  
Answer. They were similar in form and material to the one described, but the house of Hardy was larger than those of the Indians.

360 ND  
PAGE 100

8<sup>th</sup> Question by same

What was the diameter and height of the hut you have described as occupied by Hardy?

Answer. I think it was about twenty feet in diameter and about twelve or fifteen feet in height.

9<sup>th</sup> Question by same

In what direction was the field of which you have spoken from the hut and what distance.

Answer. I have already stated it. It was above in the Sacramento River, about two hundred yards distant.

10<sup>th</sup> Question by same

Did you ever see those improvements afterwards.

Answer. Yes I saw them again in 1846, when I was passing with Col. Fremont on the expedition to Sonoma under the Bear Flag. I do not remember whether the house was there then but the frame was. I do not recollect distinctly about the field, but I think the fences were standing. In 1845 I think the enclosure was a worm fence though I am not positive and of split timber. It enclosed the land on three sides the river enclosing it on the other. It was cultivated in vegetables and I think some

some wheat. I gathered from it some onions  
and Radishes and ate them.

11<sup>th</sup> Question by same

Was the enclosed land subject to  
inundation?

Answer Having never been there in  
high water I cannot state whether it was or  
not. I am not certain as to the time I passed  
there in 1845 it was in the spring in the  
month of March or April.

12<sup>th</sup> Question by same

Was the winter of 1844-45 a wet  
or a dry one and what was the stage of the  
water when you were there?

Answer I do not recollect whether  
the winter was a wet or dry one or whether  
the water was low or high.

13<sup>th</sup> Question by same

Was it customary at that time to  
sow or plant lands on the Sacramento River  
which were subject to inundation before the  
close of the wet season?

Answer The usual time for sowing and  
planting was during the rainy season, in all  
lands that were inundated.

14<sup>th</sup> Question by same

What was the state of advancement  
of the crops you saw in the field you spoke  
of?

Answer The vegetables were sufficiently  
matured to be eatable.

15<sup>th</sup> Question

109

15<sup>th</sup> Question by same

Did you go inside of the field if yes who went with you and how long did you remain there

Answer, I stated previously that I gathered some vegetables, and that they were growing in the field, I consequently went into the field; who went with me or how long I staid I do not recollect.

16<sup>th</sup> Question by same

How many cattle did you see there and where were they?

Answer, I saw but few cattle and they were roaming outside of the enclosure in the pasture lands,

17<sup>th</sup> Question by same

How do you know the cattle belonged to Hardy and was that the stock of cattle to which you referred in your direct examination

Answer, I supposed that they belonged to Mr. Hardy as he was residing on the Ranch and it is the stock to which I referred.

18<sup>th</sup> Question by same

How many horses were there among them?

Answer, I recollect there were horses there but I do not remember how many there might have been eighty or ten or perhaps more.

19<sup>th</sup> Question by same

Were the cattle herded together near the house or were they scattered over the land -

Answer

where they were feeding over the pasture  
and perhaps a half or mile or a mile or two  
miles from the house, it is impossible for me  
after this lapse of time to tell the scope of country  
over which they were feeding.

360 ND  
PAGE 103

(Signed)

P. B. Readings

Swear to and Subscribed  
before me Dec 11<sup>th</sup> 1834

(Signed) R. H. Thompson  
Commissioner

Filed in Office December 11<sup>th</sup> 1834

(Signed)

W. Fisher  
B. D. C.

RECEIVED  
REO 10D

United States of America  
State of California  
San Francisco Nov. 8 1854  
Deposition  
of  
George L. Herring  
360 ND  
PAGE 104

This day came before Peter Low Commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State, George L. Herring a witness on behalf of the United States in cause No 261 in the docket of said Board wherein James M. Harbin et al are claimants and said witness being sworn deposed as follows.

Mr. Pecky Counsel for claimants is present  
Question by the U. S. Law Agent.  
1<sup>st</sup> Question

What is your name age and residence?

Answer. My name is George L. Herring, my age 29 years, my residence in Yolo County, California

2<sup>d</sup> Question

Were you present at the sale of what is called Harbins grants claimed by James M. Harbin et al on Jesus Maria river or Cache Creek in Yolo County if yes, state when and where it was, by whom and by what authority was it sold, how many and who were present

Answer. I was present at said sale, it took place at the Virginia Ranch in Cache Creek in the latter part of June 1851. It was sold by Major Cooper as Administrator of Thomas M. Harbin deceased I think there were some 25 persons present

present), Thomas Cochran, William Ham-mock, John G. Parish, Tyler, John Lewis McCauley, James M. Hartin, Bryant, Thomas Price, W. G. Hunt, Bryant Hunt Hopkins Work, O. P. Boggs, John Anderson, James Overton, Dudley Overton, John Boggs, Story and some others I do not now recollect their names,

### P<sup>o</sup> Question

Did Captain make a statement upon opening the sale if yes what was it?

Answer. He made a statement in which he said that he had concluded to sell the land there, he said it was advertised to be sold at Fremont but that as the larger portion of the settlement was up there he would sell it there he said the Estate owed either \$500 or \$300, and that if any one would bid that he would any the bid. He said there were six leagues of land in the tract.

### H<sup>o</sup> Question

Did you see the notice of sale, and converse with any of the pur-chasers about it, if yes what did the notice contain and what conversation had you about it?

Answer. I saw the Notice and do not remember its contents. I had conversation with Capt. Tyler one of the persons interested in Hartins bid, about the notice, I told him I thought the sale would be illegal as it was not held at the place advertised, and he said they (I suppose he meant Hartin, etc) Parish

and

and himself the persons who were interested in Harbin did had made it all right that they had paid money to make it right, I think it was several thousand dollars this is about the substance of what passed between us on that subject,

*5<sup>th</sup> Question*

360 ND  
PAGE 106

Now go on and state the particulars of the sale as they transpired.

Answer. After Cooper made the statement I mentioned Harbin bid the sum which Cooper said the Estate owed the particular sum I do not know, though it was either \$5000 or 5500 then said Bryant bid \$500 over Harbin Then Tyler and Price called Bryant aside. Cooper stopped carrying the sale a few minutes and after they consulted together they returned and the sale went on Harbin bid \$500 over Bryant's bid and the property was then struck off to Harbin Bryant made no bid after his first one Tyler spoke to me before he called Bryant off and said Bryant must be stopped from bidding and then he spoke to Price and they called Bryant aside. Tyler then told me they had agreed to pay Bryant \$200 and some expenses he had incurred in coming thru the repair of a buggy & Sand in that way had brought him off. The persons interested in Harbin bid were all present and saw all that transpired

The foregoing questions and answers were objected to by Mr. Peachy the Plaintiff's Counsel when they were respectively propounded and given as irrelevant and incompetent, informal and illegal —

114

Cross examined by Claimant's Counsel  
D'Quistion

Have you any interest  
in defeating the rights of the Claimants in this  
Case to the land in question Do you claim  
any interest, right or title to any portion  
of this land, if you state from whom you  
derived your title, or in what your claim  
consists

Answer, Whatever interest I have con-  
sists in this I have settled on the land as  
Government land and wish to secure a Pre-  
-emption under the laws of Congress I have  
purchased from no one and claim no other  
title or right than that of a pre-emption I  
suppose my interest in this respect would be  
affected by the result of this claim

D'Quistion Are you acquainted  
with Baird P. Diggs who yesterday made  
his deposition in this Case, if you answer  
the foregoing question in relation to his interest  
in the same claim

Answer, I am acquainted  
with Diggs He was among the earliest settlers  
on the land, lives on the land claimed, the  
same as I do as a settler and with a view  
to obtaining a Pre-emption I know of no  
other title or claim he has

(Signed)

Geo. L. Herring

Subscribed and Sworn to  
before me on this 8<sup>th</sup> day of  
November A.D. 1854

(Signed) Peter Lovt Compt

Filed in Office Nov. 9<sup>th</sup> 1854

(Signed) Geo. Fisher

United States of America  
State of California

San Francisco Feby 24<sup>th</sup> 1855

Depositions  
of  
William McDaniel

360 ND  
PAGE 108

This day came before Peter Loti Commissioner  
for taking testimony to be used before the Board  
of U. S Land Commission in said State William  
McDaniel a witness on behalf of the United States  
in Case No 261 on the docket of said Board  
wherein James M. Hartman et al are claimants  
and said witness being sworn deposed as  
follows.

Mr Peachy appears for claimants  
Questions by U. S Law Agent  
Question

What is your name age  
and residence?

Answer. William McDaniel  
my age 54 years my residence Solano County  
California

2<sup>d</sup> Question

In the proceedings in  
the Probate Court in Solano County in the  
matter of the Estate of Thomas Hardy deceased  
an account appears rendered by you against  
said Estab. State when and how said account  
accrued.

(2<sup>d</sup> question objected to by claimant Carruth)

Answer About February in  
1850 I had a conversation with Major Stephen  
Cooper at Benicia and learned from him that  
he was the Administrator of said Hardy's Estate  
He told me there was a valuable tract of land  
and a great deal of stock and personal chattels  
which were going to waste and getting scattered  
He expressed his inability to attend to this pro-  
perty

party in person and requested me to go and hunt up the property, the title papers &c I accordingly proceeded up to Yolo County some sixty miles from Benicia. I found a portion of the stock in the hands of ~~another~~ other persons, and that it would cost more than it was worth to go to law about it I then proceeded to Sutterville, where I understood I might find the title papers of the land, but I failed to get them and then travelled to Monterey to examine the Archives I incurred money expenses on this business to the amount of somewhere about \$500, and I charged also \$500 for my services and for this rendered my account against said Estate, which was approved and allowed by said Probate Court of Solano County.

P. Question

How much of the stock did you find and in whose hands.

(P. Question objected to by Claimants Counsel)

Answer I do not recollect now any other than 1 York of oxen, which were in the hands of a German named Swardt, who claimed that he held them for money which Hardy owed him I understood there were a good many horses about there which belonged to Hardy, but I never saw them

(Signed) W<sup>m</sup> McDaniel

Subscribed and sworn to  
before me on this 21<sup>st</sup> day  
of February A.D. 1853

(Signed) Peter Lott Comml

Filed in Office February 26<sup>th</sup> 1853

(Signed) Geo. Fisher  
Secy

United States of America  
State of California

San Francisco March 21<sup>st</sup> 1855

Deposition

of

Henry L. Ford

360 ND

PAGE 110

This day came before Peter Long Commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State, Henry L. Ford, a Witness on behalf of the Claimant, A. M. Martin et al in Case No 261 in the Doctor and being sworn deposed as follows.

Questions by Mr. Peachy Attorney for Claimant  
The U. S. Law Agent present  
1<sup>st</sup> Question

What is your name age  
and place of residence?

Answer. My name is Henry L. Ford, my age 31 years and I reside in Colusa County California

2<sup>d</sup> Question

Please state whether you  
are acquainted with the land claimed in this case.  
Whether you were acquainted with the late Thomas  
Hardy - whether said Hardy ever lived upon  
occupied or cultivated the said land or any part  
of it - whether he had any stock on the land, and  
if you state where he lived on it and generally  
every thing you know relating to the matter referred  
to in this question.

Answer. I know the land claimed  
in this case - I became acquainted with the late  
Thomas Hardy in July 1844, he was living on  
the Sacramento River at the time a little below  
Fremont. I was travelling from Cache Creek to  
New Helvetia and stopped over night at his  
house. His house was built of willow poles or  
Cottonwood

cottonwood and covered with tile. He had a corral, and a small patch of melons. I saw some horses and some few tame cattle. I afterwards stopped at his Ranch in November 1845. He was still living at the same place. In the Spring of 1846 he was still living there and I saw him there several times. The place where he lived in 1844 is opposite the mouth of the Feather river and the land was claimed by him.

360 ND  
PAGE 111

Cross examined by U. S. Law Agent.

P<sup>t</sup> Question

When did you arrive in California and where did you reside the first four years thereafter

Answer. I arrived in California in Sept. 1842, and I arrived part of the time in San Jose and part of the time in Santa Cruz, in the Spring of 1844. I went to New Helvetia, and was in that vicinity to the 1<sup>st</sup> of September of that year. I then returned to Santa Cruz in the Spring of 1845. I went again to New Helvetia and remained there till June or July of the same year. I then returned to San Jose for a drove of cattle which I afterwards took to the head of the Sacramento Valley.

P<sup>t</sup> Question

In what were you employed in New Helvetia in the year of 1844,

Answer. I was engaged in hunting deer part of the time on the East side part of the time on West side of the Sacramento and part of the time on Cache Creek.

P<sup>t</sup> Question. Where were you in the

360 ND

in the month of September of that year.

Answer. I left the Fort some time in September. I do not recollect the precise date. You saw Rose.

4<sup>th</sup> Question

Where were you in May of that year?

Answer. As far as my recollection serves, I was encamped on the East side of the Sacramento between the American and Feather Rivers - about two miles from the Sacramento.

5<sup>th</sup> Question

Where were your head quarters in the month of July 1841?

Answer. My head quarters were at the Fort. I was hunting for deer for the skins, which I brought to the Fort and sold. The custom of Foreigners who were engaged in hunting was to make the Fort their head quarters from which we would start out on a hunt, after we had got a load of skins we returned.

6<sup>th</sup> Question

What time in July did you see Hardy on his Ranch.

Answer. I think it was about the middle of the month - the 15<sup>th</sup> or 20<sup>th</sup>.

7<sup>th</sup> Question

How are you enabled to fix that date?

Answer. I do not fix it positively. I was at the Fort on the 4<sup>th</sup> and I left soon after on a hunt and it was on the return from this hunt that I stopped there.

120

8<sup>th</sup> Question

How long were you usually absent on these hunts.

Answer From two to three weeks, occasionally they extended to four.

360 ND  
PAGE 113

9<sup>th</sup> Question

Where did you first become acquainted with Hardy

Answer At his house or shanty on the West Bank of the Sacramento river

10<sup>th</sup> Question

Where did you encamp the night before you first saw him

Answer I think it was the night before we encamped at the house of William Gordon in Cache creek, distant about 18 or 20 miles

11<sup>th</sup> Question

Where did you encamp the night after you saw Hardy

Answer On the West Bank of the Sacramento opposite Sacramento City at the point where the town of Washington now stands, about 25 or 30 miles by the line of travel from Hardys.

12<sup>th</sup> Question

Who were with you during that day's travel and how did you travel

Answer There was a man by the name of Merritt, and one by the name of John Myers, and we travelled on horse back airing pack mules —

13<sup>rd</sup> Question

Where are those two men  
Answer. Merritt is dead. Myers  
I understand was at Saer Lake with a drove  
of cattle and expected to be in this spring.  
He went to the States after cattle a year ago  
last fall. His residence is at Stone Creek  
in Coloma County. He resided there before  
he left for the States.

14<sup>th</sup> Question

Did you in the year  
1844, know Thomas Shaddow, George Davis  
John Haines and where did they reside?

Answer. I knew them. Shaddow  
resided with his family on the Bank of the  
Sacramento River above the place where  
the town of Folsom now is. I knew Davis  
to be at work at the Fort and John Haines  
was at work at the Fort as Carpenter  
as part of that year.

15<sup>th</sup> Question

How far from Hardy's  
hut and in what direction was the place  
where Shaddow resided?

Answer. To the best of my  
recollection it must have been two miles  
and a half or three miles the way the road  
now. The direction was north of West.

16<sup>th</sup> Question

How was the hut  
in which you saw Hardy live distinguished  
from the Indian huts in the immediate  
vicinity?

Answer. It was built - entirely different from any Indian huts in that vicinity. The shape was different - and it was larger than the Indian huts in the vicinity. The house of Hardy was built with poles stuck up in the form of a circle and the roof came down upon it - in a circular form also but with a much higher pitch. I saw in the house a fine chest of carpenters tools - Some of the Indian huts in that vicinity were formed of poles in the same way but were covered with dirt - some of them with little grain what I have since learned I did not know much of their construction then.

14<sup>th</sup> Question

Were you acquainted with the Indian huts about Nicolas American Fort and Knight Landing if yea were they not better huts than the one in which Hardy lived

Answer. At Knight landing I noticed an Indian Rancharia but I never went inside of their huts and could not tell much of their construction, the huts in the American Fort were built of the same material, but whether they were as good or not I cannot say as I never examined them very closely. On Feather River near the place where Nicolas now is, there was a Rancharia the huts were built of the same materials I think of pine and sticks, but never examined them closely and cannot tell whether they were better or worse than Hardys. I think they were built in the same shape but I am not positive.

18<sup>th</sup> Question

How long did you stay at Hardys at the time you speak of stopping there in 1844?

Answer. We arrived there in the evening I do not remember the precise time and left the next morning.

360 ND  
PAGE 116

19<sup>th</sup> Question

Did Hardy go with you in your expedition to assist Michellina if you where did he reside before that time and how was he engaged?

Answer. He went with us in that expedition. The only time I saw him prior to the Expedition was as I have before stated at his house on the Sacramento River and I do not know how he was engaged during the summer of that year I think it was in November of 1844 that the Expedition left the Fort.

(Signed)

Henry L Ford

Subscribed and sworn to  
before me on this 21<sup>st</sup> day  
of March AD 1855

(Signed)

Peter Lou

Commissioner

Filed in Office March 21<sup>st</sup> 1855.

(Signed)

Geo Fisher  
D. C.

124

290

125-

No 261

James, M. Martin et al Claimants  
Before the U.S. Land Commission

Notice

360 ND

PAGE 117

To Messrs. Hale & Pecky & Billings  
Gentlemen

Take notice that on the 26<sup>th</sup>  
day of February A.D. 1855 at the hour of  
10 A.M. or as soon thereafter as the Matter  
can be reached before a proper Commission  
at the Court Room of the Commission I  
shall proceed to take the Deposition of  
George Davis and John Maynes to be  
read in evidence on the trial of the above  
entitled case in the Court of the United  
States.

Respectfully  
A. H. McLane  
U.S. Law Agent

True copy of the above notice  
February 24, 1855.

(Signed)

Hale & Pecky & Billings  
By D. Northrop

United States, of America  
State of California ss.

San Francisco February 26<sup>th</sup> 1855

Deposition  
of  
George Davis.  
360 ND  
PAGE 118

This day came before Peter Lott Commissioner for taking testimony to be used before the Board of U.S. Land Commission in said State George Davis, a Witness on behalf of the U.S. in Case No 261 on the Docket of said Board wherein James M. Martin et al are Claimants and said Witness being sworn deposed as follows

Claimants Counsel notified and not attending  
(No unsworn notice)

Questions by U.S. Law Agent

1<sup>st</sup> Question

What is your name age  
and residence?

Answer My name is George Davis  
my age 35 years, my residence in Santa Cruz Co  
California

2<sup>d</sup> Question

When did you come  
to California, and where have you resided  
in this state?

Answer I came to California  
June 15<sup>th</sup> 1843. I settled about a mile from  
Cache Creek, on land which is claimed in this  
case. I stayed there till June 1844. I then  
moved to the bend of Feather river about one  
mile from its mouth on what is called the  
mount. I lived there till about the last of  
May 1845. after that I moved up to William  
Gordon's on Cache Creek.

3<sup>d</sup> Question

Were

127

Were you acquainted with Thomas Hardsy the original claimant in this case, if yes state when where and under what circumstances you first knew him and what subsequent knowledge you had of him.

Answer I first knew him in the fall of 1843, where I first lived in Cache Creek. He came up there and remained a few days to look at the country, we went around and shaved him the land there, and I knew him after that very well till 1846.

#### 4<sup>th</sup> Question

State if you know when he first went to the land claimed in this case and how you fix the time, and your reasons for saying that was his first visit to it.

Answer The first time he went to these lands was as I said in the fall of 1843 I will explain how I think so. One Thomas A Shaddow and myself had moved in from Oregon and settled with our families on this land, we built us each a house, about 100 yards apart and were living there when said Hardsy came there a stranger in the country, and asked us to ride round with him and show him the country. I am satisfied he had never seen it before from his entire ignorance of the localities at that time. I know the time from the recollection of the time of our settling and building there.

#### 5<sup>th</sup> Question

What did Hardsy do in said place within the year next after he first went there, give your means of knowledge.

Answer. Hardy did nothing on the land in question during the year 1843 after his first visit there I lived on the land and he was not about there at all. he came there some time in May 1845, I was living in the house which Shaddow built in the fall of 1844 my child was born there September 1<sup>st</sup> of that year. When I moved out in May 1845 and went Mr. Grelon's on Cache Creek Hardy took possession of the house. He never spent many hours in the place himself, but he never stayed much there not more than one or two nights at a time. He was a carpenter by trade and was going about over the country. He never occupied any other house than this one which Shaddow built in 1844 and which I lived in up to the time Hardy came to take possession of it.

### Q<sup>st</sup> Question

Did Hardy ever cultivate any land near the Sacramento river on its West side near the mouth of Feather river in the years 1843 and 1844 and could he have cultivated a field or had an enclosure at that point without your knowing it?

Answer. He cultivated no land there nor had he any enclosure there during those years. He sowed some garden seeds at the mouth of Feather river in the spring of 1845 but they never came to anything.

### Q<sup>nd</sup> Question

What property had Hardy on the premises claimed in this case state.

129

state particularly as to stock and all personal property, and whether he ever occupied said land as ranch for cattle or cultivation and if yes to what extent.

Answer. Mr. Hardy never had any property on that land except a Horse and Saddle, till the Spring of 1845 there was a York of cattle brought there by him, but there was no cattle for them to run with, and they soon strayed away and were lost, he never farmed the place nor had any stock grazing there. He had no family in the Country and roamed around the Country as a Carpenter. The house at which he stopped, on his visit to the place was generally shut up and uninhabited.

(Signed) Geo. Davis

Subscribed and sworn to  
on this 26<sup>th</sup> day of February  
A.D. 1855. (Signed)

Peter Lou  
Commissioner

Filed in Office February 26<sup>th</sup> 1855

(Signed) Geo: Fisher  
Geo: Fisher  
Ses

130

152  
220

131

United States of America  
State of California  
San Francisco Feby 26<sup>th</sup> 1855

Deposition  
of  
John Haines

360 ND  
PAGE 122

This day came before Peter Gott Commissioner for taking testimony to be used before the Board of U. S. Land Commission in said State, John Haines a witness in behalf of the United States in cause No. 961 on the docket of said Board wherein James M. Martin et al are claimants and said witness being duly sworn deposed as follows:

Claimants named notified and not attending

Questions by U. S. Law Agent

1<sup>st</sup> Question

What is your name age & residence?

Answer. My name is John Haines my age 40 years my residence in Santa Cruz County California.

2<sup>nd</sup> Question

When did you come to California and where have you resided in this State

Answer. I came to California in May 1843. I lived first in Bodega about 3 months and then went to work for Capt. Sutter at the Fort. I worked for him off and on, something like 3 months. I went up to the Sacramento for him for some saw logs. When I quit him I moved down about the San Jose Mission, in the Spring of 1844. From there I went to Santa Cruz in the summer of 1845. I have lived in Santa Cruz County principally since that time.

3<sup>d</sup> Question

Were you acquainted with Thomas Hardy the original claimant in this case, if yes, state where and under what circumstances you first knew him and what subsequent knowledge you had of him.

360 ND  
PAGE 123

Answer. The year I recollect of seeing said Hardy was some time in 1844 I met with him at Sutter's Fort he told me he lived in Sonoma he used to work about the country as a Carpenter, and after that I understood he used to run a launch on the river.

4<sup>th</sup> Question

State if you know when he first went to the land claimed in this case? How you know the time and why you think it the first of his going there?

Answer. I have no personal knowledge whatever of said Hardy's being or not being on said land at any time prior to 1844 so I know when he first went there. I have heard my father Mr. Newell Shaddon who now lives in Oregon, in 1844 say that Hardy was going to take possession of the house which Mr. (Shaddon) built. Shaddon moved from said house in the fall of that year and I understand Hardy took possession of said house then.

5<sup>th</sup> Question

What did said Hardy do on the place within one year after the first went there give your means of knowledge?

280 157

360 ND  
PAGE 124

Answer I cannot say what Hardy did there, I will state all I know about it. In the years 1843 and 1844 I was on the habit of visiting the house of said Shaddow on the land claimed in this case, I was a carpenter and joiner and millwright. I used to spend several days at a time at Shaddows. In the winter of 1843-4 I afterwards in 1845 married said Shaddows daughter, But I never saw said Hardy on said land or about there to my knowledge nor did I ever see any improvement or cultivation going on there except such as George Davis and said Shaddow made, I was pretty much all over the place and never saw any stock there of P Hardys except once there was an ox which I think they said was his. I used to hunt a good deal on the land and pass back and forth over it on my routes there, and there is no cultivation, improvement or occupancy or stock except those of Davis and Shaddow I think I recollect seeing some little garden near the mouth of Father river in 1843 but I do not know whose it was.

(Signed) John Hamer

Subscribed and sworn to  
before me on this 26<sup>th</sup>  
day of February A.D. 1855

(Signed) Peter Lyon

Administrator

Filed in Office February 26<sup>th</sup> 1855

(Signed) Geo. Fisher

Seal

134

135  
800 AD

United States of America  
State of California

Deposition  
of  
James Spect

360 ND  
PAGE 125

San Francisco March 22 1855

This day came before Peter Potts Commissioner for taking testimony to be used before the Board of U. S. Land Commission in said State James Spect, a witness in behalf of the United States in Case No 261 on the Books of said Board wherein James M. Harbin et al are claimants, and said witness being sworn deposed as follows:

Mr. Peachy appears for claimants.

Questions by U. S. Law Agent.

1 Question

What is your name age and residence?

Answer. My name is James Spect my age 37 years, my residence in Sutter County California

2 Question

Are you acquainted with the claimants and the land claimed in this Case if yes how long and how intimately have you known them?

Answer. I am acquainted with James M. Harbin, Gen. Estee, J. G. Parish George Tyler, and one Hopper who claimed this land, and I am well acquainted with the land I have known Harbin since 1848. And the others since 1851 and the land since 1848.

3<sup>d</sup> Question

Did you ever see Thomas Hardy the original grantee in this Case, in the land now claimed by your State when you first saw him there about how often, and what improvement or stock he had there when you knew him,

(3<sup>d</sup> Question and answer objected to by claimants Counsel)

Answer, I never saw him on the land claimed. In the winter of 1848 I think it was, I was over the best part of this land hunting my horse the land is level and I could see the most of it. The improvement I saw was a little hut made by the Indians mark them at the mouth of Feather River. There was a small chase about two miles West of Feather river, and near it the ruins of a house which had been burned down known as Shaddows house, at that time there were 20 & 4 head of horses, In about a month afterwards I passed there and the horses were gone. I suppose they were strayed. There were four posts planed in the ground and 4 timbers laid on them at the mouth of Feather River.

4<sup>th</sup> Question

Did that hut belong to Hardy  
(4<sup>th</sup> Question and answer objected to by claimants)

Answer, It was generally reported to be Hardys residence. I myself do not know. I was there several times in the summer of 1848 never saw Hardy there.

5<sup>th</sup> Question

5<sup>th</sup> Question

Describe that hut and state who built it?

Answer. The hut was in the form of a Bee hive, made of small willow poles stuck in the ground and bent together at the top with small willow sticks bound round them and twine tied on for covering, it was not more than 10, or 12 feet in diameter. It was just such a house as the Indians used to build though they sometimes made them much larger. I do not know who built it except from report I understand that an Indian claimed it as his own and that he built it and the other Indians who had a Rancheria just above there, all confirmed the Indians statement.

6<sup>th</sup> Question

Was you present at the sale of this land made by Mr. Cooper, as Administrator under which this claim is prosecuted, and did you have any conversation with said Cooper or either of the purchasers in regard to the claim or sale at that time or afterwards, if yes, what was the purpose of such conversation? and was there any notice of that sale, if yes what were its contents?

6<sup>th</sup> Question, and Answer objected to by claimant, calls for hearsay.

Answer. I was present at said Sale & talked with Cooper before the sale he told me he was going to sell land East of Gordon line a league and a half wide and enough to make six leagues, that it did not cover

cover the land I claimed as a settler, that he did not sell at Fremont (as I understand he would) because it was not on his land I saw the notice of the sale I think he gave notice of the sale to be at Fremont on the premises but I am not positive.

360 ND  
PAGE 128

7<sup>th</sup> Question

Did you ever survey the land claimed in this case if you upon what data and make now a sketch of the ranch showing its position in regard to the rivers.

Answer. I made a survey in the latter part of October or early in November 1854. I had what purported to be the original grant to Hardy, and a copy of the map purporting to be in file, accompanying Hardy's petition. I cannot make a map or sketch of the land to be recorded with any definiteness without a scale and instruments.

8<sup>th</sup> Question

What was the general reputation of the extent of Hardy claim among the old residents in that vicinity, state whether the Ranche would reach the Sacramento river falling Gullas East for Hardy's line.

(8<sup>th</sup> Question objected to by Clementine Cawel)

Answer. The general understanding was that it would only reach to the Tuolumne 3 miles from the river.

9<sup>th</sup> Question. State the particulars of said sale

158  
220

sale made by Cooper?

Answer Cooper stated at the sale that there were demands against Marays Estate and that he was obliged to sell the land to pay them I do not think of any others except such as I have already stated?

360 ND  
PAGE 129

Cross-examined by Mr Peachy for  
Claimants.

1<sup>st</sup> Question

Did you lay claim to any portion of the land claimed in this case if you by what title, how much, and what portion of it have you in your possession?  
Answer I do not claim any of it

2<sup>nd</sup> Question

Have you any interest in defeating the present claim in this case?

Answer I have no direct interest I feel interested in behalf of the settlers

3<sup>rd</sup> Question

When did said Hardy die?

Answer In the latter part of 1828 I think on October

4<sup>th</sup> Question

When did you first squat upon this property?

Answer In the latter part of March 1849

5<sup>th</sup> Question How much land did you attempt

attempted to appropriate to yourself?

Answer. I and my partner Thomas Martin claimed about 230 acres.

360 ND

PAGE 130

6<sup>th</sup> Question

When did you lay off the city of Fremont, was it ever surveyed and laid off in lots?

Answer. I laid it off early in August 1849. It was surveyed and laid off in lots at that time by myself with assistance.

7<sup>th</sup> Question

How much land did that City Survey embrace?

Answer. About 230 acres, all I claimed to have an interest in.

8<sup>th</sup> Question

Did you ever sell any lots in Fremont?

Answer. I did.

9<sup>th</sup> Question

How many lots were there in your survey?

Answer. There were 100 blocks 12 lots each, the lots 60 feet by 120 feet.

10<sup>th</sup> Question

Did you sell any of those lots in 1849?

Answer. Yes.

11<sup>th</sup> Question

How much did you sell for?

132  
260

144

Answer. I sold lots for prices varying from 400 dollars down to 1 dollar, we gave away more than we sold, the dollar lots were gift lots I sold to 75 or 100 different people and gave away together.

360 ND  
PAGE 131

12<sup>th</sup> Question

Did you ever give warranty deeds for those lots?

Answer. I think the deeds nearly all contained covenant of general warranty except as against the United States.

13<sup>th</sup> Question

How much money did you receive for those Fremont Lots?

Answer. I received some 6 or 8 thousand dollars, though the whole price for which I sold was some thirty or forty thousand dollars, none of which was paid except the 6 or 8 thousand.

14<sup>th</sup> Question

Did you ever receive an offer for your whole interest there?

Answer. I never did. In 1832 I sold my whole interest in two sales, one half at each sale.

15<sup>th</sup> Question

What could you have sold your entire interest there for when you first settled there?

Answer. I could have sold it for 150 thousand dollars or credit.

16<sup>th</sup> Question

What would you have taken in cash if you at that time

Answer, I would not have taken 150 thousand dollars in cash

360 ND  
PAGE 132

17<sup>th</sup> Question

Do you not know you are liable upon your warranty in those deeds in case this claim should be sustained?

Answer, I know I would be liable but I do not expect to be able to pay any of them.

18<sup>th</sup> Question

Was that your reason for saying that you have no interest in defeating this claim.

Answer, I was not thinking of those deeds when I made that statement & was only thinking of my having no interest in the land but I now state that I feel no interest in defeating this claim in account of those deeds the purchasers under them have deserted me and I feel no moral obligation to pay them in case this claim should be sustained and I could not pay if they were to come up to me for them.

19<sup>th</sup> Question

Are there any persons settled on this Rancho in whom you feel an interest regarding the defeat of this claim?

Answer, There are several persons settled on it in whom I feel an interest that would induce me to wish to see this claim defeated.

REC  
200 100

Re-examined by The United States  
Law Agent.  
1<sup>st</sup> Question

Have you ever seen a Petition  
of said Thomas. Hardy to the Governor of California  
asking for an augmentation of his former rancho on  
the West side of Sacramento river, opposite the  
mouth of Feather river if yes in whose hands  
and among what papers was it and what  
was its date and substance

Answ. I saw such a petition  
in the hands of P. M. Leavenworth he had it among  
other papers of Hardy. That was there in San  
Francisco in 1851 & 1852. It was dated I think  
in 1845, and asked the Governor for a leagues  
of land on the West side of Sacramento river  
opposite the mouth of Feather River to join his  
leagues grant in Cache Creek.

(Signed) Amos. Steel

Mr Peckley as Counsel for  
Claimants objects to the whole  
of the foregoing deposition being  
read in evidence in this case on  
the ground of the interest of the witness  
in the event of the claim rendering  
him incompetent

Peter Loty Commr  
Subscribed and Sworn to  
before me as this 2<sup>d</sup> day  
of March AD 1855

(Signed) Peter Loty Commr

Titled in Office March 27 1855

(Signed) Geo. Fisher

144

13  
220

United States of America  
State of California

Deposition  
of  
Geo. Patterson

360 ND  
PAGE 134

San Francisco March 23<sup>rd</sup> 1833

This day come before Peter Potts Commissioner for taking testimony to be used before the Board of U.S. Land Commissioners in said State George Patterson, as witness on behalf of the United States in Case No 261 on the Docket of said Board and in which James M. Hartke et al are claimants and said witness being duly sworn deposed as follows

Mr. Peachy appears for claimants

Question by U.S. Law Agent.

1<sup>st</sup> Question What is your name age and residence  
Answer My name is George Patterson my age 42 years my residence in San Francisco County California I have lived in the City of San Francisco ever since 1833

2<sup>nd</sup> Question

Were you acquainted with Thomas Hardy the original grantee in this case if so where did you first know him

Answer I knew Thomas Hardy tho I never knew that he had a grant of land I first knew him here in San Francisco it was in 1843 or 1844

3<sup>rd</sup> Question

Where did he then reside and what was he employed in?

Answer I understood that he was at work

at work for Genl Vallejo in Sonoma

4<sup>th</sup> Question

Did you ever see the said  
Hardy on the West side of the Sacramento  
river near Cache Creek if yes what was  
it.

Answer I saw him in the house of a  
man of the name of Davidson about the middle  
of the year 1844, that house was on Cache  
Creek. Hardy had there two chests of tools  
and some lying about on the floor and some  
chests stuck up in the house.

5<sup>th</sup> Question

Had Hardy any improvements  
about said house or any cultivation or stock  
in that vicinity, and had you then any con-  
versation with Hardy about his property, if  
yes what was it?

Answer I never saw any improvements  
cultivation or stock of Hardy about there, and  
I had no conversation with him then about his  
property.

6<sup>th</sup> Question

What did you ask him for  
and what was his reply?

Answer I asked him for a drink  
of milk. He replied that he had none for  
he was too poor.

7<sup>th</sup> Question

In the year 1844 or did you pass  
along the West side of the Sacramento river  
opposite and below the mouth of Feather river

if you know often, and state whether there could  
have been a house and cultivation there  
without your knowing it?

Answer,

I passed along there once  
in 1844, I saw no house and cultivation  
there, and if there had been, I must have  
known it. There was an Indian trail there.

(Signed) George C. Patterson  
March

Subscribed and sworn to  
before me on this 22<sup>d</sup> day  
of March A.D. 1855

(Signed) Peter Pennoom

Filed in Office March 27. 1855

(Signed) Geo. Fisher

3<sup>sc</sup>

146

180 731  
280

United States Land Commission  
San Francisco May 9<sup>th</sup> 1855

Deposition  
of  
S. C. Hastings

360 ND  
PAGE 137

On this day before Comm<sup>r</sup> R. Aug. Thompson  
came S. C. Hastings, a Witness on behalf of the  
United States in Case No 261 wherein James  
M. Harbin & al, are Claimants, who after  
being duly sworn deposed as follows,

Mr Peachy appears for Claimants  
Questions by M. S. Law Agent

1<sup>o</sup> Question

What is your name age and place  
of residence?

Answer. My name is S. C. Hastings  
my age 40 years and I reside in Benicia

2<sup>o</sup> Question

Where did you reside in the year  
1849 and 1850

Answer In 1849 I resided in Sac-  
ramento City. In 1850 I resided in San  
Francisco, Sacramento City and Benicia

3<sup>o</sup> Question Are you acquainted with the Clai-  
mants in this case if yes how long have you  
known each?

Answer, I am acquainted with  
the Claimants. I have known Mr. Harbin  
since 1849 or 1850 Estee since he has been  
in the Country. The others I barely know by  
sight Mr. Hopper I believe is dead

4<sup>o</sup> Question Do you know anything of the sale  
of the

of the ranch claimed by the Administrator  
Answer. I know of it only by hearsay

3<sup>rd</sup> Question

What notice of such sale was given?

Answer. I do not know,

(Objected to by Cleman's Counsel)

4<sup>th</sup> Question

Did you go to Yolo County at the time said sale was to be made with a view to purchase the land if you state who went with you and the reason why you were prevented from purchasing

(Objected to by Cleman's Counsel)

Answer. I went to Yolo County for the purpose mentioned I believe Mr. Mizer, Mr. Lee also. The only reason why I did not purchase was that the sale did not take place at the place we went to

(Objected to by Cleman's Counsel)

5<sup>th</sup> Question

Upon what information did you act in trying to find the place of sale?

Answer. Upon what Mr. Mizer, or Mr. Lee told me. They told me that the sale would be coming off at Fremont. I think it was upon this information and I cannot be positive about it.

6<sup>th</sup> Question

Did you ever have any conversation with the Administrator or with either of the Clemans as to the reasons why the sale did not take place at Fremont?

149

Answer, I do not recollect having any conversation with either of them on that subject.

Q<sup>th</sup> Question

Objected to  
by Plaintiff's  
Counsel.

360 ND  
PAGE 139

Did you ever inform Genl. Estell or any other person that you intended to bid at the sale and that you knew of the illegality attending the sale which would invalidate it if yes what were the irregularities meant by you.  
(Objected to by Plaintiff's Counsel)

Answer, I think I mentioned to several persons - perhaps to Genl. Estell that I did intend to bid at the sale, and that I understood that there were some irregularities about the sale, I cannot say that I know what those irregularities were, I only heard what they were. The irregularities were understood to be about the notice but I do not know that there were any.

The Counsel for the Plaintiff decline asking any Cross Interrogatories

(Signed) S. C. Hastings

Swear to and Subscribed  
before me this 9<sup>th</sup> May A.D. 1855

(Signed) R. Aug. Thompson  
Notary

Served in Office May 9<sup>th</sup> 1855

(Signed) Geo. Fisher  
S. C. Hastings

157

158  
pen

United States of America  
State of California

San Francisco May 13<sup>th</sup> 1855

Deposition  
of  
Loring B. Mynor

(On this day before Commissioner sitting  
as at Board, came Loring B. Mynor a witness  
in behalf of the United States in case No 261  
who after being duly sworn deposed as follows,

360 ND  
PAGE 140

H. C. Peetley Esq: Counsel

Questions by the Law Agent

1<sup>st</sup> Question

What is your name age and place of  
residence?

Answer. My name is Loring B. Mynor  
my age 27 years and I reside at Benicia Cal  
iformia

2<sup>d</sup> Question

How long have you lived at Benicia  
in Solano County

Answer. Six years within three or four  
days.

3<sup>rd</sup> Question

Do you know anything of the pro-  
ceedings connected with the sale of the Rancho  
claimed in this case by the Administrator, if you  
state who instituted the proceedings and for what  
purpose, also what part did James M. Martin  
and A. M. Estell take in the proceedings

Answer. I know the Rancho in question  
and was present at the confirmation of the sale  
by the Probate Judge of Solano County, James  
M. Martin and James M. Estell appeared there  
at the time of the said confirmation as purchasers  
at a

at a sale which had previously been made by Mr Stephen Cooper as Administrator - I was not present at the sale - I understood from Estell I think a few days after said sale that Mr Hartwood, Tyler, Parrott, and others had purchased the Pantho at the said sale for the sum of \$6000. 00 -

Mr Peachy objects to 3<sup>d</sup> Question and answer

#### 4<sup>th</sup> Question

What notice was given of the sale,  
(Mr Peachy objects to 4<sup>th</sup> Question)

Answer I cannot swear that I ever saw any written notice of the said sale,

#### 5<sup>th</sup> Question

Were you present at the sale or did you try to find the place of sale, if you state what precaution you took to find the place

Answer, I have already stated that I was not present at the sale, I understood from the current rumor that the sale was to take place at Tremont and went to Tremont for the purpose of attending the sale in company with Mr Pe, and Judge Sterling - upon arriving there we learned that the sale was to take place some fifteen miles from Tremont I believe at the place called the Virginia Pantho, situated in what I supposed to be the Hardy Pantho I did not suppose that Tremont was in this Pantho

15<sup>th</sup> Question and answer objected to by  
(Mr Peachy)

#### 6<sup>th</sup> Question

Did you ever have a conversation with either of the claimants or the Administrator

as to

as to the sale if you, did either of them assign any reason why the sale did not take place at Fremont where the advertisement called for it?

Answer. On our return from Fremont I remember we all complained of our disappointment but I cannot say that I heard any reason assigned for the sale taking place at another place I must have heard some reasons assigned therfor but I do not now remember them

360 ND  
PAGE 142

### 7<sup>th</sup> Question

How were the debts of the Estate of Hardy contracted so far as you know  
Answer. What I know of the debts against the said Estate they partly consisted of Administrators and Lawyers fees.

### 8<sup>th</sup> Question

Do you know anything of the appointment of the Administrator, if you who made the application for such appointment

Answer. I think Stephen Cooper made the application and know that he was appointed

(Mr Pecky objects to 6<sup>th</sup> and 7<sup>th</sup> Questions  
and answer)

(Signed) G. B. Mozner

Subscribed and sworn to  
before the Commissioners  
sitting as a Board this  
15<sup>th</sup> day of May AD 1855

Attest Geo Fisher,

Filed in Office May 15 1855

(Signed) Geo. Fisher  
Secy

187

280

155-

United States of America  
State of California  
San Francisco May 13 1855

Deposition  
of  
Jacob P. Lee

360 ND  
PAGE 143

This day before the Commissioners sitting as a  
Board came Jacob P. Lee a witness in behalf  
of the United States in Case No 261 in the  
Court of the Board wherein J. M. Harbin  
et al are the claimants for the place named  
Rio de Jesus Maria who being duly sworn  
deposed as follows

Mr. Peachy appears for Claimants

Questions by Mr. S. Law, Agent

1<sup>st</sup> Question

What is your name age and place  
of residence

Answer My name is Jacob P. Lee  
my age is 46 years, and I reside in Monterey

2<sup>d</sup> Question

Are you acquainted with the land  
claimed in this case and with the original  
grantee if you state how long and under  
what circumstances you have known them

Answer I am acquainted with them  
I think it was in the year 1844 perhaps  
before that time, but I recollect in the said  
year of Mr. Hardys coming to me as a com-  
plaintant in regard to that land no account  
of a man by the name of Shaddow having  
settled on it. There was a compromise effected  
in regard to the difficulty.

3<sup>d</sup> Question Did you ever act as Moulder

under

under Mexican rule in California, if you did you ever as such Alcalde have before you an action or proceeding in relation to this land - look at the paper now shewd you and marked W. B. T. filed in this case and state if it contains a record of your proceedings as Alcalde.

360 ND  
PAGE 144

*Answer.* I have acted as Alcalde in California as aforesaid and I had before me a proceeding in relation to this land. The paper marked W. B. T. No<sup>o</sup> referred to in the above question contains the proceedings in the case. This is the original document of said proceedings and my signature appears thereon in my official capacity as aforesaid.

#### 4<sup>th</sup> Question

Are you acquainted with the signatures of Manuel Micheltorena former Governor of California, and of Manuel Jimeno his Secretary if yes state your means of knowledge and look at the said document and state whether their signatures appearing thereon are genuine.

*Answer* I am acquainted with the signatures of the persons named having seen them write and have received documents from them. Their signatures appearing on said documents are genuine.

#### 5<sup>th</sup> Question

Under the Mexican law in force in California before they were superseded by the laws of the United States, what officer was authorized to issue letters of administration to settle the estates of deceased.

*Answer*, The Alcalde as far as my knowledge extends.

*Proceeded ex parte*

157

(Question and answer objected to by  
Claimant's Counsel)

Q<sup>stn</sup> Question.

Who was the last Alcalde under the  
Mexican laws in the District of Sonora?

360 ND  
PAGE 145

Answer. In the year 1846, José Santos  
Barrera was First Alcalde and Joaquín Camilli  
was Second to the best of my recollection.

(Signed) A. P. Rose

(Mr. Peachy declines asking any question to  
witness)

Subscribed and sworn to  
before the Commissioners sitting  
as a Board this 15<sup>th</sup> day of  
May A.D. 1855

Attest Geo. Fisher  
Sccy

Signed in Office May 15<sup>th</sup> 1855

(Signed) Geo. Fisher  
Sccy

158

158

260

150

159

James M. Flurbin et al  
Claimants

Affidavit  
of  
U.S. Law Agent  
360 ND  
PAGE 146

I H. McKune say on oath that he is not as Law Agent prepared for Trial in the above entitled case because of the absence of Abner Bryan and Jonas Speet witnesses whose evidence affiant deems material in this case That affiant saw and conversed with said Speet about two weeks ago and asked him to testify in the case, but said Speet had business in Sutter Yolo County which called him away as he informed affiant, That a subpoena was therupon issued for said Speet the time of issuance and the return day thereof not recollecting by affiant and the same seems to be served but said Speet has not appeared to testify, That said Bryan has not appeared and affiant believes that the return day of said Subpoena has not yet passed That until a few days last past he did not deem it necessary to subpoena said Bryan That affiant believes the evidence of Bryan and Speet is necessary to support and strengthen the facts sworn to by Samuel Noss, That press of business and the evidence recently taken hereon have prevented the agent of the Government from being ready in this case, That affiant has received recently information from B. F. Aubrey that he would obtain further testimony tending to show that the original claimant did not build a house on the premises claimed at all which would be material to a full consideration of the facts in this case,

Affiant

160

Officer asks that this case be put to the  
foot of the third class of cases believing that  
such disposition of this motion will enable  
him to become fully prepared to submit  
the case

360 ND  
PAGE 147

(Signed)

A. H. Thompson

Swear'd and Subscribed  
before me October 31<sup>st</sup> 1851

(Signed)

R. Aug. Thompson

Filed in Office Oct 31<sup>st</sup> 1851

(Signed)

Geo Fisher

Dcy

280 281

No 261.

Same, M. Fletcher et al

Widower of  
W. S. Law, Esq.360 ND  
PAGE 148

D. H. Thompson, U. S. Law. Agent says  
on oath that he cannot safely go to trial  
at this time in the above entitled case by  
reason of the absence of a material witness for  
the Government, G. P. Miner who has been  
auly subpoenaed and has failed to attend.  
The proceedings already taken to compel  
his attendance are hereby referred to!

(Signed)

S. H. Thompson  
Sworn to and Subscribed  
this 9<sup>th</sup> day of May AD 1855

(Signed)

R. H. Thompson

Filed in Office May 9<sup>th</sup> 1855

(Signed)

Geo. Fisher



162

33  
200 40

163

No. 261. P. v. de Jesus, Maria

Offidavit  
and  
Motion  
of  
J. C. Peachy

360 ND  
PAGE 149

J. C. Peachy on oath says; that he is the Attorney of the Claimant in this case and has been so since their petition was filed before this Board. That on Saturday the 24<sup>th</sup> February last he attended before Commissioner Pitt when the deposition of Mr. McDaniels was taken by the U. S. Law Agent in behalf of the Government, and while so attending, he was informed by the said Law Agent that the Law Agent desired to take the deposition of a Mr. Davis, and the Law Agent enquired whether or not Mr. Davis should appear on that day, the Agent would be willing to take his deposition without further notice, to which the Agent assented, that Agent waited a short time after Mr. McDaniels deposition was finished and Mr. Davis not appearing, Agent returned to his Office.

And the Agent further states that after making such verbal agreement with Mr. McKinney the Agent, he expected when the said Davis was in readiness to give his testimony to receive a message from the said Law Agent notifying Agent of the fact, but received no such intimation.

That three or four days since Agent learned for the first time that the deposition of said Davis and one John Hanes had been taken in this case, and were on file therein and the Agent found annexed to the Deposition of the said John Hanes what purports to be a notice of the taking of the Deposition of the said John Hanes and the said George Davis service of which is acknowledged, or reported to be

360 ND  
PAGE 150

To be acknowledged by Halleck Peache & Billings  
by D. B. Northrop. That the said Northrop  
had no authority to sign the name of Halleck  
Peachy & Billings for any purpose, is not in  
their employment, and is no wise connected  
with them in business. That Mr. Halleck  
of the said firm has been absent from this  
state since about the fourth of January last  
that Mr. Billings of the said firm never attends  
personally to the business before this Commission  
but the same is done in Mr. Halleck's charge  
entirely by the Agent. That Agent at least  
six days after the said depositions were taken  
and not before discovered on a desk in his  
Office but not that vehicle he has lately used  
a copy of the notice aforesaid which is annexed  
to the said Deposition of John Hawes.

Agent further states that in fact he  
did not know that the Law Agent intended  
to take said depositions on the 26<sup>th</sup> ultim  
or wished to do so. But on the contrary  
he believed that the said Davis was not in  
San Francisco or that the Law Agent had  
failed to procure his attendance from the  
Law Agent not notifying Agent as he promised  
to do in the manner above stated.

Agent further says that the 26<sup>th</sup> ultim  
was Saturday. That Agent rarely if ever  
goes to his Office on Sunday to transact  
business - and that he has therefore had no  
reasonable notice of the taking of said Depo-  
sitions.

Agent further states that he has practiced  
before this Commission since it was first organ-  
ized to the present day. That he has always  
when he desired to take a deposition, sought  
out

165-

360 ND  
PAGE 151

out the U. S. Law Agent, when not present  
although he may have been duly notified  
and informed him personally of the witness  
being in attendance, and that the Law Agent  
representing such treatment have so done  
with Plaintiff and his partners. And that  
this is the first instance perhaps in a thousand  
instances where Plaintiff or his partners has  
not been notified and present at the taking  
of a witness's testimony.

Plaintiff therefore prays that the  
U. S. Law Agent may not be allowed to  
read the said pretended deposition, and  
that the same may be ruled out of the case  
and excluded therefrom.

(Signed) Archt Peache  
Officer of Plaintiff

Sworn to and Subscribed  
before me March 9<sup>th</sup> 1835

(Signed) J. A. Thompson  
Com<sup>r</sup>

Dated in Office March 9<sup>th</sup> 1835  
(Signed) Geo. Fisher  


166

son

167

Affidavit of  
James M. Estelle

360 ND  
PAGE 152

I James M. Estelle, on oath do declare as follows  
That I am one of the claimants in this case. That  
the original grant to Thomas Hardy by Governor  
McKinley referred to in the Petition was never  
in my possession, under my control or within my  
power to obtain. That I have made many inquiries  
and much diligent search for it, in the places  
and of the persons who did know where I believed  
there was a possibility of obtaining it without success.  
That I do not know where the said grant is, and  
that it is, and has ever been entirely out of my  
power to procure the same before this, State, Record.

I do further declare, that being inter-  
ested in the lands claimed in this case with John  
G. Parrot and George Tyler as their Agents  
and as tenant in common with them, my efforts  
to obtain the said original grant were made via  
them as well as myself and the other claimants.  
That John G. Parrot left the State of California  
about the month of May 1852 for the State of  
Virginia and has never returned, but as I am  
informed is still living in Virginia. That George  
Tyler has also been absent from this State since  
May 1852 and as I am informed is also residing  
in the State of Virginia. That the said Parrot  
and the said Tyler to the best of my information  
knowledge and belief, were and are utterly ignorant  
of the said original grant, as to where it is, or  
has ever been since they purchased the said land.  
That while they were in California they had fre-  
quent conversations with me, as to the best means  
of obtaining the same, and we frequently discussed  
the likelihood of obtaining it from various persons  
and we used our joint endeavours to procure  
it, but without success as I have before declared.

(Signed)

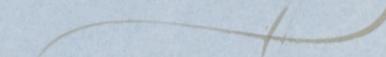
J. M. Estelle

168

Swear to and subscribed  
before me this 24<sup>th</sup> day of  
October 1854

(Signed) S. B. Fowler  


Not in Office October 24 1854

(Signed) Chas. Fisher  


360 ND  
PAGE 153

360

169

I Henry W. Halleck do declare and  
say as follows.

Affidavit  
of  
Henry W. Halleck

360 ND  
PAGE 154

That I am one of the Attorneys and  
Agents of George Tyler, John H. Hoppin and  
Charles R. Hoppin Claimants in this case in  
the management of their claim before this Board  
to a part of the land called the Rancho de Jesus  
Maria, and have known them personally since  
the early part of 1852.

That as such agent and Attorney  
I have endeavoured to obtain the original grant  
from Governor Micheltorena to Hardy referred  
to in the petition filed in this case and that I  
have used all diligence and every reasonable exertion  
to obtain the same, but without success. That I  
have never known where to obtain said grant nor  
where it is, and that I am unable to produce  
it before this Honorable Board.

And I further declare that from frequent  
conversations with the aforesaid claimants about the  
prosecution of this claim I am fully persuaded  
and verily believe that neither of the said clai-  
mants ever had said original title in his pos-  
session or know where it could be found and that  
to my certain knowledge they have made diligent  
search and inquiry for the same without being  
able to find it.

That I have been informed and believe  
that said George Tyler, is absent from this state  
and has been for more than two years and that  
said Charles R. Hoppin and John H. Hoppin  
are also absent from this place on business, and  
have not, to my knowledge been for the last six  
months

(Signed) H. W. Halleck

Sown and subscribed before

170

before me this 24<sup>th</sup> day  
of October 1854

(Signed) D. B. Penwell  
Wm. C.

360 ND  
PAGE 155

Served in Office Oct 24<sup>th</sup> 1854

(Signed) Geo. Fisher  
B. Scy C

128

128

171

Affidavit  
of  
A. C. Peachy

360 ND  
PAGE 156

I Archibald C. Peachy on oath do declare as follows. That I am the Agent and Attorney of John A. Parish one of the claimants in this case, in the management of his claim before this Board to a part of the land called the Rancho of Jesus Maria and have been such agent and Attorney since the month of December 1851. That in or about the month of May 1852 the said Parish left the State of California and went to reside in Virginia, where I am informed and believe he has ever since remained.

That as the Agent and Attorney of said Parish, I have endeavored to obtain the original grant from Governor Micheltorena to Thomas Hardy referred to in the Petition filed in this case and that I have used all diligence and every reasonable exertion to obtain the same, but without success, that I have never known where to obtain the said grant, or where or in whose possession it has been, and that I am unable to produce it before this Honorable Board.

I do further declare that from frequent conversations with the said Parish about this claim its prosecution before this Board and the evidence of title to the land, I am fully persuaded and verily believe, as I have been informed in such conversations by the said Parish, that he was never in possession of the said Original Grant and did not know where or in whose possession it was, and that while in California he made all due and diligent search and enquiry for the same as a desirable muniment of his title but without being able to find it, or to learn where it could be found. (Signed)

Filed in Office  
Oct 24<sup>th</sup> 1854

(Signed) Geo. Fisher

B.P.

Swear to and Subscribed by Arch. C. Peachy  
before me this 24<sup>th</sup> day of Oct 1854. (Signed) S. B. Farwell  
Con

172

290 MD

173

2.

A.S.D.N.

A.P. I exhibit in  
the deposition of  
Struthioes No.  
Leavenworth. Oct.

14. 1851.

360 ND  
PAGE 157

Espediente

Promovido por D<sup>r</sup> Tomás Hardy, Mexicano  
por naturalización en pretención del Río  
de  
Jesus María.

Nº 311.

174 D.R.

Sor. Comandante Militar de la frontera  
de Sonora y encargado de  
ejercer la jefes dicion civil.

Para los fines que con  
reugan al Interesado.

Certifico que el  
terreno que solicita  
es baldio y no pert  
enece a propiedad  
particular, corpor  
acion en Pueblo.

Sonora. Sept. 30 1813.  
V.º Prudon.

Comunite Accibido  
ejerciendo la  
Jefes dicion civil  
de Sonora.

Suplico se diga boceler a mi solicitud de quien  
esperare gracia y merced: garantido no ser o de  
malicia y lo necesario.

Sonora. Sept. 30 de 1813.

No. 10 en papel sellado por no haberlo en este  
lugar.

Real  
Sonora. Oct. 1.  
de 1813.

Yuse el S. Rio. del  
Despacho tomado  
antes lo que era  
necesario.

Michell

Sor. Tomás Haro, originario de  
Alta California y vecino de Sonora  
ante V. con el debiodo respeto digo:  
que teniendo que elevar ante  
el Exmo Sor. Gobernador de  
este Departamento, la adjunta  
Solicitud, supuesto de V. se oblique  
dar una informacion del terreno  
baldio conociendo con el nombre  
del Rio de Jesus Maria el cual  
pertenece y piolo: teniendo en  
consideracion el entarne las vias  
que inviaseablemente turnera q.  
hacer por faltar me un requisito  
tan necesario como es el de el  
repetitivo response.

Por tanto a V. resuivamente

Suplico se diga boceler a mi solicitud de quien  
esperare gracia y merced: garantido no ser o de  
malicia y lo necesario.

Sor. Tomás Haro

Exmo. Sor.

Sor. Tomás Haro, vecino de la  
alta California acudiendo en esta  
República de Sonora Mj'cua  
por naturalizacion de affio  
correspondiente, radicado en la  
República catoree antes hace  
y viviendo en esta frontera  
de Sonora, ante V. E conve

175-

360 ND  
PAGE 159

3. Como disponer el mejor a mi clérigo convega  
Simo. Sr Gobernador que presente y espone: q. teniendo  
pase este Especialmente algunos bienes suyos adquiri-  
do al Sr Prefecto del pri- enios con sus preferencias acuerdo  
mer obispado para de un sitio propio para sus  
que informe sobre erracion y aumento y sabiendo  
su ente y q. que el terreno conocido con el nombre  
pues dirigirse al de Jesus de Maria situado al Este  
Sr Coronel D<sup>r</sup> M<sup>r</sup> de esta poblacion se halla balotio  
I<sup>r</sup> Vallejo para que a V.E. Suplica se sirva concederle  
Sirva decir lo que en otto. paraje un sitio de gran valo-  
re ocurrira y con el Mayor en los terminos que es punto  
visto fueren aca el adjunto director esto es: tomando  
Secretaria para las medidas longitudinales de entre  
plir con lo provechoso sur del lindero de Gorodon hasta  
en el Superior el tular y de norte a Este medio  
obligado de fta. de legua de cada lado del río: 100  
hoy.

Manuel Jimeno. por no haber mas diligencia que  
Gorodon al Oeste.

P.S. A V.E. acudidamente Suplico se  
digne conceder a su pedido en lo  
que recetive merced lo que implore en papel comun  
por falta del sellado.

Socorro. Sept. 20 de 1843.

Simo. Sr. Tomas Maroly.

Sr. Fr<sup>r</sup> del Pospuesto.

Segun expresa el certificado del encargado de  
Socorro que se advierte al margen de la  
Solicitud que acompaña el interesado el terreno  
que se pretende esta balotio y en tal concepto  
no encuentra embargo esta R<sup>r</sup> en que se  
le concede al mismo otto. paraje.

Mauricio. Obra. 10 de 1843.

Jos<sup>r</sup> R. Estrada.

Sr. Secretario del despacho del 2<sup>do</sup> Depart.

El paraje solicitado por D<sup>r</sup> Tomas Maroly

esta localidad y no pertenece a propiedad particular  
alguna: en esta distancia de las veinte leguas  
limítrofes ni diez litorales que se previene en la  
ley de Colonización: el solicitante está naturalizado  
en la república y si el Gobierno lo tuvo a bien  
creo que no es inconveniente de concederle el terri-  
torio que solicita.

Monterrey, 21 de Octr. de 1843.

M. G. Vallejo.

Exm. Ssr. Gobernador.

Por los informes que anteceden y por el mérito  
aeroditativo del solicitante párrese en hay quien  
recomienda alvaro para concederle los dos sitios  
del terreno que pretenden salvo la disposición  
de V.E. que será la más acertada.

Fha as Supra.

Manuel Jimeno.

Monterrey, Oct. 21 de 1843.

Conse a lo comprendido espiolare le el correo  
proprietary título.

Micheltrieu.

688K

*Méjico falló en la mar o en otra.*

710H.

Tomas Héaroly llevó desde el año de 1835 al  
Puerto de Veracruz en el Bergantín de Gral.  
Nacional Victoria con la pluma de teniente  
de marino cuyos despachos se le perdieron que  
en varias veces a dado servicio a la nación  
Méjicana en la misma Carrera de la Marina  
y por suya Cruda se consideró naturalizado  
y por lo tanto que convenga lo firme.

Tomas Héaroly.

88K.

Manuel Jimeno General de Brigada del  
Ejército Méjicano, Asistente Gral del mismo.

6.177

Gobernador y Comandante General e Inspector del Departamento de las Californias.

Por cuanto D. Tomás Hardy, Mexicano por naturalización, sin pretenderlo para su beneficio personal, la extensión de seis sitios de quinientos varas en las sierras del Rio de Jesus María sujetáronse a los dueños del Sr. Jordan y del Rio del Sacramento; practicando previamente las diligencias y averiguaciones convenientes según lo dispuesto por leyes y reglamentos: acuerdo de los facultados que me son conferidos a través de la Nación Mexicana, he venido en concederle el terreno mencionado declarando le la propiedad de él por las presentes letras segun el establecimiento o la aprobación de la Junta Departamental de las condiciones siguientes.

1º Podrá servirlo sin perjudicar las labores caseras y servidumbres, lo disfrutará libre y exclusivamente destinándolo al uso o cultivo que más le convenga pero dentro de un año fabricará casa y estará habitada.

(Copy of the original destroyed to this line (1/54)  
q.D.R. 2º Solicitará del Juez respectivo que le dé posesión judicial en virtud de este despacho por el cual se demarcarán los límites en cuyos límites pondrá casas de las mencionadas, algunos arboles frutales o silvestres de alguna utilidad.

3º El terreno de que se hace mención es de seis sitios de quinientos varas ó más. El Juez que dice la posesión lo hará medir conforme ordenanza quedando el sobrante que resulte a la Nación para los usos convencionales.

4º Si contraviniere a estas condiciones perderá su derecho al terreno y será denunciado. En consecuencia sucede que tiene de

360 ND  
PAGE 161

16

178

por favor q valedeno este titulo se tome razon  
de el en el libro respectivo q se entregue al cito  
creyendo para su resguardo q deuenas fijes. Dado  
en Monterrey a veinte y tres de Obre. de 1853.

360 ND  
PAGE 162

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

I Samuel King, Surveyor  
General of the United States for the State of California  
and as such now having in my office civil  
surveyor may change and control a portion  
of the archives of the former Spanish and Mexi-  
can Territory or Department of Upper California  
Do hereby Certify that the nine preceding and  
hereunto annexed pages of tracing paper  
numbered from one to nine inclusive and  
each of which is signed by my initials (S. D. K.)  
exhibit true and accurate copies of certain docum-  
ents on file and forming part of the said  
archives in this Office.

In testimony whereof  
I have hereunto signed my name officially  
and affixed my private Seal (not having a  
seal) at the City of San Francisco, Cal.  
This 13<sup>th</sup> day of March 1852.

Samuel King  
Surveyor Genl. Cal.

Filed in office. June 8<sup>th</sup> 1852.

Geo. Fisher. Secy.

179

B  
Translation

of  
Espediente

360 ND  
PAGE 163

To the Military Commandant of  
the Frontier of Sonoma and  
For the purposes which charged with the exercise of the  
may best suit the per- civil jurisdiction  
son interested

I certify that  
the land where the  
petitions for is vacant  
and does not belong  
to any private owner-  
ship corporation or  
Pueblo

Sonoma Sept 21<sup>st</sup> 1843

(sgd)

V. Prudon  
Adm't Commd'r ex-  
ercising the Civil  
jurisdiction of Sonoma

Sir  
I. Tomas. Hurdy  
a native of Upper Canada and  
resident of this Frontier of Sonoma  
before you with due respect say  
that as I have to send up to  
Yrs Excellency the Governor of  
this Department the aforesaid  
Petition, I beg you to have the  
goodness to give a report on the  
vacant land known by the name  
Pio de Jesus Maria, the which  
I seek and ask for taking into  
consideration that it will save  
me the journeys which I would  
necessarily have to make if I  
was without a requisite so ne-  
cessary as the aforesaid report.

Wherefore I earnestly pray you  
to have the goodness to accede to my request of whom  
I expect to receive favor and grace, swearing that  
this is not done with evil intent, and whatever  
else may be necessary.

Sonoma Sep<sup>c</sup> 20<sup>th</sup> 1843

(sgd)

Tomas. Hurdy

This does not go on stamped paper because  
There is none in this place.

180

360 ND  
PAGE 164

Government of the  
Dept of California's

Monterey Oct 9<sup>th</sup> 1843

Let the Secy of State report taking previously such information as he may think necessary.

(sgd) Manuel Jimeno

As directed by His Excellency the Governor let this Expediente be passed to His Honor The Prefect of the First District that he may report upon its contents, and let it afterwards be sent to the Colonel Don Mariano Q. Vallejo that he may thank the goodness to say what he may know (on the matter) and this being finished let it be returned to this Office in order to comply with the provisions of the Superior decree dated this day.

(sgd)

Manuel Jimeno

Most Excellent Sir

I Tomas Hurdly a native of Upper Canada residing on this frontier of Sonoma a Mexican by naturalization by trade a carpenter settled in the Republic for fourteen years and resident on this frontier of Sonoma before Your Excellency as may be most conducive to my right present myself and represent that having some self moving property acquired by my profession being in want of a fit place for their preservation and increase and knowing that the land known by the name of Jesus Maria situated to the East of this town is vacant I pray your Excellency to be pleased to grant me in said place six square leagues in the terms expressed in the annexed map that is taking the longitudinal measures from west to South from the boundary of Gordon to the Tidans and from north to East shall a league on each side of the river I do not describe the boundaries in any other manner because there is no other land adjoining than Gordon on the West Whence I earnestly pray Your Excellency to be pleased to accede to my petition in which

181

which I will receive a Yارد. - the which I ask  
in common paper for what is stamped

Sonoma Sept 10<sup>th</sup> 1843

(sg'd)

Tomás Hardy

360 ND  
PAGE 165

Senor Secretary of State

As shown by the Certificate  
of the Person in charge of Sonoma which is seen  
in the margin of the Petition which the Person  
interested transmitte, the land petitioned for  
is vacant, and in that case this Prefecture  
sees no objection to granting said place to the  
same person.

Monterey Oct 10<sup>th</sup> 1843

(sg'd)

Tomás R. Estada

Senor Secretary of State of The  
Departmental Government

The place asked for by Don  
Tomás Hardy is vacant and does not belong  
to any private ownership; it is not within the  
twenty leagues from the boundary nor ten from the  
sea shore referred to in the Colonization Law. The  
Petitioner is naturalized in the Republic and if  
the Government thinks proper I think there is no  
objection to granting him the land which he asks  
for.

Monterey Oct 21<sup>st</sup> 1843

(sg'd)

M. G. Vallejo

360 ND  
PAGE 166

To His Excellency The Governor

From the reports which precede  
and from the well known merit of the petitioner  
there appears to be no objection to granting him  
the six square leagues of the land which he asks  
for, saving Your Excellency's determination which  
will be the most proper.

Date as above

(sgd)

Manuel Jimeno

Monterey Oct 21<sup>st</sup> 1843

In conformity with that reported  
let the corresponding title be issued

(Signed) Michelena

Thomas Hardy arrived at the Port of Vera  
Cruz in the year 1825 on the National Brig  
of War "Victoria" with the rank of Lieutenant  
in the Navy. His Commission as such he has  
lost who on various occasions has rendered  
service to the Mexican Nation in the same  
(the Naval) service and for this reason he is  
considered naturalized, and that it may serve  
the proper purposes he signs it.

(sgd)

Thomas M. Hardy

183

Muniz, Michelena General of Brigade  
of the Mexican Army Adjutant General of the  
Staff of the same Governor Commanding General  
and Inspector of the Department of California

360 ND  
PAGE 167

Whereas Tomas Hardy, a Mexican  
by Naturalization has for his own personal benefit  
petitioned for the extent of six square leagues in  
the margins of the River of Jesus Maria, subject  
to the boundaries of San Joaquin and the river  
Sacramento, the proper measures and examinations  
being previously made as required by laws and  
regulations using the facuetes which are conser-  
ved in me in the name of the Mexican Nation  
I have granted him the aforesaid land de-  
claring to him the ownership of it by these  
presents subject to the approval of the De-  
partmental Junta and the following conditions

1<sup>o</sup> He may enclose it without prejudice  
to the crossings roads and servitudes he may  
enjoy it freely and exclusively making such  
use and cultivation of it as he may think proper  
but within one year he shall build a house  
(on it) and it shall be inhabited

2<sup>o</sup> He shall request the proper Magis-  
trate to give him judicial possession in  
virtue of this title by whom the boundaries  
will be marked out in the limits of which  
besides the boundaries he shall place some fruit  
or fruit trees of some utility

3<sup>o</sup> The land of which mention is made  
is six square leagues, a little more or less  
The Magistrate

360 ND  
PAGE 168

Given in Monterey on the twenty third  
of October 1843

Sello cuarto dos reales.

Habilitado provisionalmente por la Alcaldia Marítima del puerto de Monterrey en el Departamento de las Californias para los años de mil ochocientos Cuarenta y cuatro y mil ochocientos Cuarenta y cinco.

360 ND  
PAGE 169

Petition

W.B.F. & C<sup>o</sup>. ambedos a propriedad particular  
to the deposition of corporacion su p'ble  
Jacob P. Lease.

Mitchellmoren. Pablo de la Guerra  
Por los fines q. convega Exmo. Sor. Gobernador  
al Tutesavlo. Tomás M. Haroly natural de  
Certifico que el terreno Canasta y l<sup>o</sup> de la Republica  
que solicita se pertenece Mejicana por naturalizacion auto  
N.E. con todo respeto y sumision  
ti the deposition of corporacion su p'ble de presente y dice: que un tal  
Sr. Shadon hace como cuatro

Soumua. Ybre 20. 1843.

W<sup>r</sup> Prudon.

Supo que N.E. se concedio una  
concedio acuerdemente ejerciendo parte de mi rancho junto al  
la quebrada q. q. desagua Rio del Sacramento que el  
represento en su memorial como tierra baldio, Sa  
bien q. el muy bien q. yo avise q. la tierra  
era mia y el es determinando a no quitar  
sino por un orden de N.E. dicho Señor no hice  
ninguna mejoras, mas q. una barral ole lo  
q. q. pagare a su justo precio. P. S.

A N.E. Suplico q. le muestre retirarse de lo  
q. q. recibiré merecidamente y gracia. Para

Monterrey. 13. de Febr. de 1844.

Tomás M. Haroly.

Para q. el Exmo. Sor. Gobernador tenga conocimiento  
esta acta del negocio q. q. se entreme la precedente  
Solicitud, sirvase informar al Alcalde 1<sup>o</sup> de  
Soumua, hacerle constacion de la parte del Sor.  
Shadon q. obligarielo q. q. presente los titulos  
q. q. se衰gan q. q. del terreno q. se reclama  
Monterrey. Mte. M. de 1844.

Manuel Graciano.

186

Surgavel. 1º de Sonoma.

Enmediatamente fue llamado Sør. Shadden a presentar sus Documentos sobre el Encuentro el Dho. Sør. no tuvo inconveniente ninguno a retirar en casa de que el terreno a donde se ocupó con suyo Documento provincial de Gobierno) es de Sør. Manoly y este se clasifique cuando se use de el otro terreno. Segun el Titulo de Sør. Manoly sus cuadados debe impedir p'a el de Sør. Gordon y el diseño es de cuatro lulos de largo y una quiedia de ancho y el distancia del Linder de Sør. Gordon hasta a ciudad Pire Sør. Shadden es como linea leguas. pero segun no haber ninguna inconvenencia por el parte de Sør. ShuckDew.

Sonoma. Octubre. 16. 1855.  
Jacob P. Lease.

Filed in Office. March. 26. 1855.

Geo. Fisher. Secy.

186  
180 180

187

187

Sixty-fourth & Two Reales

Translation  
of  
Petition

W.B. # No 1, annexed to the Deposition of Jacob P. Lee,

360 ND  
PAGE 171

Provisionally authorized by the Maritime Custom House of the Port of Monterey in the Department of the California for the years 1844 and 1845  
(Signed) Michel Torreus (Signed) Pablo de la Guerra

M. D.  
Seal

Monterey Sept 15  
1844.

Referred to  
the Secretary of  
State for respon  
(Signed)  
Michel Torreus

Most Excellent Sir Governor  
I Thomas M. Hardy  
a native of Canada, and a naturalized Citizen of the Republic of Mexico, appear before Your Excellency with due respect and Submission and represent, That about your months ago a certain Mr Shaddow Petitioned your Excellency for a site and I understand Your Excellency has granted him a part of my rancho adjoining the Sacramento River which he represented in his petition as vacant land fully conscious at the time that I had given him notice that the land was mine and he is determined not to move except by an order from Your Excellency The said gentleman has not made any improvements thereon except a corral for which I will pay him its just value

Wherefore I beseech Your Excellency to order him to retire therefrom whereby I shall receive favor

Monterey September 13, 1844

(Signed)

Thomas M. Hardy

In order that His Excellency, the Governor, may have a correct understanding of the affair which

188

which is the subject of the preceding petition, the  
First Alcalde of Sonoma will please to report  
after citing the party of Mr Shaddow and re-  
quiring him to produce the title that constitute  
him owner of the tract of land which is claimed

Monterey September 14<sup>th</sup> 1844

(Signed)

Man. Ammo

For Angado  
of Sonoma Mr. Shaddow was immediately  
summoned to present his documents relative to  
the matter in question. The said gentleman had  
no objection to returning in case the land which  
he was occupying (under a provisional document  
from the Government) belongs to Mr. Hurd  
and which will be ascertained upon the measurement  
of the said land in accordance with the title  
of Mr. Hurd. His survey should commence  
from the line of Mr. Gordon and the distance  
represents four leagues in length and one  
and a half in width and the distance from  
the line of Mr. Gordon to where Mr Shaddow  
lives is about five leagues, accordingly I  
think there will be no inconvenience in the  
part of Mr. Shaddow.

Sonoma October 16<sup>th</sup> 1844

(Signed) Jacob P Lee

A true and correct translation

Witness my official signature  
this 26<sup>th</sup> day of March A.D.  
1855 (Signed) Geo. Fisher

Geo. Fisher

Filed in Office March 26<sup>th</sup> 1855

(Signed) Geo. Fisher

189

To all persons whom these presents shall come  
Stephen Cooper Administrator of the Estate of Thomas  
M. Hardy deceased sendeth Greeting.

Conveyance  
from  
Public Adm'

360 ND  
PAGE 178

Whereas at the  
May Term of the Probate Court of Solano County  
and State of California began and held at the  
Court House in Solano County aforesaid on Mon-  
day the 12<sup>th</sup> day of May A.D. 1851 the following  
order was made upon the Petition of the said  
Administrator in writing and entered on the records  
of said Court to wit

In the Matter of the Estate  
of Thomas M. Hardy deceased

This day comes Stephen Cooper  
Administrator of the Estate of Thomas M. Hardy  
deceased, and make proof of the publication of  
the notice of his application for the sale of the  
Real Estate of said Deed by publication in the  
California State Gazette a newspaper published  
in the City of Benicia for four weeks successively  
prior to this date and no objection being filed  
by the parties interested to said application  
and it appearing to the Court that it is necessary  
to sell the whole or a portion of the Real Estate  
belonging to the Estate of said deceased for the  
payment of the debts against said Estate

It is therefore Ordered by the Court that  
the said Stephen Cooper Administrator of said  
Thomas M. Hardy deceased proceed and sell  
at Public Auction to the highest bidder for  
one half cash in hand giving a credit of  
four months for the residue, land and appurtenances  
Security to be given by the purchasers of the  
residue of the purchase money for which a credit  
shall be given (said sale to be made by said  
Administrator on Saturday the 28<sup>th</sup> June 1851)

The

the following described tract or parcel of land  
belonging to the Estate of the said Thomas M.  
Hardy deceased being and being in the County  
of Yolo in the State of California to wit, Six  
leagues of land, commencing at the boundaries  
of Julian Gordons Ranch and running East to  
Sacramento River being on the margin of Jesus  
Maria River or Cache Creek, said sale to take  
place on the premises or Ranch above described  
and it is ordered that this notice be published  
for three weeks successively in the California  
State Gazette a newspaper published in the  
City of Benicia in the County of Solano.

A true copy Attest

Sashal Pymme  
Clerk

Whereas further the said Stephen Cooper  
Administrator as aforesaid in pursuance of and  
by virtue of the foregoing order did sell at  
Public Auction at the house occupied as a  
residence, by Mrs. Tyler & Parikh being on  
the premises On the 28<sup>th</sup> day of June 1851 between  
sum rise and sum down of the same day for  
the sum of six thousand five hundred dollars  
one half paid cash in hand the receipt whereof  
is hereby acknowledged and the other half  
to be paid in year months from the 28<sup>th</sup> day  
of June 1851 at aforesaid being secured by  
promissory note with approved security (being the  
highest and best bid therefore) To James M.  
Hartin, James M. Estell, George Tyler and  
Arthur G. Parikh, all that certain tract or  
parcel of land hereinafter more fully described  
and the said Cooper Administrator as aforesaid

191

said at the July Term 1837 of the Probate Court  
of said County quid this report in writing of  
the sale of said tract of land and thereupon  
the said Court made and entered upon the  
record thereof the following order to wit

"In the Matter of the Estate  
of Thomas M. Hardy deceased

360 ND  
PAGE 175

This day comes Stephen Lewis  
Administrator of the Estate of Thomas M. Hardy  
dece<sup>d</sup> and gives his report of the sale of the  
Real Estate belonging to said Thomas M. Hardy  
dece<sup>d</sup> which lands were heretofore to wit on  
the 19<sup>th</sup> day of May 1837 ordered by this Court  
to be sold by said Administrator for the payment  
of the debts against the Estate of the said deceased  
and moves the Court to confirm said sale of  
the Real Estate of said deceased reported as  
aforesaid, whereupon C. Grier makes objections  
truly to the Confirmation of said sale and  
thereupon the Court proceeded to examine and  
hear all proofs introduced relative to said  
sale, and it appearing to the Court by proof  
made in open Court that notice of the sale of  
said lands described in the order of sale and  
report of said Administrator, and sold by said  
Administrator has been given by publication  
in a Newspaper, and posting up notices  
as the Statute prescribes, and that said sale  
reported as aforesaid was legally made in  
pursuance of an order of this Court heretofore  
made and entered up, and that said sale  
was in every respect fairly conducted and  
that a greater sum than the amount  
specified in said report of sale as having been  
bid for the Real Estate sold cannot be ob-  
tained, it is therefore ordered and adjudged

by the

by the Court that the objections made to the confirmation of said Report be overruled, And it is further ordered by the Court that the said sale of the Real Estate of the said Thomas M. Hardy be deemed to be in all things confirmed. It is therefore further ordered by the Court that the said Stephen Cooper Administrator of the Estate of the said Thomas M. Hardy make and execute a deed of conveyance to James M. Martin, James M. Estelle, George Tyler and John G. Parish the purchasers of the said Real Estate of said Thomas M. Hardy &c. conveying to said purchasers the Real Estate sold by said administrator and and by virtue of an order of sale made and entered up in this Court in this cause on the 12<sup>th</sup> of May 1851.

A true copy

Attest

Sashai Bynum  
Court Clerk  
County of Solano

Now to witness that pursuant to the authority aforesaid and in consideration of the said sum of six thousand five hundred dollars paid by the said Martin, Estelle, Tyler & Parish the receipt of which is hereby acknowledged. I the said Stephen Cooper Administrator as aforesaid have granted, bargained and sold and by these presents do grant, bargain, and sell unto the said James M. Martin, James M. Estelle George Tyler and John G. Parish their heirs and assigns for ever the following described tract of land lying

193

360 ND  
PAGE 177

lying and being in the County of Yolo in the said State of California and known and described as follows. To wit.

Six leagues of land commencing at the boundaries of Julian Gordons Ranch and running East to the Sacramento River being in the margin of the New Maria River or Cache Creek containing all that tract of land commonly known as the Hardy grant. To have and to hold the above described tract of land unto them the said Martin, Etelle, Tyler and Remick their Heirs and Assigns forever.

In witness whereof I Stephen Cooper Administrator as aforesaid have hereunto set my hand and seal this 28<sup>th</sup> day of July 1851

Signed sealed and delivered in presence

of A. Lee  
P. D. Blair

Stephen Cooper, Seal  
Administrator of Estate  
of Thomas M. Hardy

State of California  
Solano County

Be it remembered that on this the 29<sup>th</sup> day of July 1851 personally appeared before me at Napa Public office and for said County Stephen Cooper Administrator of the Estate of Thomas M. Hardy deceased, known to me to be the person described in and who executed

194

executed the foregoing instrument who acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein mentioned

360 ND  
PAGE 178

In witness whereof I have hereunto set my hand and private seal (having no public seal) the day and year above written

(Signed)

H. S.

Notary Public

BB

Filed in Office October 24<sup>th</sup> 1834

(Signed) Geo. Fisher

G. Fisher  
S. C. P.

T. B.

200

195-

This Indenture made the 10<sup>th</sup> day of March  
A D. 1852 Between George Tyler of Collo County  
party of the first part and James M. Martin of  
same County party of the second part -

- Good  
George Tyler  
to  
James M. Martin  
360 ND  
PAGE 179

Witnesseth That the party of the first part in  
consideration of the sum of nine thousand dollars to  
him in hand paid by the party of the second part  
at and before the making and delivery of these  
presents the receipt whereof is hereby acknowledged  
that granted, bargained, and sold and by these  
presents doth grant bargain and sell unto the party  
of the second part all of his right title and interest  
and estate in and to the undivided growth part  
of the Rancho de Champa which was granted by  
Governor Micheltorena to Tomas Madrid in the year  
1843 and which is described and bounded  
as follows "six leagues of land lying in the  
margins of Jesus Maria River and subject to  
the boundaries of Indian Gobernacion and the Sac-  
ramento river" From the said undivided one fourth  
part of said Rancho saving and reserving the part  
of said Rancho called the Virginia Ranch contain-  
ing six hundred and forty acres of land lying  
around the dwelling house of the said George Tyler  
and John G. Parrish while the party of the first  
part reserves to himself the right to locate including  
the land now under enclosure. To have and to  
hold unto him the party of the second part his  
heirs and assigns forever. The party of the first  
part hereby warranting to warrant and defend  
the said land unto the party of the second part  
his heirs and assigns against the lawful demands  
of all persons claiming or to claim under him  
the said party of the first part, his heirs or  
assigns, and the party of the second part his  
heirs executors and administrators covenant and  
agree

196

360 ND  
PAGE 180

agreed to and with the party of the first part  
in manner and form and to the effect following  
That is to say "that the party of the second  
part will pay to the party of the first part  
the further sum of Nine Thousand Dollars whenever  
the Commissioners appointed by the Government  
of the United States to determine the validity  
of Private Land Claims in California shall  
decide in favor of the validity of the grant made  
by the said Governor Michelena to the said  
Tomás Hardy of the above described Rancho

In Witness whereof the parties  
to these presents have here-  
unto set their hands and  
affixed their seals on this  
the 19<sup>th</sup> day of March AD  
1852.

Signed sealed and  
delivered in presence of (sp) George Tyler Seal  
A. Griffith  
Jno G. Hardin (sp) I. M. Hardin Seal

State of California  
County of Los Angeles

On this the 19<sup>th</sup> day of March personally  
came and appeared before me County Clerk of  
said County George Tyler and I. M. Hardin  
Known to me to be the persons who executed the  
within instrument and acknowledged that they  
executed the same freely and voluntarily for  
the uses therein expressed

Given under my hand and seal of said  
County this date above written  
(Signed) A. Griffith Seal

Filed in Office Dec 24<sup>th</sup> 1853

(Signed) Geo. Fisher  
Dec

197

This Indenture made the 19<sup>th</sup> day of March  
A.D. 1852 Between John G. Parrott of Yolo  
County party of the first part, and John H.  
Hoffman and Chas. R. Stappin partner of the  
second part witnesseth That the parties of  
the first part in consideration of the sum of  
Eight Thousand dollars to him in hand paid  
by the parties of the second part at and before  
the making and delivery of these presents the  
receipt whereof is hereby acknowledged. Both  
granted bargained and sold and by these  
presents doth grant bargain and sell unto  
the parties of the second part at and before  
the making and delivery of these presents the  
receipt whereof is hereby acknowledged. Both  
granted bargained and sold and by these  
presents doth grant bargain and sell unto  
the parties of the second part all of his right  
title and interest and estate in and to the  
unadvised One fourth part of the Rancho  
de Campo which was granted by Governor  
Michelena to Thomas Hardy in the  
year 1843 and which is described and  
bounded as follows Six leagues of land  
lying in the margin of San Marin River  
and subject to the boundaries of San  
Geronimo and the Sacramento river. From  
the said unadvised one fourth part of said  
Rancho saving and reserving the part of  
said Rancho called the Dogma Ranch  
containing six hundred and forty acres  
of land lying around the dwelling house  
of the said John G. Parrott and George  
Teller which the Party of the first part  
reserves to himself the right to have including  
the land

Dec  
S.G. Parrott  
To  
W.H. Hoffman  
360 ND  
PAGE 181

the land now under enclosed

To have and to hold unto them the parties  
of the second part their heirs and assigns  
forever, The party of the first part hereby  
covenanted to warrant and defend the said  
land unto the parties of the second part  
their heirs and assigns against the lawful  
demands of all persons claiming or to claim  
by thought or title from them The said party of  
the first part his heirs or assigns and the  
parties of the second part their heirs, executors  
and Administrators warrant and agree to and  
with the party of the first part in manner  
and form and to the effect following That  
is to say, That the parties of the second part  
will pay to the parties of the first part the  
other sum of One Thousand dollars, whenever  
the Commissioners appointed by the Government  
of the United States to determine the validity  
of Private Land claims in California, shall  
decide in favor of the validity of the grant  
made by the said Governor of Massachusetts  
to the said Thomas Hardy of the aforesaid  
described Rancho.

In witness whereof the  
parties to these presents have  
hereunto set their hands and  
affixed their seals on this the  
19<sup>th</sup> day of March A.D. 1832.

(Signed)

Signed sealed and delivered in presence of John G. Parish  
John H. Hopper Char. P. Hopper  
of George Tyler.  
Jos. M. Martin

Whitman &  
M. S. Sather

199.

State of California  
Sacramento County

On this the 3  
day of April personally appeared before me  
a Notary Public in and for the County and  
State aforesaid Charles P. Heppins Attorney  
to me to be the person decribed in who executed  
the foregoing instrument who acknowledged to me  
that he executed the same freely and voluntarily  
and for the uses & purposes therein named



Witness my Notarial seal  
the date above written

(Signed)

M. S. Sather  
N.Y.

State of California  
County of Yolo

On this 19<sup>th</sup> day of  
March AD 1832 Personally came and appeared  
before me County Clerk in and for said County  
John G. Parish and John H. Heppins  
known to me to be the persons decribed in  
and who executed the within instrument and  
acknowledged that they executed the same freely  
and voluntarily for the uses therein set forth  
and expressed.



Given under my hand  
and seal of the said County  
the date above written

J. Griffith  
Notary Public

200

(Endorsed) John G. Parish

Hopkin & Bro  
Dent claim D<sup>o</sup>ll

360 ND  
PAGE 184

Filed for record by John H.  
Hopper on the 3<sup>d</sup> day of April A.D. 1852  
at 6 o'clock P.M., and recorded in folio  
417-19 of Lib. A of Dees Record of  
Yel. Co.

(Signed) H. Griffith  
*Secretary*

Filed in Office December 2d 1853  
(Signed) Geo. Fisher

G. Fisher  
S. D.

200 100

Transcript  
of Record, papers  
and proceedings  
of Court

360 ND  
PAGE 185

Proceedings had in the Probate Court of Solano  
County State of California in the Matter of the  
Estate of Thomas Hardy Deceased.

On the third day of February 1851 the following  
proceedings were had and entered up in the re-  
cords of said Court.

The Hon Joseph Winston,  
County Judge Presiding  
as Judge of said Probate Court.

"In the Matter of the Estate  
of Thomas Hardy Deceased"

This day comes Stephen  
Cooper Administrator of the Estate of said Thomas  
Hardy deceased and suggests to the Court that  
a mistake occurred in the issuance of Letters  
of Administration to the said Stephen Cooper  
upon the Estate of said Deceased, said letters  
having been issued by Charles P. Watkins Prefect  
of the District of Sonoma in the State of Cal-  
ifornia on the seventh day of March 1850  
and which letters are now to the Court shown  
which mistake suggested by said Administrator  
is that the name of the deceased is inserted  
in said letters of Administration as James  
Hardy when in fact the true and proper name  
of the said deceased was Thomas Hardy and  
said Stephen Cooper moves the Court to amend said  
letters by striking out the name "James" in said  
letters and inserting in lieu thereof the name  
"Thomas" and it appearing to the satisfaction  
of the Court that the true and proper name of  
Dec'd was Thomas Hardy instead of James  
Hardy

Hardy. It is therefore ordered that said letters of Administration be corrected and that the words "James" wherever it occurs in the fifth and fifteenth lines from top or commencement of said letters be erased and struck out and that the word "Thomas" be inserted in said fifth and fifteenth lines in lieu of the word James struck out in said lines.

And afterwards to wit. On said Third day of February 1831 the following order was made and entered upon in the Records of said Court.

"In the matter of the Estate of Thomas Hardy Dec'd On Motion of Stephen Cooper Administrator of the Estate of Thomas Hardy Dec'd It is ordered by the Court that Lindsey P Marshel, Sarah Cooper & Sanford Leary be appointed Appraisers to appraise the effects of Thomas Hardy Deceased"

And afterwards to wit on the 3<sup>rd</sup> day of March A.D. 1831 the following proceedings were had & entered up in the records of said Court

In the Matter of the Estate of Thomas Hardy Deceased Stephen Cooper Administrator of the Estate of Thomas Hardy Deceased filed an Inventory of the effects belonging to the Estate of said Deceased

Which Inventory is in the words and figures  
following to wit -

*Inventory*

360 ND  
PAGE 187

A true and perfect Inventory of all the  
Estate both Real and Personal and a state-  
ment of all Bonds Mortgages, Notes and other  
Securities for the payment of Money and also  
the personal property which were of Thomas  
Hardy Dec'd late of the County of Sutter and  
State of California at the time of his death,  
and have since come to the knowledge and  
possession of Stephan Casper Adams State of  
all and singular the lands and tenements, rights  
and credits &c which were of the said Thomas  
Hardy Dec'd at the time of his death

*Real Estate*

Six Leagues of land commencing at the  
boundaries of Julian Gordan's Rancho and  
running East to the Sacramento river being  
on the margin of Jesus Maria river (or  
Cache Creek) in the County of Yolo and State  
of California 26,664 acres at One  
dollar and Twenty five cents per Acre \$33,330.00

|                                        |        |
|----------------------------------------|--------|
| Twelve (12) ounces of a half Gold dust | 200.00 |
|----------------------------------------|--------|

|                                                     |        |
|-----------------------------------------------------|--------|
| One Launch Runn as the Launch<br>"Lively" valued at | 150.00 |
|-----------------------------------------------------|--------|

|                                                                                                                 |       |
|-----------------------------------------------------------------------------------------------------------------|-------|
| One note in Henry Frow for one<br>hundred dollars with a credit on the<br>back of fifty Dollars value not known | 50.00 |
| One even bill                                                                                                   | 50    |

Over \$33,730.50

204

|                                     |      |     |             |
|-------------------------------------|------|-----|-------------|
| Bret over                           | \$33 | 730 | 50          |
|                                     |      |     | 50          |
| One Butcher Knife                   |      |     | 1.00        |
| One pair Boots no value partly worn |      |     | \$33.732 00 |

360 ND  
PAGE 188

The foregoing is a list or Inventory of the Estate belonging to Thomas Whately deceased with the valuation placed by us upon the property described in said Inventory.

Feb. 3<sup>d</sup>. 1851

(Signed)

S. P. Marshall  
Marshall Lawyer

Oath or Affidavit of  
Appraisers

State of California,  
Solano County,

S. P. Marshall and

Marshal Cooper having been duly appointed  
Appraisers to Appraise the Property belonging  
to the within Estate being duly sworn say that  
they will truly, honestly and impartially Ap-  
praise the property which shall be exhibited  
to them according to the best of their knowledge  
and ability

(Signed)

Subscribed and sworn  
to before me this 3<sup>d</sup> day of February 1851

S. P. Marshall  
Marshal Cooper

(Signed)

S. Byman

C. K.

205-

Oath or Aff  
of  
S. Cooper

360 ND  
PAGE 189

State of California  
Solano County

Stephen Cooper, Administrator  
of the Estate of James Hardy Dec'd being duly  
sworn, says that the foregoing Inventory contains  
a true statement of all the Estate of Thomas  
Hardy Dec'd which has come to his knowledge  
and possession and particularly of all money  
belonging to said Dec'd and of all just claims  
of Dec'd against this Plaintiff

(Signed)

Stephen Cooper.

Subscribed and sworn  
to before me this 3<sup>rd</sup> day  
of February 1851.

(Signed)

Sardis Byman

Clerk Probate Court  
Solano Co. Cal.

Endorsed this

Fifth March 1851

(Signed)

S. Byman  
Clerk

And afterwards to wit. On the 19<sup>th</sup> day  
of March 1851 certain papers were filed in the  
Office of the Clerk of the Probate Court of said  
County pertaining to the Estate of said Dec'd.  
To wit, A letter of Transmission and an  
Administrator's Bond, of which the following  
are true and perfect copies.

266

Letter of  
Transmission

360 ND  
PAGE 190

Sonoma City Dist of Sonoma  
March 11<sup>th</sup> 1851

To the Clerk of the Probate Court  
of the County of Solano

I hereby transmit to  
you the Bond of Cooper and Semple as Principal  
and Surety in the matter of the Estate of James  
Hardy deceased in which Estate Stephen Cooper  
was appointed Administrator and beg that you  
will file the same in your Office.

Please give me a receipt for the Bond

I am Your Truly Yrs

Chas. P. Nuttis

Ex. Project of the Co<sup>r</sup> of Sonoma

Which paper above copied is endorsed

Filed March 19<sup>th</sup> 1851

(Signed) S. Byman  
Clerk

and whole Adm<sup>t</sup> Bond transmitted by above  
letter of transmission reads as follows to wit

Bond accompanying  
letter of transmission

I know all men by these presents that Stephen  
Cooper as principal and Peter Semple  
as his Sureties are held and jointly bound  
unto Charles P. Nuttis Project in and for  
the District of Sonoma State of California  
in the sum of five thousand dollars for the  
payment of which well and truly to be made  
we do hereby and by these presents bind our-  
selves our heirs Executors and Administrators

jointly

Signed sealed and delivered  
this

207

360 ND  
PAGE 191

This Twenty seventh day of March  
in the year of Our Lord One  
thousand Eight Hundred and  
Fifty.

The condition of the  
above obligation is such that whereas the above  
bounden Stephen Cooper has this day been  
appointed Administrator of all and singular  
the goods and chattel rights, credits and  
effects of James Hardy lately deceased and  
that this day taken out Letters of Administration  
upon the Estate of the said James Hardy  
deceased.

Now if the said Stephen Cooper  
shall and will faithfully administer said Estate  
and make and return a perfect Inventory  
make settlement with the proper Courts  
having jurisdiction according to law when  
required, account for and pay over all monies  
and property that may come into his hands by  
virtue of said Administration and comply  
with the orders of any court having jurisdiction  
and faithfully discharge all duties incumbent  
upon him touching said Administration  
then the above obligation to be void otherwise  
to remain in full force and virtue.

(Signed) Stephen Cooper *Seal*  
J. Semple *Seal*

Endorsed  
Prefect

Which bond is Endorsed on the back this  
Bond - Cooper & Semple - In the Matter of the  
Estate of James Hardy, Filed in the Prefect  
Office March 27<sup>th</sup> 1850 - Bond Approved.

(Signed)

Chas P. Mathis  
Prefect of the Dist of Sonoma

208

Endorsement  
by Clerk

Filed March 19<sup>th</sup> 1851

(Signed)

S. Byman Clerk

360 ND  
PAGE 192

And afterwards, to wit On the 9<sup>th</sup> day of April 1851 the said Stephen Cooper Ham<sup>r</sup> of the Estate of Thomas Hardy Esq<sup>c</sup> filed in the Probate Court of said Solano County his petition for the sale of the land belonging to the Estate of said Esq<sup>c</sup>, which reads as follows—

Petition for  
sale of land

To the Hon. Probate Judge of Solano County at the April Term 1851 thereof

"This Petitioner Stephen Cooper Ham<sup>r</sup> of all and singular the lands goods chattels rights and credits which were of Thomas Hardy Esq<sup>c</sup> at the time of his death would respectfully represent unto Your Honor that the following personal property has come to the hands of your Petitioner as such Administrator. To wit

Twelve and a half ounces of gold dust worth Two Hundred dollars, One Spanish valued at one Hundred and fifty dollars One promissory Note Executed by Henry Shaw Jr. for Fifty dollars, which said note is believed to be worthless Household and Kitchen furniture to the value of Five dollars making in all Three Hundred and Fifty two dollars That all of said personal property except said note for fifty Dollars has been disposed of by your Petitioner.

Your Petitioner would further show that the following debts are outstanding against said Estate which have presented to you—

209

your Petitioner as Administrator as aforesaid  
by him allowed - to wit -

|                   |         |
|-------------------|---------|
| John A. Sutter    | \$95.99 |
| Sam'l. Rutherford | 121.75  |
| William McNamee   | 975.00  |

\$1193.04

360 ND  
PAGE 193

Your Petitioner would further state that he  
is informed and verily believes that there are  
a large amount of debts outstanding against  
said Estate which have not as yet been pre-  
sented to your petitioner, and that the tract  
of land hereinafter mentioned has been sold  
for the Taxes then due upon said land and  
that it will take One hundred per cent.  
advance on the amount of Taxes interest &  
costs to redeem said

Your Petitioner would further show  
unto Your Honor that the said Thomas M  
Hardy died seized in fee simple of the  
following described tract of land lying in the  
County Yolo in the State of California to wit.  
Six leagues of land commencing at the ban-  
daries of Julian's Gordons Rancho and running  
East to the Sacramento River being on the  
margin of Jesus Maria river, or Cache creek  
That said land was appraised at Thirty  
thousand three Hundred and thirty dollars  
but it is believed by your Petitioner that it  
will not bring more than one third of that  
amount

Your Petitioner would further state  
that the said Thomas M Hardy has no heirs  
in this State and Your Petitioner is in-  
formed and believes that he has none in the  
United States

United States, That said Hardy was formerly a citizen of the Kingdom of Great Britain and was at the time of his death unmarried and without issue Your Petitioner would further state that the expenses of administering the said Estate will amount to between Three and Four Thousand Dollars Your Petitioner therefore prays that said land or so much thereof as may be necessary may be sold for the purpose of paying the debts aforesaid together with the Expenses of Administration and that your Honor will make an order directing all persons interested to appear before Your Honor Court on the first Monday the 1<sup>st</sup> day of May next to show cause why an order should not be granted to your petitioner as such Administrator to sell so much of said Real Estate as shall be necessary to pay said debts and Expenses of Advertising

(Signed)

Stephen Cooper  
By H. S. his Attorney

Stephen Cooper being duly sworn says that the facts as set forth in the above petition are true to the best of his knowledge and belief

(Signed)

Stephen Cooper

Subscribed and sworn to  
before me this 8<sup>th</sup> day of April  
1857

(Signed)

H. S. Volney Rubic

Solano Co  
Cal

Indorsed Thus, First April 9<sup>th</sup> 1851.

(Signed)

S. Bryant, Clerk

360 ND  
PAGE 195

And afterwards to wit. On said 9<sup>th</sup> day of April 1851 the following order was made and entered up in the Records of the Probate Court of Solano County.

Order to show  
cause why

In the Matter of the Estate of Thomas M. Hardy Dec'd Petition for sale of Real Estate

Ordered now on this ninth day of April AD 1851 On the Petition and application of Stephen Cooper Administrator of the Estate of Thomas M. Hardy deceased It is ordered by the Court that all persons interested in said Estate appear before the Court at the Court House in the City of Benicia in said County, on Monday the 1<sup>st</sup> day of May AD 1851 at 10 o'clock A.M. to show cause if any they know why the real Estate of said Thomas M. Hardy deceased should not be sold to satisfy the debts against said Deceased. And it is further ordered by the Court that this order be published in the "California State Gazette" a newspaper published in the City of Benicia for four weeks successively -

And afterwards to wit. On the 13<sup>th</sup> day of May AD 1851 the following order was made and entered up in the Records of said Probate Court to wit:

212

Order of Sale.

360 ND  
PAGE 196

In the Matter of the  
Estate of Thomas M. Hardy Dec'd

This day comes Stephen Cooper  
Administrator of the Estate of Thomas M. Hardy  
Dec'd and makes proof to the Satisfaction of the  
Court of his application for the sale of the Real  
Estate of said Deceased by publication in the  
"California Star Gazette" a Newspaper published  
in the City of Benicia for four weeks successively  
prior to this date and no objection having been  
filed by the Parties interested to said application  
and it appearing to the Court that it is ne-  
cessary to sell the whole or a portion of the  
Real Estate belonging to the Estate of said  
Deceased for the payment of the debts against  
said Estate.

It is therefore ordered to the Clerk  
that the said Stephen Cooper Administrator  
of the said Thomas M. Hardy deceased proceed  
and sell at Public Auction to the highest bidder  
for all Cash in hand giving a credit of  
four months for the residue thereof and offering  
Security to be given by the purchasers for the  
residue of the purchase money for which a credit  
shall be given (said sale to be made by said  
Administrator on Saturday the 28<sup>th</sup> June 1851)  
the following described tract or parcel of land  
belonging to the Estate of said Thomas M.  
Hardy deceased lying and being in the County  
of Yolo in the State of California to wit  
Six leagues of land commencing at the bound-  
aries of Juliaia Gordons Ranch and running  
East to Sacramento River being on the margin  
of New Madrid River or Cache Creek, said  
Sale to take place on the premises or Ranch  
above described

And

280

And it is ordered that this Notice be published for three weeks successively in the "California State Gazette" a Newspaper Published in the City of Benicia in said County of Solano

360 ND  
PAGE 197

And afterwards To wit On the 28 day of June 1851 the said Stephen Cooper Administered his said Probate Court of Solano County his Appraiser of the value of the Real Estate of said Dec'd which Appraiser reads as follows  
To wit:

Report of the Value of the Probate Court within  
said office Estate and for Solano County State of California  
July 3<sup>rd</sup> 1851

Your Petitioner Stephen Cooper Administrator of all and singular  
the lands, tenements, goods, chattels and effects  
which were of Thomas M. Hardy Dec'd would  
respectfully represent unto your Honor that  
in Pursuance of an order of this Court have-  
to be made and published, and after having  
given Public Notice of the time and place  
of the Sale hereinafter mentioned by posting  
up in three of the most Public Places in  
the County of Yolo written notices, and also  
by inserting a copy of the Order of sale in  
the "California State Gazette" a weekly news-  
paper published in the City of Benicia, County  
of Solano in said state for three weeks successively  
next before the sale did on the 28 day of  
June A.D. 1851 at the dwelling house of Misses  
Tyler & Ponson in said County of Yolo and on  
the premises mentioned in said Order of sale  
sell at Public Auction to the highest bidder  
between

214

360 ND  
PAGE 198

bidders between the hours of Nine o'clock in the morning and the setting of the sun of the same day the tract of land mentioned and described in the Inventory, for one half Cash in hand and the other half of the Purchase money on a credit of Four months and James M. Martin James M. Estelle, Tyler and John C. Parish having bid the sum of Six Thousand five Hundred Dollars for the tract of land mentioned and described in the Inventory of the Property of Thomas M. Hardy Deceased, now on file in the Clerk's Office of the Probate Court of Solano County, and it being the highest bid therefore the same was struck down to them Your Petitioner therefore prays that Mr. Hon. Con will make an Order confirming said Sale and directing and compelling Your Petitioner as the Administrator as aforesaid to make and execute a conveyance to the said Purchaser in conformity with the Statute in such case made and provided

(Signed)

Stephen Cooper  
Adm'r  
By H. Lee, his Attorney

Indorsed This

Filed 28<sup>th</sup> July 1851

(Signed)

S. Byman,  
Clerk

360 198

Oral afterwards to wit. On the said 28<sup>th</sup>  
day of July 1851 being the 4<sup>th</sup> Monday  
of said month the following proceedings were  
had and ~~entered~~ entered up in the records  
of said Probate Court of Solano County  
to wit.

360 ND  
PAGE 199

Order confirming  
report of sale  
of land &c

In the Matter of the Estate

of Thomas M. Hardy deceased

This day anno Stephen

Cotter, Administrator of the Estate of said  
Thomas M. Hardy deceased did file this  
report of the sale of the Real Estate belonging  
to said Thomas M. Hardy deceased which  
lands were heretofore to wit

On the 12<sup>th</sup> day  
of May 1851 ordered by this Court to be sold  
by said Administrator for the payment of the  
debts against the Estate of said deceased  
and now the Court to confirm said sale of  
the Real Estate of said deceased reported  
as aforesaid. Whereupon to 6 Guys marks  
objection being made to the confirmation of said  
sale and thereupon the Court proceeded to  
examine and hear all prop<sup>s</sup> introduced  
relative to said sale, and it appearing  
to the Court by proof made in open Court  
that Notice of the Sale of said lands described  
in the order of sale and report of said Ad-  
ministrator duly sold by said Administrator  
had been given by publication in a newspaper  
and posting up notices at the Statute pre-  
scribed and that said sale reported as  
aforesaid was legally made in pursuance of  
an order of this Court heretofore made and  
entered up, and that said sale was in every  
respect

respect fairly conducted; and that a greater sum than the amount specified in said report of sale or having been bid for the Real Estate sold cannot be obtained, is thereupon ordered and adjudged by the Court that the directions made to the confirmation of said report be overruled. And it is further ordered by the Court that the said sale of the Real Estate of said Thomas M. Hardy deceased be in all things confirmed.

It is further further ordered by the Court that the said Stephen Cooper Administrator of the Estate of the said Thomas M. Hardy deceased execute a deed of conveyance to James M. Martin, James M. Little, and George Tyler, and John G. Parish the purchasers of said Real Estate of Thomas M. Hardy deceased conveying to said purchasers of the Real Estate sold by said Administrator under and by virtue of an order of sale made and entered upon this Court in this cause on the 15<sup>th</sup> of May 1851.

And afterwards to wit:

On the 28<sup>th</sup> day of May 1851 the said Stephen Cooper Administrator of the Estate of said Thomas M. Hardy deceased died in said Probate Court his additional Administration Bond which reads as follows To wit:

Mr. Bond

I know all men by these presents, that we Stephen Cooper as principal and

360 ND  
PAGE 201

I, M. Martin and S. M. Estelle as his  
securitors, are held and jointly bound unto  
the State of California, in the penal sum  
of Eight thousand dollars lawful money of  
the United States for the payment whereof  
well and truly to be made, We do hereby  
bind ourselves and heirs Executors and Ad-  
ministrators jointly and severally jointly by  
these presents, Signed sealed and dated this  
Twenty Eighth day of July 1851

The condition of the above obli-  
gation is such that if the above named Stephen  
Cooper Administrator of the Estate of Thomas  
M. Hardy Deceased shall well and truly  
and faithfully execute according to law  
the duties of the same imposed in him as  
the Administrator of the Estate of said Thomas  
M. Hardy Deceased, then this obligation to  
be null and void otherwise to be and remain  
in full force and value in Law.

(Signed)

Stephen Cooper *Seal*  
S. M. Martin *Seal*  
S. M. Estelle *Seal*

On the back of which Bond is the following  
endorsement:

Probate Court, Solano County  
Stephen Cooper Adm. Estate of Tho M. Hardy  
Bond filed July 28<sup>th</sup> 1851  
(Signed) Sarah Borman  
Clerk

"I approve the within Bond as good and  
sufficient July 28<sup>th</sup> 1851."

218

State of California  
Solano County

360 ND  
PAGE 202

I Joseph P. Vaughn  
County Clerk and Ex Officio Clerk of the  
Probate Court in and for said County of  
Solano do hereby certify that the foregoing  
96 pages contain a true full and complete  
transcript and copy of all papers and  
proceedings on file and record in said  
Probate Court relating to or in any manner  
pertaining to the matter of the Estate of  
Thomas M. Hardy deceased in whole matter  
Stephen Cooper is Administrator of the Estate  
of said dec'd as fully and completely as the  
same are now remaining on file and recorded  
in my Office

In witness whereof I have this day  
signed my name and affixed  
the seal of said Probate  
Court at Office in Benicia  
the 14<sup>th</sup> April 1855

(Signed) Joseph P. Vaughn  
I Clerk  
Dr. S. Brown, Dep. Clerk



Filed in Office April 20<sup>th</sup> 1855

(Signed) Geo. F. Wherry  
Secy

219

In The Probate Court of the County of Solano  
State of California Wednesday April 9<sup>th</sup> 1857.

Proceedings  
in  
Probate Court

By Joseph Winstan Probate Judge  
Presiding

Solano County

360 ND  
PAGE 203

In the matter of the Estate of ~~John~~ Petition for  
Thomas M. Hardy Deceased ~~the~~ sale of said Estate  
And now on this Ninth day of April  
A.D. 1851 on Petition and application of Stephen  
Cooper Administrator of the Estate of Thomas  
M. Hardy deceased it is ordered by the Court  
that all persons interested in said Estate ap-  
pear before the Court at the Court Room in the  
City of Benicia in said County on Monday the  
12<sup>th</sup> day of May A.D. 1851 at 10 o'clock A.M. To  
show cause, if any they know why the Real Estate  
of said Thomas M. Hardy deceased should  
not be sold to satisfy the debts against said  
deceased

And it is further ordered by the Court  
that this order be published in the California  
State Gazette a Newspaper Published in the  
City of Benicia for four weeks successively

(Signed)

Joseph Winstan  
Probate Judge

State of California  
County of Solano

I certify the above to  
be a true and perfect copy of the original  
order made in the Probate Court of Solano  
County on the 9<sup>th</sup> day of April 1851 as appears  
from the minutes of said Probate Court

Seal

Witness my hand and seal of  
said

Said Court this 1<sup>st</sup> day of March  
1854

(Signed)

W. P. Vaughn  
Probate Clerk

360 ND  
PAGE 204

At a special Term of the Probate Court of  
Solano County in the State of California held at  
the Court House in the City of Benicia in and  
for said County on Monday the 12<sup>th</sup> day of  
May A.D. 1854

Present Hon Joseph Winston  
Probate Judge

In the matter of the Estate  
of Thomas M. Hardy deceased

This day comes Stephen Cooper  
Administrator of the Estate of Thomas M.  
Hardy deceased and makes Proof of the  
publication of the notice of his application  
for the sale of the Real Estate of said Dece-  
ased by publication in the California State  
Gazette a newspaper published in the City  
of Benicia for four weeks successively prior  
to this date and no objections having been filed  
by the parties interested to said application  
and in appearing to the Court that it is neces-  
sary to sell the whole or a portion of the Real  
Estate belonging to the Estate of said deceased  
for the payment of the debts against said Estate

It is therefore ordered by the Court  
that the said Stephen Cooper Administrator  
of said Thomas M. Hardy deceased proceed  
and sell at Public Auction to the highest  
bidder for one half cash in hand giving  
a credit

221

360 ND  
PAGE 205

a credit of four months to the residue, bond and approved security to be given by the purchasers for the residue of the purchase money for which a credit shall be given, said sale to be made by said Administrator on Saturday the 28<sup>th</sup> of June 1851, the following described tract or parcel of land belonging to the Estate of said Thomas M. Hardy Deceased, lying and being in the County of Yolo in the State of California to wit Six leagues of land commencing at the boundaries of Julian Gordon Ranch and running East to Sacramento river being on the margin of Jesus Maria River or Cache Creek, said sale to take place in the premises or Ranch above described and it is ordered that this notice be published for three weeks successively in the California State Gazette a newspaper published in the City of Benecia in said County of Solano.

(Signed) Joseph Winston  
Probate Judge

State of California  
County of Solano

I certify that the above and foregoing order is a true and perfect copy of the original order of the Probate Court of Solano County made on the 12<sup>th</sup> day of May A.D. 1851 in the matter of the Estate of Thomas M. Hardy deceased as appears from the minutes of the Probate Court of said County

In witness whereof I have hereunto set my hand and seal of said court at Office in Benicia this First day of March A.D. 1854

Seal

(Signed) Jas. P. Vaughn  
Probate Clerk

222

At a regular term of the Probate Court  
begun and held at the Court House in the  
City of Benicia in said County of Solano in  
the State of California on Monday the 28<sup>th</sup> day  
of July 1851

360 ND  
PAGE 206

The Hon Joseph Hunter  
Probate Judge  
Presiding

In the Matter of the Estate  
of Thomas M. Hardy Deceased

This day comes Stephen Cooper  
Administrator of the Estate of Thomas M. Hardy  
deceased and gives his report of the Sale of the  
Real Estate belonging to said Thomas M. Hardy  
deceased which lands were heretofore to wit on  
the 12<sup>th</sup> day of May 1851 ordered by this Court  
to be sold by said Administrator for the  
payment of the debts against the Estate of  
said deceased and moves the Court to con-  
firm said sale of the Real Estate of said  
deced reported as aforesaid. Whereupon C  
ooper makes objections orally to the confirmation  
of said Sale and therupon the Court proceeds  
to examine and hear all proofs introduced  
relative to said Sale, and it appearing to  
the Court by proof made in open Court that  
notice of the sale of said lands described in  
the Order of sale and report of said Ad-  
ministrator and sold by said Administrator  
had been given by publication in a Newspaper  
and posting up notices as aforesaid was legally  
made in pursuance of an order of this Court  
heretofore made and entered up and that said  
sale was in every respect fairly conducted and  
that a greater sum than the amount specified  
in said

223.

360 ND  
PAGE 207

in said Report of sale as having been sold  
for the Real Estate sold cannot be obtained  
It is thereupon ordered and adjudged by  
the Court that the objections made to the  
confirmation of said Report be overruled  
and it is further ordered by the Court  
that the said Sale of the Real Estate  
of said Thomas M. Hardy deceased be  
in all things confirmed  
It is thereupon further

Ordered

by the Court that the said Stephen Cooper  
Administrator of the Estate of Thomas M.  
Hardy deceased execute a deed of Conveyance  
to Amos M. Estelle, James M. Martin  
and George Tyler and John G. Parish  
the Purchasers of said real Estate of Thomas  
M. Hardy deceased conveying to the Purchasers  
the Real Estate sold by said Administrator  
and by virtue of an order of sale made  
and entered up in this Court in this cause  
on the 12<sup>th</sup> of May 1851

(signed) Joseph Winston  
Probate Judge

State of California  
County of Solano

I certify the above  
and foregoing to be a true and perfect copy  
of the original order of confirmation of the sale  
of the Real Estate of Thomas M. Hardy  
deceased by Stephen Cooper Administrator of  
said Estate, Entered up on the 28<sup>th</sup> day of  
July 1851, as appear on the Minutes of said  
Probate Court

In witness

224

360 ND  
PAGE 208

P D  
Seal  
P D

In Witness whereof I have  
hereunto set my hand and  
seal of said Probate Court  
the 1<sup>st</sup> day of March 1854

(Signed)

As P. Vaughn  
Probate Clerk

Filed in Office October 24<sup>th</sup> 1854

(Signed) Geo. Fisher

P D  
Sc

b67  
360 208

225-

Before the Board of Land Commissioners  
for the State of California

James M. Martin and others against  
the United States No 261 before this Board

And now comes the Law Agent and  
on behalf of the United States moves the Board  
to strike from the files of evidence in this case  
the Deposition of James M Martin on the  
ground & for the reason that the said Deponent  
is one of the Petitioners in this case and one  
of the parties interested in this proceeding

(Signed) I. H. McKim  
Law Agent

Filed in Office March 9<sup>th</sup> 1854

(Signed) Geo. Fisher

B. D. G.

226

226

227

227

Parris, M. Hartin et al

Opinion

The United States

In a place called  
"Rio Jesus Maria"  
situate in the County  
of Yolo and con-  
taining six square  
leagues

360 ND  
PAGE 210

The Petitioners in this case claim under one Thomas Hardy deceased by virtue of an Administrator and executed by one Stephen Cooper who they allege was the duly appointed Administrator of the said Hardy deceased, and in support of their claim they have offered in evidence firstly a traced copy from the Archives of State on file in the Office of the Surveyor General of the United States which bears date the 20<sup>th</sup> day of September 1843 And also a traced copy of the said records showing the following facts that the Expediente was presented to Governor Michellonera and by him referred to the Secretary of State with the usual inquiry whether any objections existed to issue of the grant, in conformity with the Prayer of the petitioner and after the proper investigation on the part of the Secretary of State he reported that no objections existed to the issue of a grant upon the receipt of which report Governor Michellonera entered the following minute - "In conformity with that report let the corresponding title be issued  
*(Signed) Michellonera*

The Petitioners have also offered in evidence a certified Transcript from the County Court of Solano County by showing the issue of letters of

of Administration to the said Cooper with the intermediate steps proper to be taken to authorize the said court to issue an order for the sale of said place, a copy of the order for the sale, the report of the Administrator of his acts and doings by virtue of said order certifying that the same had been sold to whom, and the manner in which the same had been done, which report ~~had~~ was accepted by the court and an order of a deed to be executed in pursuance thereof, the said Cooper as Administrator did execute a deed bearing date the 28<sup>th</sup> day of July 1837 to James M Harbin James M Estelle, George Tyler, and John G. Parish they having bid the sum of Six thousand five hundred dollars at the sale of the same, and reported as being the highest bidders.

A large amount of testimony has been taken on the part of the Government tending to show that the sale was improperly conducted by the Administrator whereby the Law Agent seeks to avoid a confirmation.

The Statutes of California afford a full and complete remedy through the medium of their state courts for all malfeasance of Administrators of estates of deceased Persons And in our opinion those Courts possess the exclusive jurisdiction over the subject matter and that in this case the record of the Probate Court presented before us is full and in all respects so far as we can judge in perfect accordance with the requirements of the Statute under which its proceedings were had.

And it will be seen also on inspection of the proceedings of said Court that the parties fitting themselves agreed by the acts of the Administrator appeared at the time he made his report of his acts and doings in reference to the sale, and resisted its reception.

229

its reception by the Court and after a full hearing  
in the premises it was adjudged that the proce-  
-dings were correct and a deed ordered to be ex-  
-ecuted to the Purchasers.

We do not think this board possess any  
power to go back of the proceedings of that Court  
in this case or to review and set aside its decision.

The Petitioners have not produced the  
original grant to Hardy in evidence, but have  
shown beyond a doubt that a grant was issued  
by Governor Michelloreau and delivered to the  
grantee about the time alleged in their petition, and  
that it has either been lost or out of their power  
to produce it in evidence and thereby have laid  
the foundation for receiving oral testimony of its contents.

John Bidwell swears that he saw the grant  
in the year 1845 had it in his possession some  
time for the purpose of obtaining the approval thereof  
by the Departmental Assembly, says that it was  
dated in 1843 and that he examined it, knows  
the signature of Governor Michelloreau and has no  
doubt of its genuineness.

And he further says that the grant was  
for the same land claimed, several other of the  
Witnesses saw the grant about the same time  
and corroborate the testimony of Bidwell as to  
its contents.

We think the Petitioners have shown  
themselves entitled to a confirmation by the proofs  
and a decree will be entered accordingly.

Confirmed

Filed in Office June 26<sup>th</sup> 1855

(Signed) G. Fisher

Secy

360 ND  
PAGE 212

230

360 ND  
PAGE 213.

Decree

James M. Harbin et al  
vs  
The United States

In this case on hearing the proofs  
and allegations it adjudged by the Commission  
that the claim of the said Petitioners is valid  
and it is therefore decreed that their application  
for a confirmation thereof be allowed.

The land of which confirmation is  
hereby given is situated in the County of Yolo  
containing six square leagues and is known  
as the place called "Rio Jesus Maria" having  
for its Western boundary the Rancho Gordon  
running down the Rio Jesus Maria on each  
side thereof, to the river Sacramento and the  
last mentioned river forming its Eastern bound-  
ary. Preference being had to the Map ac-  
companying the Expediente on file in this  
case.

(Signed) R. Aug. Thompson

(Signed) S. B. Farwell

Commissioner

Ruled in Office June 26<sup>th</sup> 1855

(Signed) Geo. Fisher  
Z. S. C.

231

360 ND  
PAGE 214

And it appearing to the satisfaction of this Board that the land hereby adjudicated is situated in the Northern District of California it is hereby Ordered that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded be made out and duly certified by the Secretary one of which transcripts shall be filed with the Clerk of the United States District Court for the Northern District of California and the other be transmitted to the Attorney General of the United States.

280

360 ND  
PAGE 215

Office of the Board of Commissioners,

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

I, George Fisher —

Secretary to

the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing Two hundred and thirty one pages, numbered from 1 to 231, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. 261, on the Docket of the said Board,

wherein James M. Harbin, et al, are —

the Claimants against the United States, for the place known by the name of "Río de Jesus María."



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

Geo. Fisher.  
*[Signature]*

360

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

No. 360-L-~~57~~360

THE UNITED STATES,

vs.

ND

James M. Martin, et al.

---

TRANSCRIPT OF THE RECORD

FROM THE  
BOARD OF LAND COMMISSIONERS,

In Case No. 261

---

Filed, December 2, 1855

J. A. Moore,  
Clerk,

360 ND  
PAGE 216

Office of the Attorney General of the United States,

Washington, 31 December, 1855.

261.) "Rio de Jesus Maria"

James M. Farlin 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 18th day of December, 1855 the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

Cleaving

Attorney General.

No. 360

U. S. District Court.

Northern Dist. of Cal<sup>if</sup>.

United States

<sup>vs</sup>

Jos. M. Harbin et al.

Notice of appeal in  
Case no. 261.

Filed Feby 1. 1856.

By Stevens,  
Deputy.

I - 360 ND  
PAGE 217

To the Honorable District Court of  
the United States in and for the North-  
ern District of California.

360 ND  
PAGE 218

The United States Manuscript No 261  
Appellants Bio de Jesus Maria  
vs Alto County, Oregon  
J.W. Harbin et al appellees

The Petition of the United States by their  
Attorney represents: that this cause is an ap-  
plication for a review of the decision of  
the Board of Commissioners whereby  
the claim of the said appellee was con-  
firmed as appears by reference to the  
Records in the case: That a transcript  
of the said Records was filed in this Court  
on the 23<sup>rd</sup> day of October 1855: that a  
notice of appeal was filed on the 11<sup>th</sup> day  
of February 1856. and that the land claim-  
ed lies in the said District.

That the said claim is invalid -

Wherefore appellants pray that the said  
decision of the Board be reversed and that  
this Court deem the said title to be invalid.

Respectfully &c

Wm. Blairning  
W.S. Atty

No. 360

The United States

vs  
J. M. Harbin  
et al appellees.

Petition

Sent Sept. 9. 1856,  
Cheney,  
Deputy.

360 ND  
PAGE 219

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

- 360 ND  
PAGE 220

The United States, appellants } transcript No 261.  
vs. } Rio de Jesus Maria  
J. M. Harkin et al. appellees } Yolo county, 6 leagues.

James M. Harkin, James M. Estill, George Taylor, John G. Parish, John H. Harkin, and Charles R. Harkin, appellees in the above entitled cause, appear by their attorneys, and for answer to the petition of the United States filed herein, say:

That their title to the tract of land called "Rio de Jesus Maria", as set forth & described in their petition filed before the Board of Commissioners, and in the documentary and other evidence filed in this case, is a good and valid title, and that the land claimed is situated in the Northern District of California, and within the jurisdiction of this court.

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

Hallum Peavy & Billings  
Atts for Appellees.

No 360  
in the U.S. dist court  
Natchez dist of Miss.

Mr M. Shattox, appellants

J. M. Harkins et al <sup>vs.</sup> appellants.

Anns. of Appellants

Filed Sept 9. 1856,  
Chas. S.  
Deputy.

360 ND  
PAGE 221

Hall, Peachy & Willings  
Atts for appellants.

No 360

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

360 ND the United States, appellants } Transcript No 261  
PAGE 222 vs } Rio de Jenes Maria  
J. M. Harkin et al., appellees } 6 sq Leagues, Yolo County.

Stated Term March 23<sup>d</sup> 1857.

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 the Private Land claims in the State of  
California, under the act of Congress approved  
on the 3<sup>d</sup> of March AD 1851, upon the Transcript of  
the proceedings and decision of the said Board of  
Commissioners and the papers and evidence on  
which the said decision was founded; and it ap-  
pearing 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 be and the same  
is hereby in all things affirmed; and it is  
likewise further ordered, adjudged, and decreed  
that the claim of the Appellee is a good and  
valid claim, and that the said claim be  
and the same is hereby confirmed to the  
extent and quantity of Six Square

360 ND  
PAGE 223

Leagues being the same land described in the grant, and of which the possession was proved to have been long enjoyed. Provided that the said quantity of Six Square Leagues 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 claimants that less quantity.

Gdve Hoffmire  
in J. dek Proje

This docm is correcck.

Wm Blandine  
Hist Atty

No 360

In the U. S. Dist. Court  
Northern Dist of Cala.

the U. States, appellants  
vs.

J. M. Harkin et al appellas

Decree

Filed March 23, 1857,

W. W. Cheever,  
Deputy.

Court.

360 ND

PAGE 224

Habakkuk Peasey & Billings  
Attns for appellee

In the District Court of the U. S.

360 ND  
PAGE 225

for the Northern District of Cala

The United States

v

} D.C. 360; L.C. 261.

Jas M. Harbin et al

In pursuance of a notice

from the U. S. Attorney General, hereunto annexed,  
it is hereby stipulated and agreed that no further appeal  
be taken in this case on the part of the U. S. and  
that claimants have leave to proceed under the  
decree of this Court heretofore rendered in their  
favor, as under Trial Decree.

San Francisco May. 8 1857

William Blanding.

U. S. Dist Atty.  
Hullum, Peachy & Billings  
Atty for appellat.

California Land Claim.

Attorney General's Office

2 January 1857

Sir,

In the case of the claim of Jas.  
M. Harbin et al. confirmed to the claimants  
by the Commissioner, case no. two hundred  
and sixty-one (261), appeal will not be  
prosecuted by the United States.

Yours,

Respectfully,

Alasity

Wm. Blanding Esq

U. S. Attorney,  
San Francisco.

360  
261

U. S. District Court

The United States

Jas M. Harbin et al

Stipulation

Filed May 8, 1857.

W. F. Chavis,  
Deputy.

360 ND  
PAGE 227

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

360 ND  
228  
PAGE

**Present:**

*The Honorable OGDEN HOFFMAN, District Judge.*

The United States } v. Jas. M. Harbin et al. } D.C. 360; L.C. 261.

The Attorney General  
of the United States having given notice  
that ~~no~~ appeal will not be prosecuted  
in this case, and a stipulation to that  
effect having been entered into by the  
U. S. Attorney:

On motion of the District  
attorney it is Ordered Adjudged & Decreed  
that claimants have leave to proceed  
under the decree of this Court hereto-  
fore rendered in their favor as under  
Final Decree.

Oden Hoffmeyer  
H. S. Reich Judge

360

United States District Court, Northern  
District of California.

The United States

vs.

J.W. Hardin et al

ORDER.

Final Decree

Filed May 8<sup>th</sup> 1857  
John. A. Monroe,

CLERK.

By W. H. Cheever

DEPUTY.

360 ND  
PAGE 229

~~380 ND~~  
PAGE 230

Office of the Board of Commissioners,

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

San Francisco,

*Dec. 10<sup>th</sup>*  
*Oct 27<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. 261 on the Docket of the said Board, wherein

*James M. Harbin, et al, are —*  
the Claimants against the United States, for the place known by the name of *Rio de Jesus Maria* —  
and request your receipt for the same.

I am, Respectfully,

Your Obt. Servant,

*G. F. Fisher*

*3*