

CASE No.

373

NORTHERN DISTRICT

CANADA de PALA GRANT

JOSE de JESUS BERNAL, et al.

CLAIMANT

DEC 19 1962

LAND CASE 373 ND

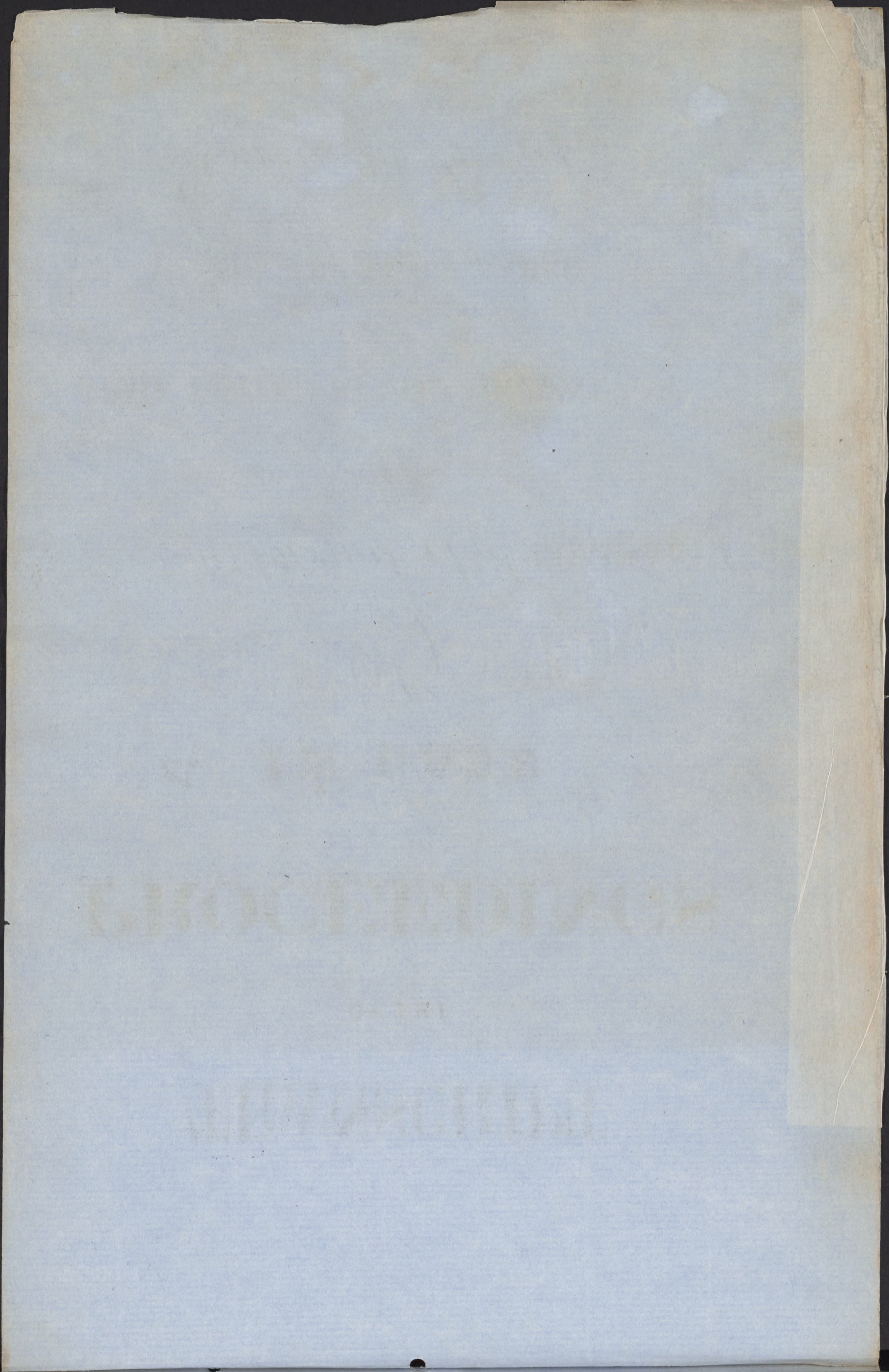
43 pgs.

U.S. DEPARTMENT OF AGRICULTURE
25% COTTON FIBER
PLANTER FUND
Cottonwood



Oct 17 1864

Aug 1



617
of decree

TRANSCRIPT
OF THE
PROCEEDINGS

IN CASE

NO. 617.

José de Jesus Bernal, et al. CLAIMANT &

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Canada de Pala"

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

1952

PHYSICS DEPARTMENT

PHYSICS DEPARTMENT

1952

PHYSICS DEPARTMENT

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

373 ND
PAGE 2

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

The Petition of *José de Jesus Bernal, et al.*
for the Place named

Canãda de Pala,
was presented, and ordered to be filed and docketed with No. *617* and is as follows, to wit

(Vide page *5* of this Transcript.)

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

San Francisco March 26th 1853.
In case no. *617*, *José de Jesus Bernal et al.* for the place named *Canãda de Pala*, the deposition of *Antonio Maria Pico*, a witness in behalf of the claimants, taken before Commissioner *William Hall*, was filed;

(Vide page *6* of this Transcript.)

San Francisco August 13th 1853.
In the same case the deposition of *Antonio Maria Pico*, a witness in behalf of the claimants, taken before Commissioner *Alpheus Felch*, with document marked *No. 1, A. Fanned sheet*, was filed;

(Vide page *8* of this Transcript.)

San Francisco Nov. 8th 1854.
In the same case the depositions of *Antonio*

2
Chuboya and Jose Costa, witnesses in behalf
of the claimants, taken before Commissioner Alpheus
Felch, were filed:

(See page 12 of this Transcript)

San Francisco November 10th 1854.

In the same case the deposition of Jose Suroya,
a witness in behalf of the claimants, taken
before Commissioner Peter Sott, was filed:

(See page 14 of this Transcript)

San Francisco December 5th 1854.

Case no. 614 was ordered to be placed at the
foot of the 3rd class cases on the trial docket,

San Francisco, December 26th 1854.

Case no. 614 was ordered to be placed at the foot
of the 4th class cases on the trial docket,

San Francisco December 28th 1854.

In the same case the deposition of James
A. Fisher, a witness in behalf of the claimants,
taken before Commissioner Alpheus Felch,
with a map marked Exhibit no. 1. A. F.,
annexed thereto, was filed:

(See page 17 of this Transcript)

San Francisco January 23rd 1855.

Case no. 614 was submitted without argument
and taken under advisement,

In the same case the deposition of Juan B. Alvarado,
a witness in behalf of the claimants, taken
before Commissioner Peter Sott, was filed:

(See page 19 of this Transcript)

San Francisco June 26th 1855.

In the same case Commissioner J. B.

3

Fairwell delivered the Opinion of the Board
confirming the claim;

(vide page 29 of this Transcript)

and the following order was made, to wit;

(vide page 31 of this Transcript)

~~~~~

N.

373 ND  
PAGE 4

H

LIBRARY  
1910

5-  
To the Hon<sup>ble</sup> the Board  
of U. S. Land Commissioners  
appointed to settle private Land  
Claims in California.

Petition

373 ND  
PAGE 5

The petition of  
Janda de Dios Benet  
Jose Antonio Benet  
and Juan Benet of  
Castro respectfully  
sheweth That on or  
about the 9<sup>th</sup> day of August A.D.  
1839, Jose Castro prefect of this dis-  
trict of San Jose by virtue of an au-  
thority in him vested the various laws  
of Mexico then in force, the laws usage  
and customs of the country affecting  
grants of land in California granted  
unto your petitioners the piece of  
land and rancho situated East of  
the Pueblo of San Jose Guadalupe and  
known by the name of the Cañada de Pala  
containing about 2 leagues as descri-  
bed in the papers and Maps rela-  
ting to the same the original being  
in the possession of your petitioners,  
ready to be produced and proved  
before your Hon<sup>ble</sup> Board.

And your petiti-  
oners further shew that they have  
been in the peaceably and quiet  
enjoyment of said premises since  
the date of said grant up to the  
present time, either by your petiti-  
oners occupying the said lands and  
premises in person, or by other persons  
claiming under your petitioners - Cul-  
tivating the said lands to some ex-  
tent, and stocking the same with  
Horses Cattle and Hogs - All of  
which is respectfully submitted for  
such action as the justice and  
nature of the Claims may re-

quire.

E. O. Crosby

Chm Counsel.

Filed in Office  
July 24 1853.

(Signed)

Geo. Fisher  
Sec.

373 ND  
PAGE 6

San Francisco March 26 1853

Deposition  
of  
Antonio  
Maria Pico.

On this day before Court  
Miland Wall, came Antonio M.  
Pico, a witness in behalf of the  
claimants Jose de Jesus Bernal, et al.  
and was duly sworn. His evidence  
being interpreted by the Secretary.

The U. S. Associate Law  
Agent was present.

In answer to inquiries by  
the Counsel for the Claimants and  
the witness testified as follows.

My name is Antonio -  
M. Pico, my age is forty four years  
and I reside at San Jose.

I know the rancho called  
Canada de Pata, it is situated  
in the Community of Santa Clara,  
about three leagues to the East  
of San Jose. I have known it ever  
since the year 1835, during all  
which time it has been in the  
occupation of the Bernal family.  
Jose de Jesus Bernal and Juan Ber-  
nal first occupied it - Jose Antonio  
Bernal is a brother of the two  
farmers and he has occupied with  
them - They have occupied from

7  
that time to the present - They had at first a small house in which they lived, and afterwards built a larger and better one, have raised cattle, sheep and horses, and have cultivated portions of the land.

373 ND  
PAGE 7

Question by the Associate San Agent.

Do you know that the Prefect possessed any power by the laws of Mexico to grant lands in California?

Answer. By the Law of 1837 the Prefect had authority to grant lands within the common lands of Towns.

Question - By Law set for the Claimants.

Was it customary for the Prefects to make such grants?

Answer. It was customary for them to grant lands within the Ejidio - common lands of the Town - Governor Alvarado authorized Jose Castro the Prefect to make grants as I was told beyond the limits of the Town - Manuel Castro was afterwards Prefect.

Antonio M. Pico

Sworn and subscribed before me

W. H. Hall

Commissioner.

8  
Filed in Office  
March 26 1853.

(Signed)

Geo. Fisher  
Sec.

373 ND  
PAGE 8

Office of the Board of  
Commissioners of California  
Land Claims.  
San Francisco Augt. 13. 1853.

This day and before Commissioners  
Appears Felch one of the U. S. Commis-  
sioners to ascertain and settle private  
Deposition land claims in California, came Ante-  
of Maria Pico a witness in behalf of Claimants  
Antonio Jose de Jesus Bernal et al N<sup>o</sup> 617 on the  
Maria Pico docket of said Commissioners and being  
duly sworn deposed as follows.

Question by Mr. Crosby  
Attorney for Claimants.

1 Question. What are  
your name age and place of residence?

Answer. My name is  
Antonio Maria Pico my age forty three  
years, and I reside at San Jose in the Co-  
unty of Santa Clara, in the State of Ca-  
lifornia

2 Question. Look  
on the paper now shown to you marked  
"Exhibit N<sup>o</sup> 1" with the initials "A. P." pur-  
porting to be a petition from three persons  
named Bernal, and a Decree of Jose Cas-  
tro, puppet of the First Dictator thereon all  
dated in the year 1839 which documents  
are annexed to this Deposition: and say  
whether you recognize as genuine all, or  
any, of the signatures appearing thereon?

Answer. I recogni-  
ze as genuine the signatures of Jose.

9  
Castro, Dolores Pacheco, and Jose M.  
Caramuchis appearing thereon. I have  
seen them all write and know their  
signatures well.

3 Question. Did these  
individuals exercise any official func-  
tions in the year 1854, and if so what?

Answer. Jose Castro  
was acting as Prefect and said Caramu-  
chis was his Secretary. Dolores Pacheco  
was Justice of the Peace.

4 Question. Do you  
know the land described in the docu-  
ments above mentioned, if you, when  
and where was it first occupied and  
how and by whom improved?

Answer. I know  
the land, it is situated rather more  
than a league and a half eastward  
from San Jose. It is a small tract.  
The Bernals have always occupied  
the land ever since it was granted to  
them to the present time. They have  
large houses of adobe upon it which  
are occupied with their families. I  
saw houses there five or six years  
ago. They have corals on the land with  
cattle and they cultivate the premises.

Antonio M. Pico

M. Green has Assis-  
tant Law Agent was pre-  
sent at the taking of this  
Deposition but declined  
to proposed any questions  
to the witness. The testi-  
mony was given in the  
Spanish language, M.  
Green by consent of par-  
ties acting as Interpreter.

Sworn and Sub.

10  
cribed before me at  
San Francisco, this thir-  
teenth day of August,  
A. D. 1853.

Alpheus Felch  
Commissioner.

373 ND  
PAGE 10

Filed in Office  
Augt 13. 1853.

Signed

Geo. Fisher.  
Secy

---

United States Land Com-  
missioner, San Francisco Nov.  
8. 1854.

Depositions  
of  
Jose Castro.

On this day, before Commis-  
sioner Alpheus Felch, came Jose Cas-  
tro, a witness on behalf of the Claimants  
Jose de Jesus Bernat et al. case N<sup>o</sup> 617,  
who, after being duly sworn, deposed  
as follows, his evidence being inter-  
rupted by the notary of the Board.

Questions by M<sup>o</sup> Crosby  
attorney for Claimants.

1<sup>st</sup> Question. Please state  
your name, age and place of residence.

Answer. My name is  
Jose Castro, my age forty six years  
and I reside at Monterey, California.

2<sup>d</sup> Question. Please  
look at the Document now pre-  
sented to you and marked "Exhibit A"  
with the initials "A. F." Now to you fi-  
led in this case, and state whether you  
are acquainted with the hand writing  
of Jose Castro, Jose Maria Carrasubias and  
Dolores Pacheco, and if yes, whether



11  
as the signature, appearing as theirs on  
said Document are their true and  
genuine signatures.

Answer. I have exam-  
ined said Document and I am  
acquainted with the hand writing of  
the persons named. The signatures on  
said document are their true and ge-  
nuine signatures. That of Jose Castro  
is my own.

3 Questions. What of-  
fice if any, did said persons hold  
at the date of the instrument signed  
by them?

Answer. I was Pref-  
ect of the First District when I signed  
the same, which was at the time the  
instrument bears date. Caramurias  
was Secretary of said Prefecture and Pa-  
checo was Alcalde at that time. The  
lands described in said Document is  
situated within what was then the ju-  
isdiction of said Prefecture and said  
Alcalde.

Questions by Mr. Blom-  
ding Associate Law Agent.

1. Question. What know-  
ledge have you of the hand writing  
of Jose M.<sup>a</sup> Caramurias and Dolores Pa-  
checo?

Answer. They were  
subaltern Officers in my Prefecture and  
I often received official communications  
from them. I have seen both of  
them write often, and have received  
private letters from them.

Jose Castro.

Subscribed and  
sworn to before me this  
eighth day of November.

1854.

Aphens Felch.

Commissioner.

Filed in Office  
Novemb. 8. 1854.373 ND  
PAGE 12

(Signed)

Geo. Fisher.

Secy.

United States Land  
Commissioners San Fran-  
cisco Nov. 8. 1854.

Deposition

of Aphens Felch, came Antonio Chaboya, a witness on behalf of the Chaboya Claimants, Jose de Jesus Bernat et al. case No. 617, who, after being duly sworn, deposed as follows, his evidence being interpreted by the Interpreter of the Board.

Questions by Mr. Crosby,  
Attorney for Claimants.

1. Question. Please state your name, age and place of residence.

Answer. My name is Antonio Chaboya, my age is fifty one years and I reside near the Pueblo of San Jose in California.

2. Question. Do you know the Rancho called "Cajon de Palo," claimed in this case? if yes, where is it situated, what do you know of its occupation, and by whom?

Answer. I know said Rancho - It is situated in Santa Clara County, and adjoins my own Rancho

373 ND  
PAGE 13

which is named Yuba Buena. It is  
some sixteen years since I first knew  
the Rancho. Canada de Pola to be oc-  
cupied. It was then occupied by Jose  
de Jesus Bernal, Jose Antonio Bernal  
and Juan Bernal y Castro. They had  
at that time two hundred head of  
cattle on the place, a band of Mares  
one corral and a house which was  
built of stones and mortar. They li-  
ved in the house and had a small  
piece of the land enclosed and culti-  
vated. They have continued to live  
there and occupy the place into the  
present time, and have planted  
and cultivated every year.

3<sup>rd</sup> Question, What  
are the boundaries of said Rancho?

Answer. It adjoins  
my Rancho on one side which ma-  
kes the western boundary of said  
Canada de Pola, on the south it is  
bounded by the Rancho of Carlos  
Meara; on the East the same del  
Polo Seco is the boundary, and on the  
north the arroyo de la Loma del Polo  
Seco runs into the Arroyo del Aguaje.  
This arroyo commences about the en-  
tre of the Loma del Polo Seco, and runs  
west emptying into the arroyo del Aguaje  
near the northwestern corner of the  
Rancho.

Questions by Mr.  
Blanding associate Law Agent.

1<sup>st</sup> Question. How  
was the boundary between the Rancho  
in question and that of Meara marked?

Answer. There is  
a thicket or chamisal partly em-  
braced in the Rancho, and on the line  
at or near the south eastern corner

14

of the Rancho, and also stands on the line of my Rancho.

I Inquest. State the general form of the Rancho and the dimensions.

Answer. It is a Cañada and is longer than it is wide. From east to west which is from my Rancho to the Laguna del Palo Verde, it is about a league and three quarters, and from north to south it is about two leagues and a half.

373 ND  
PAGE 14

<sup>his</sup>  
Antonio X Chaboya  
mark

Subscribed and sworn to before me this Eighth day of November 1854.

Alpheus Sitch  
Commissioner.

Filed in Office  
November 8. 1854.

(Signed)

Geo. Fisher  
Scriber

United States  
of America State  
of California San  
Francisco, Nov. 9. 1854

Deposition  
of

Jose Arriaga

This day came before Peter Sitt, Commissioner for taking testimony to be used before the Board of U. S. Land Commissioners in said State, Jose Arriaga, a witness on behalf of the Claimant, Jose Juan Bonal et. al, in case no. 617 on the docket of said board, and said witness being sworn, deposed in Spanish

which was interpreted by the interpreter

15- which was interpreted by the Interpreter to said Board as follows:

The U. S. Law Agent is present.

Questions by E. C. Crosby Esq. Attorney for Claimants

1<sup>st</sup> Question. What is your name, age and residence?

Answer. My name is Jose Nunez, my age 54 years, my residence in Santa Clara County, California.

2<sup>nd</sup> Question. Do you know the Rancho of Cañada de Pala, claimed in this case, if you, state where it is situated, and what you know of its occupation.

Answer. I know said Rancho, it is situated in Santa Clara County about 14 leagues East of this Pueblo of San Jose, it is adjoining the Ranchos of Antonio Chaboya, and Joaquin Niquera. The Rancho of Cañada de Pala in 1834 was occupied by Juan Bernat de Castro, Jose Bernat de Castro, and Antonio Bernat de Castro, I saw them on said Rancho then building an adobe house and a corral, I saw them put on the place 200 head of cattle or thereabouts, a band of mares and some other horses besides, They had a field enclosed, and were cultivating it, it was then planted in corn, beans, wheat and barley. The said Bernats de Castro were living there at the time with large families. These families have continued from that time to the present to reside on, occupy and cultivating said Rancho.

Cross Examined by

U. S. Associate Law Agent.

1<sup>st</sup> Question. How far have you resided from said Ranchos, and when and how often have you visited it?

373 ND  
PAGE 16

Answer. I have lived at San Jose, and have been in the habit of visiting said Ranchos as a friend, I have seen it in the period spoken of a hundred times I may say with safety.

2<sup>d</sup> Question. What marks the boundaries between this Rancho and that of Higuera, and that of Chaboya?

Answer. It is divided from both of those Ranchos by a mountain the top of which is the boundary, it is called Sierra Madre.

Jose M. Ortega.

Subscribed and sworn to before me on this 9<sup>th</sup> day of November A.D. 1854.

Peter Lott

Commissioner &c.

Filed in Office

Nov. 11. 1854

(Signed)

Geo. Fisher  
sic.

United States Land  
Commissioner San Francisco  
Dec. 28. 1854.

On this day before Commissioner  
Alphons Fitch, came James Alexander  
Deposition Forbes a witness on behalf of the Claimants,  
Jose de Jesus Bernal, in case N.  
James. No. 617, who after being duly sworn, de-  
posed as follows.

Questions by Mr. Fitch  
Attorney for the Claimants.

373 ND  
PAGE 17

1 Question. Please state  
your name, age and place of residence.

Answer. My name is  
James Alexander Forbes, my age  
is forty nine years and I reside  
at Santa Clara in California.

2 Question. Look  
on the map now here shown to  
you marked "Exhibit N. 1." with  
the initials "A. F." and attached  
to this Deposition, and state if  
you know who made said map,  
at what time it was made, for  
whom and what lands it represents.

Answer. This is a  
sketch or representation of the lands  
called Canada de Pala, situated  
in the County of Santa Clara  
and in the Southern District of  
California. It was made by me  
in the summer of 1839, at the request  
of the three brothers, Jose, Antonio  
and Juan Bernal. I was on the ground  
and went over it and made  
a rough examination and measure-  
ment of it. I had also been intimately  
acquainted with the place for many  
years before, the delineation of that  
tract of land is sufficiently correct  
to render its identification easy. It  
contains just about the quantity as-  
ked for in the petition to the Governor.

18

373 ND  
PAGE 18

on which the grant was made. I believe  
re that I wrote the petition myself.  
The brothers above named were in  
possession of said land when I  
made the measurement and Map  
and have been in possession ever  
since. They had then a Canal  
and Cattle on the land and one of  
them lives there at the present  
time.

This Map was made  
for the purpose of being presented to  
the Governor with the petition for  
the grant

Question by M. B. ...  
my associate Law Agent.

1. Question. What  
is the farm and what the dimen-  
sions of the Rancho?

Answer. It is a long  
narrow valley, bounded on the East  
by a high ridge of Mountains which  
is the commencement of the main range  
of Mountains dividing the San  
Francisco Valley from that of Santa  
Clara, and on the west by a ridge  
of high hills which divide it from  
the Rancho called Pala. On the  
north it is also bounded by a  
range of high hills one of which  
is a remarkable rock, call the Pe-  
nasco. On the South its narrow-  
est point is a gorge between the  
mountains entering into the Valley  
of San Felipe at the South. The  
Rancho is about two leagues or  
two and a half long, and about  
one league wide. The valley it-  
self or level land is small, being  
very narrow, and not more than  
from four to six hundred yards  
wide, and its utmost length about



19  
and leagues. This sketch includes also  
so the side hills as well as the  
Valley.

James A. H. Forbes.

Subscribed and  
sworn to before me this  
28<sup>th</sup> day of December  
1854.

Alpheus Felch.

Commissioner.

Filed in Office  
Dec. 28. 1854.

(Signed)

Geo. Fisher.  
Secy.

United States of  
America, State of  
California San Fran-  
cisco January 19<sup>th</sup> 1855.

Depositions  
of  
Juan B.  
Alvarado.

This day came before Pe-  
ter Gott, Commissioner for taking  
testimony to be used before the  
Board of U. S. Land Commis-  
sioners in said State, Juan B. Al-  
varado, a witness on behalf of the  
Claimants Jose de Jesus Barret et  
al, in case N<sup>o</sup> 617 on the docket  
of said Board, and said witness  
being sworn deposed in Spanish  
which was interpreted by the interpre-  
ter to said Board as follows:

Craps Examined by  
the U. S. Land Agent, who was present.

Questions by M<sup>rs</sup>  
Craps for Claimants.

1<sup>st</sup> Question. What

is your name, age, and residence?

Answer. My name is Juan B. Alvarado, my age 45 years, my residence in Contra Costa County California.

373 ND  
PAGE 20

2<sup>d</sup> Question. What offices have you held in California under the Mexican Government?

Answer. I was Secretary of the Territorial Junta about 1824. I was a member of said Junta in 1831. I was an officer in the Customs House at Monterey in 1835. I was Political Chief of California in 1837 and 1838, and in 1839 and years that are till 1842 inclusive I was Governor of the Department. In 1843 I was Colonel of Militia. In 1845 I was Deputy to the Mexican Congress, and I have had various public employments which I do not now remember.

3<sup>d</sup> Question. Look at the document now shown to you marked A. P. S. as an exhibit to this deposition, and state whether you are acquainted with the hand-writing of Jose Castro, Dolores Pacheco and Jose M<sup>o</sup> Covarrubias, if you state your means of knowledge, and also whether their signatures respectively wherever they occur in said document are genuine?

Answer. I am acquainted with the hand-writing of the three persons named. I have seen them all write and sign their names, and I believe their respective signatures in the several places where they occur in this document to be genuine.

1<sup>st</sup> Question. State what right or title, if any, did the grantees named in said document derive under and by virtue of said Government, by the laws and usage of the Mexican Government?

373 ND  
PAGE 21

Answer. The Prefectures were established during my administration as Governor, I issued an order conferring authority upon the Prefect of the first District to grant lands in the neighborhood of settlements or Pueblos. José Castro was Prefect of the first District at the time that this document bears date, and was clothed with such authority, and the rights acquired by the grantees (Barratos) are the same under this Government as they would be had the Governor of the Department made the grant.

Cross-Examined by the U. S. Associate Law Agent.

1<sup>st</sup> Question. Under what Law were the Prefects authorized to grant lands?

Answer. The Law of Regulations (Ley Reglamentaria) of 1837. I understood it as authorizing Prefects to grant common lands of the Pueblos.

2<sup>d</sup> Question. Was this power of the Prefect dependent upon the consent or delegation of the Governor?

Answer. That law of 1837 conferred the power upon the Prefect independent of the Governor, so far as related to the

Common Lands of Pueblo, but he  
 said that the Prefect could only  
 grant with the consent and appro-  
 val of the Governor.

373 ND  
 PAGE 22

3<sup>d</sup> Question. Was  
 the order you made as Governor  
 authorizing the Prefect of the first  
 District to make grants a written  
 or verbal order?

Answer. I remember  
 to have ordered the Secretary to  
 dispatch such order in writing  
 to said Prefect. I take for granted  
 my order to the Secretary was  
 obeyed, though he never showed  
 me the order. It was not customary  
 for the Governor to sign such com-  
 munications, they were signed by  
 the Secretary.

Juan B. Murado

Subscribed and  
 sworn to before me on  
 this 14<sup>th</sup> day of January  
 A. D. 1855.

Peter Lott

Commissioner

Filed in Office  
 January 23 1855.

(Signed)

Gov. P. P. P.  
 Sec<sup>y</sup>

No hay papel sellado.

Sr. Prefecto.

Pueblo de Sr Juan de Castro  
8 de Agosto de 1839.

José de Jesus Bernal  
José Antonio Bernal

Inhibit No. A. F.  
annexed to Deposition  
of Antonio M<sup>o</sup> Pico.

Informe el Jefe de paz del Pueblo de San José de Alvarado si los interesados obtienen los requisitos legales para ser admitido si el terreno que solicitan pertenece a la propiedad de alguna corporacion, Pueblo o particular y si se les puede conceder en propiedad.

y Castro, naturales de este pais ante V. S. con el debido respeto nos presentamos y decimos que somos poseedores de doscientas cabezas de ganado mayor y una manada de Yeguas y que deseando procurar la conservacion

A. P. L. Inhibit to the  
Deposition of Juan  
B. Alvarado. -  
January 19. 1855.

y crecimiento de estos bienes suplicamos a V. S. se sirva de agraciarnos con el pequeño terreno situado al oriente del pueblo de San José Guadalupe y conocido por el nombre de la Cañada de Pala y que como demuestran el adicimo adjunto solo tiene ocho mil varas de latitud y doce mil varas en su mayor longitud. Este terreno no pertenece a ningun particular, corporacion u ncion por lo que A. S. Revolucionamente suplicamos se ordene de proveer como llamamos pido en lo que se recibiremos gracias. Pueblo de San José Guadalupe M<sup>o</sup> 25 de 1839.

José de Jesus Bernal.

José Antonio Bernal.

Juan Bernal y Castro.

Sr. Prefecto.

En cumplimiento del Superior decreto de V. S. que antecede tenga el honor de informar que los interesados en esta instancia obtienen los requisitos legales para ser admitidos: que el terreno que peticionan de bello badio y no pertenece a propiedad particular ninguna y que puede ser concedido en propiedad.

Pueblo de S. José de Alvarado. Agosto 9 de 1839. Dolores Pacheco.

Pueblo de Sr Juan de Castro. Agosto 10. 1839.

Vista la representacion con que va suscrita ante Superiormente el informe del Sr Jefe de paz de este pueblo de Sr José de Alvarado y lo

373 ND  
PAGE 23

373 ND  
PAGE 24

demas que ver con vino; y no apareciendo obstaculo  
ninguno que impida la posesion y propiedad del  
terreno solicitando, ocurran los interesados al Mue  
respectivo para que les dé la posesion juridica en  
virtud de este decreto por quien se demarearon  
los linderos: tomese razon de esta resolucion en el  
libro respectivo y sirviendo de titulo a los interesados  
entregueselos para su resguardo y demas fines.  
El Gov. Don José Castro Prefecto del primer Distrito  
así lo mandó decretó y firmó de que doy fe. —

José Castro.

José M<sup>a</sup> Covarrubias. Seco.

Queda tomada razon en el libro respectivo.  
Covarrubias.

Filed in Office. Aug. 13. 1853.

Geo. Fisher.  
Secy.

There is no stamped  
paper.

San Rafael.

José de Juan Bernal,  
Fronteral José Antonio Bernal, and Juan  
of Bernal and Castro natives of this  
Capitán de R. comarca, We present ourselves before  
Exhibit B. your Excy. with due respect and say,  
that we are owners of 200 head of large  
cattle and a herd of mares, and de-  
siring to procure the preservation &  
increase of these goods, we beg your  
Excy. may be pleased to grant us a  
small piece of land, situated East  
of the Pueblo of San José de Guadalupe  
and known by the name of the  
Cañada de Pala, and as appears  
by the annexed plan is only 8,000  
varas in breadth and scarcely 12,000 in  
its greatest length. This land be-  
longs to no particular Corporation or  
mission.

Wherefore we respect-  
fully pray that you may dignify to  
grant us our petition, by which  
we shall receive favour &c.

Pueblo of San José of  
Guadalupe, April 25<sup>th</sup> 1839.

José de Juan Bernal +

José Antonio Bernal +

Juan Bernal, Castro

(marginal decree)

Pueblo of San Juan  
de Castro Aug. 8. 1839.

Let the Justice of  
the Peace of the Pueblo of San José  
of Alvarado give information if

the petitioners in this instance, have observed the legal requisites to be attended to - if the land petitioned for belongs to the property of any Corporation Pueblo or person - and if it can be granted to them in property.

Castro.

373 ND  
PAGE 26

Senior Prefect.

In fulfillment of the preceding decree of your Ex.<sup>ca</sup> I have the honor to inform that the petitioners in this instance have observed the legal requisites to be attended to that the land they petition for is found to be vacant - that it is the property of no one in particular and can be granted in fee.

Pueblo of San José  
of Alvarado. Aug. 9. 1839.

Colonel Pacheco.

Pueblo of San Juan  
de Castro. Aug. 10. 1839.

In view of the representation heading this Expediente the Informations of the Justice of the peace of the Pueblo of San José of Alvarado, and of the other matters which seem met: and there appearing to be no one opposing the possession and property of the land prayed for; the interested parties may go before the respective Judge that he may give them judicial possession in virtue of this decree, by whom the boundaries shall be marked out.

Let record be made of this order in the respective book,



27

and preserving the title to the petitions, let it be delivered to them for their protection and other uses.

The Commissioner of the 1<sup>st</sup> District, has orders decrees and signs which I attest

José Castro.

José M. Caramubias  
Secy.

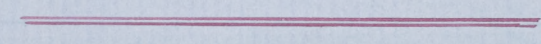
Let record be taken in the respective Book.

Caramubias.

Filed in Office  
February 21 1853.

(Signed)

Geo. Fisher.  
Secy.



373 ND  
PAGE 27

28

1868  
AD

vs

The United States

Veraplaça situated in  
the County of Santa Clara  
called "Canada de Pala"  
containing about two  
leagues.

Opinion.

373 ND  
PAGE 28

The petitioners in this case have offered in evidence in support of their claim, three expedients directed to the Prefet of said district dated the 23<sup>rd</sup> day of April 1839, and also a grant issued by José Castro in pursuance thereof on the 10<sup>th</sup> day of August following.

The proofs in the case go to show that the said Castro was the Prefet of the district in which the land was situated at the time of the issue of the grant, and that his signature attached to said grant is genuine, and also that the granters were in the actual possession of the premises at the time of the grant was issued, and that they have occupied and cultivated the same ever since. Also that the boundaries are well defined so that no difficulty will arise in locating the same, and that the place does not contain more than two square leagues, and that the land was comprised of a part of the common lands of the Pueblo of San José. The question of the power of a Prefet to grant common lands within the boundaries of Pueblos was fully examined and decided by the Board in the opinion delivered last week in the case of Larino vs The United States No 297, which said opinion it was adjudged that the prefet possessed such right

We think this claim a valid one, and a  
decrea will be entered accordingly  
Confirmed

Filed in office June 26, 1855  
(Signed)

Geo. Fisher Jewell

373 ND  
PAGE 29

617 José de Jesus Bernal et al }  
vs  
The United States }

Decree

In this case after hearing the proofs and alle-  
gations, it is adjudged by the commissioners  
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 situate in the county of Santa  
Clara and is called "Cañada de Pala" and  
bounded as follows, on the south by a gorge  
in the mountains, and the balance of the  
boundaries being the base of the hills or  
mountains, Reference being had to the  
map accompanying the expediente and the  
deposition of J. A. Forbes.

A. M. Thompson }  
S. B. Varnum } Commissioners

Filed in office June 26, 1855  
(Signed)

Geo. Fisher Jewell

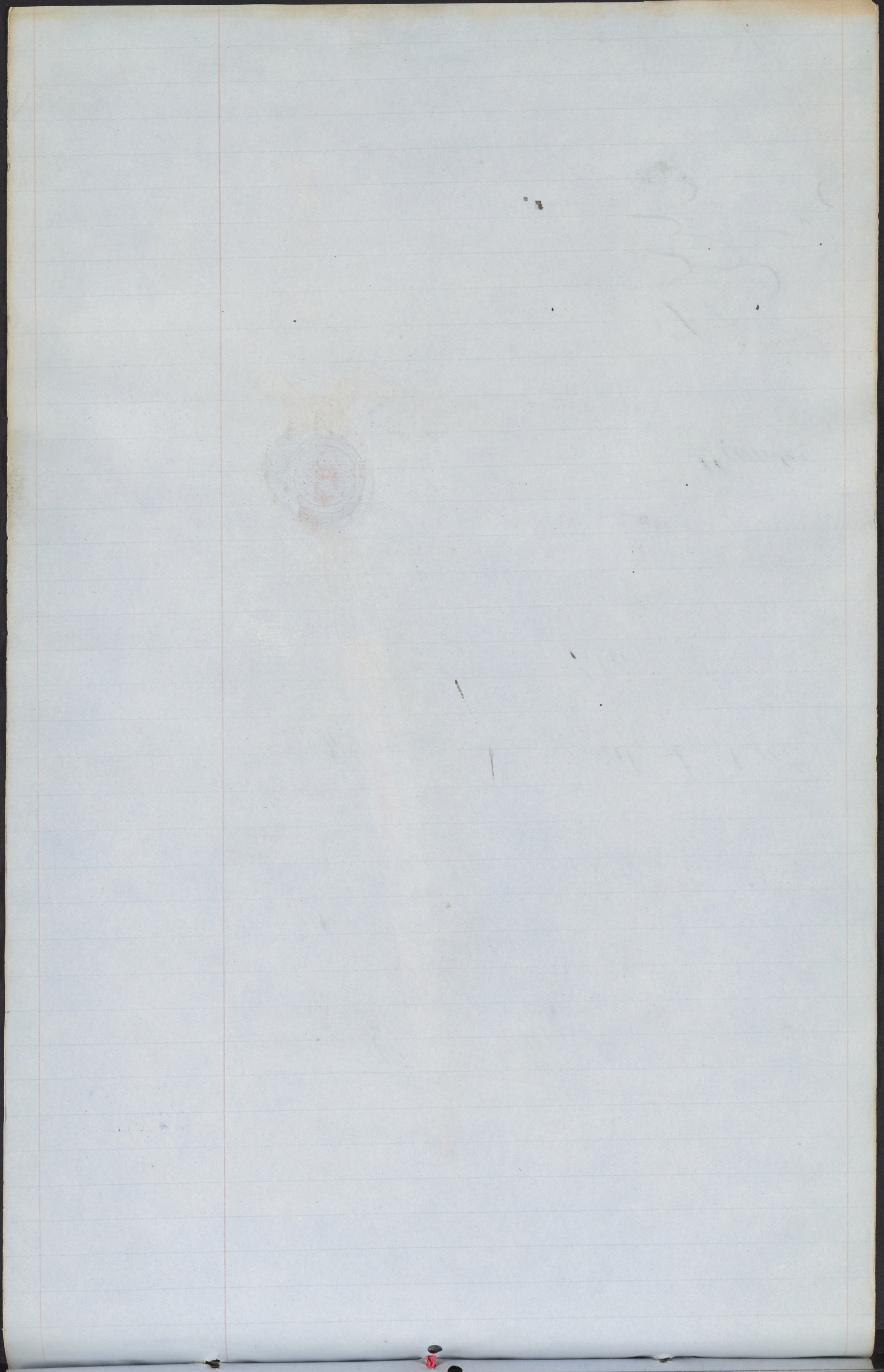
31

Order

And it appearing to the satisfaction of the Board that the land hereby adjudicated is situated in the Northern district of California it is ordered that the transcripts of the proceedings and 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.

373 ND  
PAGE 30

5400  
ND



● Office of the Board of Commissioners,  
To ascertain and settle the Private Land Claims in the State of California.

*J. George Fisher* Secretary to  
the Board of Commissioners to ascertain and settle the Private  
Land Claims in the State of California, do hereby certify the  
foregoing *Thirty one* pages, numbered from  
1 to *31*, both inclusive, to contain a true, correct and full Tran-  
script of the Record of the Proceedings and of the Decision of the  
said Board, of the Documentary Evidence and of the Testimony  
of the Witnesses, upon which the same is founded, on file in this  
Office, in Case No. *617* on the Docket of the said Board,  
wherein *José de Jesús Bernal, et, al,* are  
the Claimant, against the United States, for the place known by  
the name of *Canada de Pula*



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

*J. G. Fisher*  
*J. G. Fisher*

56  
34



373

DISTRICT COURT,

*San Jose* District of California.

No. *373*

373

THE UNITED STATES

's.

*José de Jesús Bernal, et al.*

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS.

In Case No. *617*

Filed, *December 24* 1855

*J. A. Monroe,*

*Clk*

Office of the Attorney General of the United States,

Washington, 11 Feb - 1856.

617) "Cañada de Pala"

José de Jesus Bernal 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 1st day of January, 1856, the appeal in the district court of the United States for the northern district of California will be prosecuted by the United States.

*Andrew*

Attorney General.

No. 373

---

---

United States -  
- ad -

Jose de G. Bernal  
et. al

---

Appeal Notice  
no. 617

---

---

Filed April 4, 1886  
Cherred,  
Deputy.

373 ND  
PAGE 33

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

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States  
v  
Jose de Jesus Pernal et al.

D. C. 373. L. C. 617

The Attorney General of the United States having given notice that 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 the appeal taken from the decision of the U. S. Land Commission be dismissed, and that claimants have leave to proceed under the decree of this Court the said Land Commission heretofore rendered in their favor, as under Final Decree.

Ogden Hoffman  
U. S. Dist Judge

373

United States District Court, Northern  
District of California.

*The United States*

vs.

*J. de J. Bernal et al*

ORDER.

*vacating appeal*

Filed *May 7th* 1857

*John A. Monroe,*

CLERK.

By *W. H. Cheever*

DEPUTY.

373 ND

PAGE 35

Attorney General's office  
17<sup>th</sup> February 1857

Sir;

I am hereby instructed to  
dismiss the appeal in the case of  
José de Jesus Bernal et al, vs The  
United States numbered 617, on the  
docket of the Land Commissioners.

I am,

Respectfully  
Cuming

Wm Blanding Esq  
U. S. Attorney  
San Francisco  
Cal

In the District Court of the U.S.  
for the Northern Dist of Cal.

The United States  
v  
Jose de Jesus Bernal, et al,

3  
2 D. C. 373: L. C. 657  
1

In pursuance of a notice  
from the U.S. Attorney General, herewith  
annexed, it is hereby stipulated and agreed  
that the appeal taken in this case from the  
decision of the U.S. Land Commission be dismissed;  
that the notice of intention to prosecute said  
appeal filed in this Court be withdrawn, and  
that claimants have leave to proceed under  
the decree of the said Land Commission here-  
before rendered in their favor, as under  
Final Decrees.

San Francisco May 7th 1857  
Wm. H. Manning  
Dist. Atty

E. O. Crosby  
Atty for claimants

373  
617

U. S. District Court  
The United States

J. de S. Bernal et al

Stipulation

Filed May 7, 1857.  
W. H. Chivers,  
Deputy.



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

Present:

The Honorable OGDEN HOFFMAN, District Judge.

|                                                                                                                                                                 |                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <p>The United States<br/>appellants</p> <p style="text-align: center;">v.</p> <p>José de Jesus Bernal<br/>José Antonio Bernal and<br/>Juan Bernal y leastro</p> | <p>D. C. N<sup>o</sup> 373.</p> <p>L. G. N<sup>o</sup> 617</p> <p><del>Stated Term</del></p> <p><del>September 1862.</del></p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|

And now come the claimants by their counsel Frederic Hall, and moves the court to amend the style of this case as prefixed to the final decree therein so as to read, The United States Appellants vs José de Jesus Bernal, José Antonio Bernal and Juan Bernal y leastro Appellees. - And it appearing to the satisfaction of the court that, the style of this case as prefixed to said final decree is, The United States Appellants vs José de Jesus Bernal et al Appellees thereby omitting the names of José Antonio Bernal, and Juan Bernal y leastro, who are joint claimants and confirmees therein with him; And it being likewise suggested to the court by counsel for claimants that, the Patent had been withheld by the Department

at Washington, on account of said defect. It is now hereby ordered, adjudged and decreed the attorney for the United States consenting thereto that the style of said case be and the same is hereby amended so as to read The United States, Appellants vs Jose de Jesus Bernal, Jose Antonio Bernal, and Juan Bernal y leastro Appellees.

And it is further ordered that a certified copy of this decree be delivered to the Surveyor General of the United States, for the State of California, that he may forward the same to the proper Department at Washington City, D. C. Ogden Hoffman  
Dist Judge

No 373

UNITED STATES DISTRICT COURT

Northern District of California.

The United States

v.

José de Jesús Bernal  
et al

Amended Decree.

Filed September 8th 1862

A. A. Chesebrough,

Clerk.

373 MD

PAGE 40

It is hereby agreed that the above order may be entered, San Francisco Sep 10 1862

Wm H Sharp  
U. S. Atty.

My name is Peter Quivry. I was born in the State of New York. I came to California in the year 1846, and to the "Pueblo de San Jose" in September 1847, and have continued to reside here since that time. My age is 48 years.

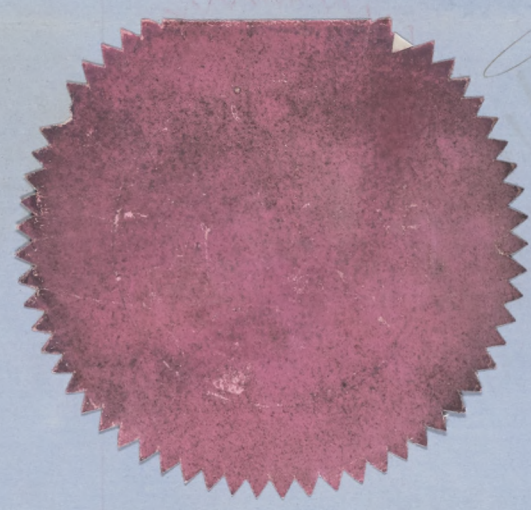
I know the tract of land situated east of the Coyote, about four miles from San Jose - called the "Rancho de Pala" in the County of Santa Clara, have known it for the last eight years. Its boundaries were pointed out to me many years since by several old residents. The South West corner was at a stump, marked with a cross - one of a grove of oak trees and stood about two hundred yards from the old house of Anastacio Chaboy. From thence the South line - dividing the "Pala" from "Yeba Buena", or Chaboy's Rancho - run easterly to an oak tree, also marked with a cross, which stands at the foot of the hills, this was known as the South East corner; this tree is in a straight line from the stump aforesaid with the Sycamore Creek as it comes out of the hills near the head waters thereof - the two marks mentioned I have known for the last seven years. The hills form the eastern boundary. The "Agugua", or "Penitencia" creek forms the northern boundary. The western line runs from the stump first above mentioned to the "Agugua" or "Penitencia" creek. I know the

Sycamore creek before mentioned, it comes out of the hills in the vicinity of the present residence of Antonio Chalzo. I am very familiar with the Southern boundary of the "Pala" Rancho. I have pastured my cattle and horses on the adjoining Rancho called the "Cañada de Pala", (of which I am one of the owners) it is situated east of the "Pala". I have had occasion to pass, and repass near this line almost daily, for the last seven years. Have talked with many persons about this line, and also about the Sycamore creek.

I think I know all the arroyos on the "Pala" Rancho, and never heard any other creek called Sycamore, or 'aliso' - certainly no other was ever, to my knowledge, called by that name in that vicinity, - except the one above mentioned. If there had been I think I should have known it.

Peter J. Quincy  
mark

Subscribed and sworn to before me  
this 18<sup>th</sup> day of October A. D. 1858  
Merriman C. Houston  
Notary Public



373 ND  
PAGE 42

Peter Quincy  
Affidavit

---

373  
ND

373 ND  
PAGE 43