CASE NO.
383
NORTHERN DISTRICT

PART OF SAN ANTONIO GRANT

Wm. A DANA et al

CLAIMANT

LAND CASE 383 ND PAGES 119

706

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TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 706.

Wm A. Dana, et, al. CLAIMANTS.

VS.

THE UNITED STATES, DEFENDANT,

FOR a part of THE PLACE NAMED

"San Antonio."

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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

The Petition of Wm. A. Dana et al; *for* part of *the Place named* "San Antonio"

was presented, and ordered to be filed and docketed with No. 706, *and is as follows, to wit;*

(Vide page 8 *of this Transcript.)*

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

San Francisco October 13th 1853.

In case no. 706, William A. Dana et al, for part of the place named "San Antonio", the deposition of José Maria Covarrubias, a witness in behalf of the claimants, taken before Commissioner Alpheus Felch, was filed.

(Vide page 9 of this Transcript)

In the same case the deposition of Thomas E. Evershed, a witness in behalf of the claimants, taken before Commissioner Thompson Campbell was filed;

(Vide page 88 of this Transcript)

San Francisco October 20th 1853.

In the same case the deposition of Antonio Maria Pico, a witness in behalf of the claimants, taken before Commissioner Thompson Campbell, was filed;

(Vide page 13 of this Transcript)

San Francisco Jany 14 1854.

In the same case the deposition of James A. Joel, a witness in behalf of the claimants, taken before Commissioner R. Aug. Thompson, with document marked "R. T. No. 1," annexed thereto, was filed;

(vide page 16 of this Transcript.)

In the same case the deposition of Pedro Mesa, a witness in behalf of the claimants, taken before Commissioner R. Aug. Thompson, with document marked R. T. No. 1, annexed thereto was filed;

(vide page 18 of this Transcript)

In the same case the deposition of José Noriega, a witness in behalf of the claimants, taken before Commissioner R. Aug. Thompson, with document marked R. T. No. 1, annexed thereto, was filed;

(vide page 15 of this Transcript)

San Francisco April 14 1854.

In the same case the deposition of Chester S. Lyman, a witness in behalf of the claimants, taken before Commissioner Peter Sott, with documents marked No. 1 & 2 P. L., annexed thereto, was filed;

(vide page 22 of this Transcript)

San Francisco April 7 1854.

In the same case the deposition of Jno Swind, a witness in behalf of the claimants, taken before Commissioner Peter Sott, was filed;

(vide page 25 of this Transcript)

San Francisco Jany 2 1855.

Case No. 700 was ordered to be placed at the foot of the 4th class cases on the Trial Docket.

San Francisco March 13' 1855.

Case No. 906 was submitted on briefs and taken under advisement by the Board.

San Francisco July 10' 1855.

In the same case Commissioner R. Aug. Thompson delivered the Opinion of the Board rejecting the claim;

(see page 101 of this Transcript)

N And the following order was made, to wit;

(see page 104 of this Transcript)

San Francisco July 17' 1855.

In the same case the Counsel for the Claimants moved that the decree of rejection heretofore entered herein, to wit, on the 10' instant, be set aside, and the case be restored to the docket; and filed the following Stipulations marked No's 1. 2 & 3 respectively, to wit;

(see pages 76. 77 & 79 of this Transcript.)

San Francisco July 24' 1855.

In the same case Commissioner R. Aug. Thompson delivered the decision of the Board upon the Motion of the Counsel for the Claimants made on the 17' instant over-ruling the same.

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1 Petition

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

The petition of William A Dana and Henry T Dana and of James M Wilks respectfully sheweth.

That on the 24th day of March A.D. 1839 Juan B Alvarado then being Constitutional Governor of the Department of the California granted to Juan Prado Mesa a Native Citizen of the Republic of Mexico, and then residing in Upper California upon the petition of said Juan Prado Mesa and under and by virtue of the powers and authority in the said Juan B Alvarado vested and by virtue of said Office a certain tract of Land known by the name and description of "San Antonio" situated in that part of Upper California now known as the County of Santa Clara, and which said tract of Land is bounded on the South by the Creek of San José Capitano, On the West by or along the East side or base of the Sierra Madre de Santa Cruz (the Mother Mountains of Santa Cruz) On the East by or along and West of the edge or termination of the Lomas Bajas (Low Hills) and On the North by the Creek of Matadero

That said grant was approved by the Departmental Assembly On the 22d day of May 1840.

That soon after the making of said grant, judicial possession of said tract of Land was given to the said Juan Prado Mesa, and the boundaries thereof designated and defined, and that he and those claiming under him have been in the peaceable possession thereof ever since, except so far as certain small portions thereof have been recently trespassed upon by persons who do not set up claim any title thereto or any portion thereof

That said Juan Prado Mesa died in the year 1847, and that in the year 1848 the South half of said tract of Land

was duly sold & conveyed by the legal representatives of said Juan Pablo Mesa and by the Sundry Of direction of the Competent federal authorities to John Record by Metes and bounds pursuant to a survey made by direction of said federal authorities by the Lyman Survey of the Middle Department of Upper California and of which the description according to said survey as in the words and figures following, to wit; Commencing at the Northern Angle at a Willow Marked Y in the Middle of a thick Clump of Sprouts on the Southern side of the Upper road from Santa Clara to San Francisco at the intersection of said road with the Arroyo de San José Capitina, the boundary being S 34° 15' W along the line of Mariano Castro 97 Ch to a live Oak marked with three cuts. Thence S 51° 25' W 35 Chains along said Castros line to an Oak with two cuts, at the Edge of the Chemisal. Thence along the other portion of the Rancho de San Antonio S 44° 45' W 66 Chs 10 L to an Oak with 2 cuts, on a hill above 50 rods South Easterly from Mesas House. Thence along said portion of the Rancho S 21° 50' W passing a blazed Oak on a hill at 81 Chains 115 Chains to the base of the Mountain. Thence along the base of the Mountain S 80° 10' E 65 Chs 40 L to a blazed Oak. Thence along said base S 75° & 25' E 75 Ch 90 L to another blazed Oak. Thence S 54° 20' E 177 Ch to a blazed Oak on the Slope of the hills. Thence S 68° 45' E 31 Ch to the Arroyo de San José Capitina near the foot of a steep bluff. Thence along said Arroyo to the place of beginning, and of which said South half of said tract, a diagram according to said survey is herewith presented Marked "C"

That said John Record afterwards duly Conveyed the South Half of that portion of said tract to sold & Conveyed to him to your petitioner James W Weeks, and the North Half of said portion to One William H McKee by whom the same was afterwards

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Converge to your petitioners William A Dance and Henry T Dance. That the said North and South Halves of said fraction of said tract so Converge to said John Rice have never been surveyed or partitioned or seperated by any definite boundaries

Your petitioners further represent that in the Conditions in said grant it is stated that the said tract is One Square League a little more or less, but your petitioners represent that said tract is described and bounded in the grant and of which petitional possession was so given under said grant here as aforesaid from that time Contains Considerably more than One Square league and that the aforesaid Survey & Diagram Correctly describes and represent the said South half of said tract, and to which your petitioners claim title, as the same was granted, and has been held and Occupied under said grant and that said South half of said tract Contains Six thousand One hundred and two Acres of land, and that your petitioners have no knowledge of any interfering claim.

Your petitioners present herewith a copy of the said Original grant in the Spanish Language with other papers of the Expedente, the whole marked "A" together with a translation of the same marked "B" and will make such further proof of title as may be necessary

Your petitioners pray your Honorable Board to take into Consideration their claim to said South Half of said tract so known as "San Antonio" as the same is described & represented in and by said Survey & Diagram, and decree their title to be valid and Confirm the same. And your petitioners will ever pray. Dated March 2. 1853

William A Dance
Henry M Dance
James M Meeks By
Evan Nolan their Atty

4038
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Filed in Office March 2. 1833
Geo. Fisher Secy

Recorded in Vol 2 of Petitions on pages
94 95 96
Geo. Fisher Secy

9 Deposition of J. M Covarrubias

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Office of the Board of Commissioners &c &c
This day before him.
Alpheus Felch came Jose Maria Covarrubias a witness in behalf of the Claimants Wm A Dana et al No. 706 who after being duly sworn deposed as follows

Interrogatory Mr Norton Attorney for Claimants
1st Interrogatory. What are your name age and place of residence?
Answer. My name is Jose Maria Covarrubias, my age forty five years and I reside in Santa Barbara.
2d. Interrogatory. Where did you reside and what was your occupation or office from 1838 to 1841?
Answer. In 1839 I became Secretary to the Prefect of the First District and resided as such in San Juan Bautista until the middle of the year 1840.
3d Interrogatory. Look at the Docu-ment now here shown to you, being Original Expediente Number 136 and the same Docu-ment Exhibited by Thomas E Ewenshee a Witness whose deposition was this day taken in this Case in your presence, and which is described in his deposition, and state what signatures, if any appearing thereon you recog-nize as genuine.
Answer. I have Examined the Document designated, and recognize as gen-uine the signatures appearing thereon as the several signatures of Juan B Alvarado Jose Estudillo, & Jose Jesus Pacheco, my own signature in part Otherwise, those of S Arguello, Manuel Jimeno, & Jose Rafael Gonzalez. I have often seen these several persons write, and am acquainted with their hand writing.
J. M Covarrubias
Mr Greenhow Special Land Agent Attended at the taking of this deposition but proposed no interrogatories to the Witness
Subscribed and Sworn to before me at San Francisco this 13 day of October AD 1853 Alpheus Felch Comm

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Filed in Office Oct 13. 1883
Geo. Fisher Secy

Recorded in Ev. B Vol 2 p. 720
Geo. Fisher Secy

Filed in Office Oct. 13. 1883

Filed in Office Oct. 13. 1883
Geo. Fisher Secy
Recorded in Ev. B Vol 2 p 720
Geo. Fisher Secy

Deposition of T. E Evershed

Office of the Board of Commissioners &c &c

This day before Comr. Alpheus Felch came Thomas E Evershed a witness in behalf of Claimants William A Dana et al No. 706 who after being duly sworn deposed as follows

Questions by Mr. Worlin Atty for claimants
1st Question. What are your name age and place of residence.
Answer. My name is Thomas E Evershed My age twenty Nine years and I reside in San Francisco California
2d. Question. What is your present occupation.
Answer. I am Clerk in the Office of the United States Surveyor General for California and as such have charge of the Archives of the former Spanish and Mexican Governments in California
3d. Question. Is the Espediente now here produced by you marked "Espediente Promotorio para el Alferes Prado sobre el paraje Nombrado S. Antonio 136 a part of said Archives?
Answer. It is a part of said Archives and is One of those Embraced in the Class of Complete Espedientes.
4 Question. Please look on the Espediente or tracing paper now presented marked "A" and also marked Exhibit No 1. with the initials "A F" and annexed to this deposition and state whether the same is a fac simile Copy of said Original Espediente and made in the Office of the Surveyor General of California
Answer. I have Examined the document. It is a true fac simile Copy of the Original Espediente above mentioned and was

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made in the Office of said Surveyor General

Thos. E. Evershed

Mr. Greenhow Associate Land Agent was present at the taking of this deposition, but propounded no interrogatories to the Witness

Subscribed and sworn to before me in San Francisco this thirteenth day of October A.D. 1853

Alphens Felch Commissioner

Filed in Office Oct. 13 1853

Geo. Fisher Secy

Recorded in Ev. B Vol 2 p 718

Geo. Fisher Secy

13 Deposition of Ant Pico.

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Office of the Board of Commissioners &c &c

This day before Wm. Thompson Campbell Came Antonio Maria Pico a Witness in behalf of Claimants Wm A Dana et al. No. 706 who after being duly sworn deposes as follows.

What is your name age and place of residence

My name is Antonio Maria Pico, I am forty three years of age and I reside in San Jose

Were you acquainted with Juan de Prado Mesa in his lifetime, if so how long had you known, is he dead and where did he die?

I have known him ever since my boyhood he is dead, and died as near as I can now recollect either in the year 1843 or 1844

Do you know of his having made any last will and testament, if so state by whom it was drawn and when and where it was Executed, and the names of the persons who were present at its Execution

I do know that he made a will which was written by me at his request about two months before his death, he signed it and I as Alcalde signed it also Jose Simol One of the Subscribing Witnesses was present at the Execution of said Will Pedro Mesa the brother of the deceased Was appointed testamentary Executor, was also present but I do not recollect whether he signed as a Subscribing Witness or not The will was Executed at the Town or Pueblo of San Jose; but I dont clearly recollect that Antonio Mesa son of the deceased was appointed second testamentary Executor

Were you familiar with the Mode of Executing Wills in California at the time said will was Executed and

If so, State whether said will was Executed according to the usual Form

I was acquainted with the usual Form of Executing wills at that time and Can State that said will was drawn up and Executed in Conformity with the forms and Customs known to the Law at that time –

Have you seen said Will since the death of Prado Mesa and if so, where did you see it, and have you recently looked for it in that place, and did you find it, or do you know what has become of it

I have seen it Once in a box where the public Archives are deposited in the Office of the Mayor of the Town of San Jose I have recently searched for it in the same box where I left it, but did not find it, I do not know what has become of it

Where did Prado Mesa and his family reside at the time of his death and how long had he resided there?

He lived On his Rancho about three or four leagues distant from San Jose where he had houses, Corrals, fences had Cattle and horses and Cultivated Considerable grounds, He lived there for many years, more than I Can Specify but at least five years previous to his death.

Was the wife of Prado Mesa dead before he died, and did his family Consist of young Children Except his Oldest Antonio?

His wife died first. Antonio the Oldest son and the daughter were grown at the time of her death – the other Children were small and I don't recollect their names

Look at the signature of Deceased Prado Mesa On the Copy of the Especuenta On Record paper in these Case and say if

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you recognize it as a fac simile of his signature?

I have examined such true copy of the Espediente and the signature is the genuine signature of Pedro Mesa, it looks a little blurred, but it is his genuine signature. It is the copy of the Original, and it is his true handwriting

The opposite Land Agent objects to the foregoing question and answer

Antonio Mª Pico

Sworn to and subscribed before me this 20th day of October 1853

Thompson Campbell Comr.

Filed in Office Oct. 20. 1853

Geo. Fisher Secy

Recorded in Ev. B Vol 3 p 273

Case No. 270

Deposition of Jose Noriega

United States Land Commission
San Francisco June 12. 1854

On this day before Comr R Aug Thompson Came Jose Noriega a witness in behalf of Claimants William A Dana et al in Case No. 706 who being duly sworn deposed as follows, his Evidence being interpreted by the Secretary

Present Claimant's Attorney and U. S opposite Land Agent.

Witness states his name is Jose Noriega his age fifty three years and residence San Jose he has resided in California twenty years

Question by Claimants Atty.

Look upon the document now shown to you marked with initials R T and herewith filed as Exhibit No 1 and state what you know of its Execution

Answer. I am a subscribing witness to said document. the signatures of

all the parties thereto with the Exception of that of Antonio Mesa were made and acknowledged in my presence. as was also that of the Alcalde Charles White – The said White was 1st Alcalde of San Jose when said Document was Executed

Jose Noriega

Subscribed and Sworn to before me Jan. 12. 1854

R Aug Thompson Com.

Filed in Office Jan 14 1854

Geo. Fisher Secy

Recorded in Ev. B Vol 3 p 650

Geo. Fisher Secy

Case No. 706

Deposition of Jas A Yoell

United States Land Commission
San Francisco Jan 14. 1854

On this day before Com. R. Aug Thompson Came James A Yoell a Attorney in behalf of Claimants Wm A Dana et al in Case No. 706 who after being duly sworn deposed as follows

Present Claimants Atty & U S Dpty Land Agent

Attorney states his name is James A Yoell his age twenty six years and residence San Francisco and his occupation that of an Attorney at Law

Question by Claimants Atty State what you know in relation to the Exs's lines, top, search for, and contents of the last will and testament of Prado Mesa Dec.d

Answer. Sometime in the Summer of the year 1851 I saw a paper purporting to be the will of Prado Mesa in the Spanish Language among the archives of the Mayors Office of the City of San Jose It was signed by José Sunol which whose hand writing I am familiar, as one of the subscribing Witness.

Many of the papers from the Office of the Old Alcaldes were transferred

to the Same Mayors Office

I am well acquainted with the Spanish language and at the time I speak of I read said Will and left it in said Office. About a year since I was employed by Mr. Nolan Counsel for the Claimant in this Case to search for and procure a Copy of said Will. I went to the Mayors Office and searched carefully among the Archives, where I had left it, and could not find it. I made enquiry of all the persons who had been in charge of said Archives but could find no trace of it.

The said Will contained to the best of my recollection an enumeration of the property of the Testator which was left to be distributed among his Children subject to the payment of his debts, which were also enumerated in said Will. It also contained a Clause preferring in every thing his Eldest daughter Encarnacion

Question by Same

Look at the paper now shown you marked with the initials R. J. No1. annexed to the deposition of Pedro Mesa filed in this Case and State whether the Signature of James Ill Wetzs thereon is genuine or not?

Answer. I know the writing of said Wetzs, have often seen him write said Signature is his genuine hand writing

Question by Same

Look at the document now shown you marked R J No2 herein annexed and State whether said Signature thereon is genuine or not?

Answer The signature of said Wetzs thereon is genuine.

Question by Opposing Counsel

Did you receive said ___ accidentally or as a matter of business

Answer. I had been appointed Administrator of the Estate under the

impression that Mesa had died intestate. I was informed there was a will and went to search for it and found it as above stated

J. Alexander Yoell

Sworn to and subscribed before me Jan 14 1854

R. Aug Thompson Comr.

Filed in Office Jan 14 1854

Geo. Fisher Secy

Recorded in Rec. B Vol 3 p 649

Geo. Fisher Secy

Case No. 706

Deposition of Pedro Mesa

United States Land Commission
San Francisco Jan 14 1854

Oneles Secy

before Comr. R. Aug Thompson came Pedro Mesa a witness in behalf of Claimants William A Dana et al in Case No 706 who after being duly sworn deposed as follows, his Evidence being interpreted by the Secretary

Present Claimants Attorney and U S Dep. Surveyor

Witness states his name is Pedro Mesa his residence in the County of Santa Clara

Question by Claimants Attorney

Did you know Prado Mesa, if so, what was his relationship to you

Answer. I knew him he was my brother

Question by same - Did you know the Ranch on which he resided if so, state where it is situated

Answer. I knew said Ranch it is situated in the County of Santa Clara

Question by same Look at the Original Expediente referred to in the deposition of Thomas Everstead heretofore filed in this Case and mention "Expediente promovido por el Alferez Prado sobre posesion Mercedes San Antonio 136" and now shown and state whether the signature to the Original petition in said Expediente is the genuine signature of said Prado Mesa.

Answer. I know the hand writing of said Prado Mesa I have seen him write and have no doubt but that his signature to said document is genuine.

Question. Is the Ranch described in said petition the same on which the said Prado Mesa lived?

Answer. It is the same.

Question by same. State when your brother first resided on said Ranch whether he resided there before he petitioned for the grant and how long he resided there

Answer. It is about 17 or 18 years, perhaps more since he first went to reside on it by the permission of the Padres of the Mission, and some five or six years afterwards he petitioned for the grant; he intended to reside there until his death which occurred about ten years ago, he left seven children his wife died before him. His children are named Jose Antonio, Encarnacion, Maria, Francesca, Ramon, Justinio and Rechandro.

Question by same. What became of the family and what was done with the Ranch after his death

Answer. They intended to occupy the Ranch. I lived there with them for two or three years after my brothers death. The oldest daughter is married to Juan Chapostino Avila, and three of the children live with her. One with the brother of widow on said Ranch. the two oldest boys live in Sonoma

Question by same.
In what manner did your brother occupy said Ranch and what improvements have he on it

Answer. When he first went there by permission of the Padres he built a small Wooden house, and afterwards another in which he lived with his family. Before his death he commenced a large adobe house which I completed afterwards; before his death had about 800 vares by 400 of the land

Enclosed which he cultivated also another field with about 300 by 300 varas, he also had an Orchard and about 800 head of Cattle at the time of his death and a band of sixty mares. The same Cattle ranged about the Creek of Malacaro and the Wild Cattle on the Arroyo de San Jose

Question by the same. Were there to your knowledge any land marks on the boundaries of said Ranch and if so how did you know them to be such

Answer. There were land marks which were shown me by my brother. On the side of the Malacaro there is hill on which is a pile of stones used for a land mark. On the other side the line runs along the road to the Arroyo del Desecho, from thence it runs up the Creek and bending thence to a line called Cesasero which is one of the land marks.

Question by same. Do you know the range of Mountains called Sierra Madre de Santa Cruz and in which direction from these Mountains do the Creeks & arroyos spoken of in your former answer run—

Answer. I know said Mountains the Creeks referred to run towards the Embarcadero On the Bay

Question by same. Were the houses built by your brother on the plain or on the hills

Answer. The small wooden houses were situated on the Arroyo de San Antonio about 100 yards from it and the Adobe house on a small hill about 300 varas from the other

Question by same. Did your brother make a will, and if so what became of it

Answer He did. I gave it to Guillermo Wicks who was then Alcalde By request of the judge I took charge of the papers and accounts of the Estate including the Will. I kept them until after the Americans took possession of the country, after which on the

removed of the Alcalde I delivered them to him and took his receipt for them.

Question by same. Who were named Executors in said Will?

Answer. Myself Jose Antonio and Myself.

Question by same. Look at the Document now shown you marked with the initials R. T and annexed to the deposition of Jose Noriega as Exhibit No 1 and filed in this Case, and state whether the signature of "Antonio Mesa" which appears thereon is the genuine signature of said Jose Antonio Mesa.

Answer. I have seen him write and recognize the said signature on said document as genuine.

Question by same. Look at the document now shown you marked with the initials R T No 1 and herewith filed and state whether the signature of the said Antonio Mesa thereon is genuine or not?

Answer. I have examined said signature it is genuine

Question by same. Why did you cease to act as Executor to said Will

Answer. I had a disagreement with the other Executor and the matter was brought before Alcalde and I resigned

Pedro Mesa

Subscribed and sworn to before me Jan 13. 1854

R Acq Thompson Com

Filed in Office Jan 14, 1854
Geo. Fisher Secy

Recorded in Ev. B Vol 3 p 650

Geo. Fisher Secy

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Deposition of
C S Lyman

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United States of America }
State of California } ss:
San Francisco April 14. 1854

This day personally came before Peter Lott a Commissioner appointed to take Testimony to be used before the Board of U. S. Land Commissioners in said State Chester S Lyman a witness on behalf of the Claimant in Case No. 706 on the Docket of said Board wherein William A Dana et al are Claimants and said Witness being duly sworn on oath deposes in the English language as follows

The U. S Land Agent is present

Questions by the Atty for Claimants
1st Question. What is your name age and place of residence
Answer. My name is Chester S Lyman, my age 40 years I reside in New Haven Connecticut
2d. Question. Where did you reside and what was your occupation in the early part of the year 1848?
Answer. I resided at that time at San Jose in this State, my occupation was that of a Surveyor - I was appointed a Surveyor for that portion of the Country by Col Mason the then Military Governor
3d. Question. Did you in that year make a survey of the Southern half of the Rancho of San Antonio in the present County of Santa Clara, if yes, did you not make a diagram of such survey and reduce to writing a memorandum of such description of the boundaries thereof of you state whether the paper now shown you is the memorandum so made by you which is now marked Exhibit 1 annexed to C S Lyman's deposition "L" and when and where you made it, and also look at the paper marked Exhibit 2 annexed to this deposition" and say whether the diagram thereon marked and laid down

is a correct copy of the one made by you of the survey you are here interrogated about?

Answer. I did make a survey of the South half of the Rancho you mention at that time. I made a diagram or map of the survey and one abstract of the field Notes in writing. This is the abstract I made — It is my hand writing. I made it soon after I made the survey at San José.

I cannot say whether it is a correct copy of my map or not the general out line seems to correspond with my survey. I recognize the various points here very readily.

4th. Question. It was because the owners of the Ranch or claimants John Records and James W Weeks and the Spaniard Mesa claimed that to be their Northern boundary and I was employed by Records to survey their claim.

5th. Question. Did or did not the claimants you have mentioned claim all the vacant land down to Castros line

Answer. They did.

6th Question. Is the line you call Castros line well defined if you know it.

Answer. The line I mean is the one between Castros Ranch and the Rancho of San Antonio claimed in this case. There is a certain Road leading from the upper Road between San Francisco and San Jose where the last mentioned road crosses the Coyotero back the first mentioned road leaves to the Mesa house is the line and a plain road at that time.

7th. Question. When you made the survey mentioned were the Mesa family occupying and cultivating the land near the Castro line?

Answer. They were occupying and cultivating portions of the land near the line ~~along~~ in the plain below the

lower hills and within the line of my Survey
The fact that they were so occupying a
portion of the Valley was an additional
reason why I embraced it in my Survey
and my impression is I have heard testify
Admit that the line I ran was the correct
boundary tho I am not positive.

Cross Examined by the U. S Law Agent

1st Question. Had you the title with
you when you made the Survey, and were you
governed by it in fixing your point of beginning
as described in your field notes?

Answer. I had the title. I was
governed by it in all the Survey I made except
the portion in the plain. I departed from the
description in the title on that portion for the
reasons I have already mentioned, that the
persons who employed me to make the Survey
claimed it, that they were occupying it and
that I did not understand testify as questioning
it as true boundary.

The words of description
were in Spanish, substantially translated
as follows; "Bounded by the creek of San
Jose terminating on the East, by the Sierra
Madre of Santa Cruz on the West, by the
Low hills, and on the North by the Creek
del Chalacano"

2d Question. Describe the mou
ntains on the South side of the Rancho
where you Surveyed and say why you
ran the line at the base instead of the
top of the Mountains

Answer. The Mount
ains there are quite steep above two thous
and feet high, they rise abruptly, and the
base is a definite boundary. It is a deep and
clearly marked ravine between the main
Mountains and the foot hills. I took the
base instead of the top for many reasons
They were useless lands such as are never
claimed or considered to be of any use for

ordinary purposes. The tops are several miles distant and impracticable places for surveying and I did not for a moment understand the letter to call for them as the line

C S Lyman

Subscribed and sworn to before me on this 14th day of April A.D. 1854

Peter Lott
Commissioner for taking testimony &c.

Filed in Office April 14 1854
Geo. Fisher Secy

Recorded in Ev. B Vol 4 page 229
Geo. Fisher Secy

Deposition of Jose Sunol

United States of America }
State of California }
San Francisco April 27. 1854

This day personally came before Peter Lott a Commissioner for taking testimony to be used before the Board of U. S Land Commissioners in Said State Jose Sunol a witness on behalf of the Claimants, and the said Witness being duly sworn on Oath deposed in the Spanish Language which was interpreted into English by the interpreter to said Board as follows to wit:

The U. S Law Agent is present

Questions by the Atty for Claimants

1st Question. What is your name age and present residence.

Ans. Don Francisco Mesa in his lifetime and since you see him Execute his last will and testament, and was you a subscribing Witness to the same and state the circumstances —

Answer. I did know him I saw him sign his last will, I was a subscribing Witness to it. It was at that time before he died at the Pueblo of San Jose

at his (the deceased's) brothers house

3rd Question. Was said Mesa of sound mind and memory when he Executed said will

Answer – He was in full possession of body but his mind was sound

Cross Examined by U S Law Agent

Question. Who was present when the Will was Executed besides yourself?

Answer. I recollect Pedro Mesa was present and another person, I do not recollect whether was Antonio Manuel Pico or some one else

Jose Sunol

Subscribed and Sworn to before me on this 27th day of April A.D. 1854

Peter Lott
Commissioner for taking Testimony &c

Filed in Office April 27. 1854
Geo. Fisher Secy

Recorded in Ev. B. Vol 4 p. 348
Geo. Fisher Secy

27 I. S. D. R.

Espediente

Exped.te Promovido por el Alferez Prado sobre

El parage nombrado

Exhibit No. 1. A. Le annex: to Depo of Thomas E. Evershed taken. Oct.r 13. 1853

D.n Antonio

136

17

28 2. S. D. R

Sta Clara Mzo 23 de 1838 — Informe el Administrador de Esta mision Alvarado.

Exmo Sor Gobernador
Prado Meza Alferez de la Compañia permanente de Sn Francisco ante V. S. como mejor proceda y el derecho lo permite hago presente: que teniendo un numero de ganado menor que se compone de trescientas Reses y setenta bestias, he venido à suplicarle me conceda un sitio de ganado en el parage nombrado Sn Antonio que segun el diseño que acompaño à V. S se compone de desde el Arroyo de Sn Josè Cupertino hasta el Arroyo del matadero distante de esta Esmision como tres leguas.

Por lo. à V. S. suplico se sirva concederme el dho parage para cultivarlo y fomentarlo para la mantencion y subsistencia de mi crecida familia. jurando lo necesario &c

por no haber papel sellado lo hago en comun.

Sta Clara Mzo 23. de 1838.

Juan del prado Mesa

Sta Clara 24. de Mayo de 1838.

El parage qe se solicita en esta instancia es conocido por perteneciente à Esta Esmision pero por mi parte no hay inconveniente en qe se le conceda al solicitante. V. S. dispondra lo qe tubiere por conveniente.

3. S. D. R

Josè Estada

Sta Clara Mayo 24 de 1838.

Vista la peticion con qe da principio este Espedte el informe del administrador de dha Esmision por el que accede à la

de otra Comision por el que se opone à la

29

pretencion del interezado, supuesto que no perjudica al Establecimiento à que se refiere pertenecer pr. hallarse baldio con todo lo demas que se tuvo presente y comprobo de conformidad con las leyes y Reglamentos de la materia se declara à Dn. Prado Noguerueno en propiedad de su sitio de ganado mayor en el parage nombrado S.n Antonio segun demuestra el diseño adjunto sugetandose à lo prevenido en la ley de 18 de Agosto de 1824. y el Reglamento de 21 de Noviembre de 1828; librese el despacho correspondiente, tomese Razon en el libro que corresponde y dirijase este expediente à la Exma Diputacion para su aprovacion Asi lo el Sefe Politico interino de la Alta California Juan B. Alvarado lo mando decreto y firmo.

Juan. B. Alvarado

Monterey 19 de Mayo de 1840.

Dado cuenta à la C. Junta Departam.t acordo en sesion de este dia q.e pase à la Comision de Agricult.a

Jose Fernandez Sno.

En 22 del mismo lo devolvio con el dictamen q.e se acompana.

Fernandez

383 ND
PAGE 29

18

4. L.D.R

Here follows
2 maps

30 E.S.D.R Juan B. Gobernador Constitucional del Departamento de las Californias.

383 ND
PAGE 30

Por cuanto el Alferez Prado Mesa ha pretendido para su beneficio personal y el de su familia, el terreno conocido con el nombre de Sn Antonio colindante con el Arroyo de Don José Cupertino por el O. con la Viña madre de Vra Cruz por el P. con las Lomas bajas, y al N. con el Arroyo del Matadero: practicadas previamte las diligencias y averiguaciones consecuentes segun lo dispuesto por leyes y Reglamentos; usando de las facultades que me son conferidas à nombre de la Nacion Mejicana he venido en concederle el terreno mencionado, declarandole la propiedad de el por las presentes letras, sujetandose à la aprobacion de la Esma Junta Departamental y baxo las condiciones sigtes

1ra Podrà cercarlo sin perjudicar las travesias, caminos y servidumbres; lo dio Junta libre y Exclusivamte destinandolo al uso y cultivo que mas le acomode pero dentro de un año à lo mas fabricara casa y estara habitada.

2da Solicitara del juez Respectivo que le dè la posesion juridica en virtud de este decreto ... cho por el cual se demarcaran los linderos en cuyos limites pondrà à mas de sus mojoneras algunos arboles frutales ò silvestres de alguna utilidad

3era El terreno de que se hace donacion es de un sitio de ganado mayor por poco mas o menos segun Esplica el decreto respectivo. El juez que diera la posesion lo hara

tivo. El juez que diera la posesion lo hará

31

medir conforme à Ordenanza quedando el sobrante que resulte à la Nacion para los usos convenientes.

4ª Si contravinieren à estas condiciones perderá su derecho al terreno y será denunciable por otro.

En Consecuencia

383 ND
PAGE 31

mando que sirviendole de titulo el presente y teniendose por firme y Valedero se tome Razon de el en el Libro à que corresponde y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey à 24 de Mzo. de 1839

J. L. D. R. Habilit.

Mon.

Sello

Note. By the surveyor General. The corresponding hope in the Original is nearly all obliterated & the dotted lines show the limits of the only horizon which remained on the same.

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S. L. D. R posecion prisdie
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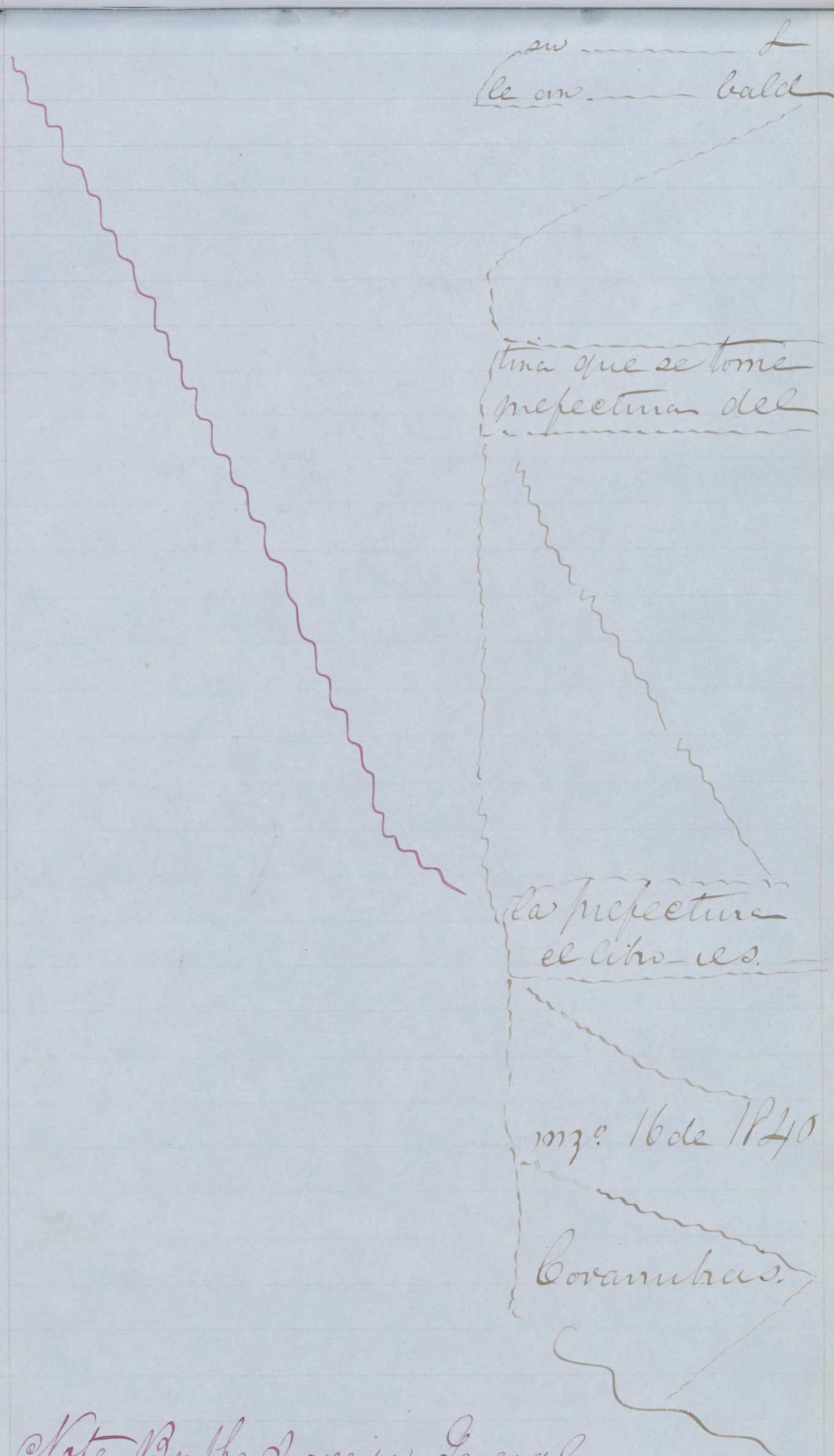
N. -- 2o de mil ochocientos treinta y nueve

Note: By the Surveyor General
The corresponding page in the Original
is nearly all Obliterated:
The dotted lines show the Only legible portions
thereon.
The words of the last line "Mil ocho cientos
treinta y nueve: seem to have been written
since the writing has been partially obliterated.

33 q. 9. D. 12.



Note. By the Surveyor General
The corresponding page in the Original is nearly all Obliterated.
The dotted lines show the only legible portions thereon.

10. S. D. R.
34

Sello Tercero Dos Reales:
Habilitado provisional mente por la Aduana marítima del puerto de Monterey en el Departamento de las Californias, para los años de mil Ocho cientos cuarenta y mil Ocho cientos cuarenta y uno.
Alvarado — Antonio María Osio

Sello

Pr. Constitucional

mental en sesion del y probo la concesion de Marzo ---- ocho

Note. By the owner General of this hereby all obligations are clothed in the Original; and the only limit of the time within which any appeal in the above case.

Sr. D. Prado Mesa

Decreto de hoy que ha presente á las partes nos que le convengan 1840.

Alvarado

Dan.l Jimeno

11. L. D. R
35

Here follows
map

12. L. D. R

19

Exmo Sr

La Comision de Agricultura y Comercio unidas encargadas p.r V. E. de dictaminar los Expedientes q.e en la Sesion anterior acompañó el Exmo Sr Gobernador y concedidos por el mismo Gobierno y encontrandolos conforme segun lo actuado è informes y demas que bien se ha producido propone à la Deliberacion de V. E. los Articulos siguientes.

Art.o 1.o Se aprueba la concesion hecha p.r el Gob.no Departamental con fha 24 de Mayo de 1838. en la persona de D. Prado Mesa del parage nombrado San Antonio.

2.o Que se devuelva al Exmo Sr Gobernador el Expedte p.a los fines consiguientes.

Monterey Mayo 21 de 1840.

José Rafael Gonzales } J. Aguiello.

13. L. D. R

Monterey 22 de Mayo de 1840.

En sesion de este dia aprobó la E. Junta Departamental los dos Articulos con que concluye el dictamen anterior 26 nov.e 22 Entendo) V.E.

Man.l Jimeno
Presdte

José J. Hernandez
Sec.o

36

14. S. D. R Monterey 10 de junio de 1840
En Vista de la aprobacion otorgada en 26 de Mayo proxmo. pasdo. por la Junta Departamental libese testimonio de ella à la parte de D. Prado Mesa en conformacion del terreno de S. Antonio que obtuvo en 24 de Marzo de 1838. El 2o. D. Juan B. Alvarado Gobernador Constitucional del Departamento de las Californias asi lo proveyo y firmo de que doy fee.

Alvarado

15. S. D. R Juan B. Alvarado Gobor. Constitucional del Departamto. de California
por cuanto D. Prado Mesa ha pretendido p.a su beneficio personal y el de su.

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

I Samuel D. King Surveyor General of the United States for the State of California and as such now having in my Office and under my custody a portion of the Archives of the former Spanish and Mexican territory or Department of Upper California do hereby certify that the fifteen preceeding and hereunto annexed pages of tracing paper numbered from one to fifteen inclusive exhibit true and accurate copies of certain Documents now on file and forming part of the said Archives in this Office.

37

(Seal) In Testimony whereof I have hereunto signed my name officially and affixed my private seal (not having a seal of Office at the City of San Francisco Cal.) the 2nd day of January 1853.

Sam. D. King
Supr. Ct. Cal.

Filed in Office March 2. 1853.

Geo. Vicker Clerk

38.

B.

Translation of Expediente

"Expediente"

Or proceedings at the instance of Second Lieutenant Prado in relation to the place called San Antonio.

His Excellency the Governor.

Prado Mesa Second Lieutenant of the permanent company of San Francisco before your Honor, in the best form and as the law permits do represent; that owning a number of cattle composed of three hundred head, and sixty beasts of burden, I have come to request your Honor to grant me an "sitio" square league at the place called San Antonio, which according to the plat I herewith annex is comprehended from the creek of San José Capestrio to the creek "Matadero", about three leagues distant from this Ex Mision.

Therefore I request your Honor to be pleased to grant me the forementioned place, that I may cultivate and improve it for the support & subsistance of my numerous family.

Making the necessary Oath &c There being no stamped paper I wrote it on this of the common kind.

Santa Clara March 23d 1838

Juan Del Prado Mesa

Santa Clara March 24th 1838.

The place solicited in this petition is known to belong to this Ex Mision, but for my part I find no objection to its being granted to the petitioner. Your Honor will dispose what may be most convenient.

Jose Estrada

Sta Clara March 24th 1838.

In view of the petition at the head of these proceedings the report of the Administrator of said Ex Mision, by which he accedes to the petition of the interested party, because it does no injury to the establishment to which it is inferred it belongs and the fact of its being vacant, with every thing else which was considered to bear in the matter, in conformity to the laws and regulations on the subject, Don Prado Mesa is declared owner in fee of his "sitio" de ganado mayor; (one square league) at the place called "San Antonio", as is shown by the annexed plat subject to the requirements of the law of August 18th 1824 & the regulations of November 21st 1828.

Let the corresponding patent be issued, let it be entered in the proper Book, and let this Expediente be transmitted to the most Excellent

mitted to the most Excellent

41

Deputation for its approval.

Thus I the Political chief ad interim of Upper California Juan B. Alvarado command it to be decreed & signed it.

Juan B. Alvarado.

42

Monterey May 19th 1840

It having been communicated to the Excellent Departmental Board, it was agreed in their Sesion of this day that it be transmitted to the committee of Agriculture

José Y. Fernandez

On the 22d of the same month it was with the accompanying opinion.

Fernandez

Mon –

The first map in the original is inserted here.

Juan B. Alvarado Constitutional Governor of the Department of the Californias.

Whereas second Lieutenant Prado Mesa has petitioned for his personal benefit, and that of his family, for the tract of land known by the name of San Antonio, bounded by the creek of San José Capertino on the East, by the Sierra Madre of Sta Cruz (mountain range of Santa Cruz) on the West by the low hills and on the North by the creek "del Matadero" having previously complied with the requisiments & investigations on the subject agreeably to the laws and regulations; Now in the exercise of the authority in me vested in the name of the

Mexican Nation, I have thought proper to grant to him the fore mentioned tract of land, declaring the same to be his property by these presents, subject to the approval, of the Most Excellent Departmental Junta, and under the following conditions

1st He may fence it without obstructing the crossings, roads and servitudes; he shall enjoy it freely & exclusively, putting it to such use and culture as may best suit him. but within one year at furthest he shall build a house, and it shall be inhabited.

2nd The land of which Donation is made is of "one sitio de ganado Mayor" (square league) little more or less, as is exhibited by the respective plat. The Judge who may give possession will cause it to be measured agreeably to ordinance, having the excess which may result to the Nation for convenient uses.

4th If he should contravene to these conditions, he shall loose his right to the land, and it shall be opened to denouncement by another.

Consequently I demand that veiuing these presents as his title, and holding it as firm and valid. the same be entered in the Book to which it corresponds, and be delivered to the interested party for his security and further ends.

Given in Monterey on the 24th March 1839.

the 25th March 1842

#5

Note. The following four pages of the original are so obliterated as to be entirely unintelligable, though they seem to indicate a grant and some consequent proceedings. After them is to be found in the original a sketch of the land petitioned for by Prado Mesa. Then follow the regular proceedings.

Most Excellent Sir,

The committee on Agriculture and Commerce united, charged by your Excellency to pass their opinion on the Expedientes which in the preceeding sesion were transmitted by his Excellency the Governor, granted by the same Government, finding them in conformity with the dets, reports, and with everything else, which we have been able to examine do propose to your Excellency's deliberation the following articles.

Art 1st The concession made by the Departmental Government on the 24th of May 1838 to Don Prado Mesa of the place called San Antonio is hereby approved.

2nd that the Expediente be returned to his Excellency the Governor for the purposes that may be convenient.

Monterey May 21st 1840

J. Arguello

José Rafael Gonzalez

46

Monterey 22 May 1840

In sesion of today the Excellent Departmental Board approved the articles, with which the preceding opinion concludes.
26 - resolved turned into 22.

Jose L Fernandez
Srio

Manuel Jimeno
Presit

— terrey 10 of June 1840

In view of the approval agreed to on the 26th of May ultimo by the Excellent Departmental Board, let a testimony of the same be given to the part of Don Prado Mesa in confirmation of the tract of land of San Antonio which he obtained on the 24th of March 1833.

Señor Don Juan Bautista Alvarado, Constitutional Governor of the Department of the Californias thus did provide and sign which I attest.

Alvarado —

Juan B. Alvarado Constitutional Governor of the Department of California

Whereas D. Prado Mesa has petitioned for his personal benefit & that of his _____

Recorded in Record of Evidence Vol 19. page 204 Geo Fisher Sec'y

Filed in Office March 2' 1853
Geo Fisher Sec'y

Translation of Exhibit 1 A. F. annexed to deposition of Thomas E. Evershed.

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Sor. Alcalde del pueblo de San José.

El abajo firmado respetuosamte hace presente que es hijo y heredero del difunto Prado Mesa que dejó su testamento en la hora de su muerte que en lo cual testamento fué nombrado uno de los albaceos y mi tío Pedro Mesa la otra. y el mismo Sor. se ha resignado su fianza dej-andome solo de manejar dicho estado el difunto mi padre en el tiempo de su muerte debia deritos á la suma de un mil tres cientos y treinta y siete pesos, no teniendo mas propi-edad para pagar estos deritos, mas que uno Rancho conocido en su jurisdicion por el nombre de San Antonio de Prado Mesa: y algunos bienes del campo de ganado mayor que no pasa de tres cientos cabezas. Las deritos del difunto mi padre era por moneda y propi-edad fecle en el tiempo que estaba vivo y los acreedores han esperado cuatro años para sus pagos del propiedad del estado: pero no hay mas esperanza que sean pagados sin hacer venta de alguna porcion de su propiedad.

R. T. No 1. amered to the Depo. of Pedro Mesa.

Part of St Antonio.

Siendo yo el hijo mayor y heredero con un tanto albaseo del estado no tendria ningun embarazo que se hace venta de esta propiedad se no estuviera conocido esta propiedad en nombre de la familia. y como soy uno de los Albaceos y el unico que esta actuado en el presente. Espero en la bondad de V. de facult-arme con su decreto judicial de hacer un equitable y justo gratolia venta de alguna parte del mencionada propiedad por el pago-mento de los acreedores y que V. me haña toda en su poder de hacer el titulo que doy el comprador legal: los acreedores que hace mencion son los siguientes. A B. Thompson que tiene el demando puesto ante de V.

por la cantidad de ocho cientos y cuatro pesos con cinco reales: y Dn Santiago McKinly de la cantidad de dos cientos cincuenta pesos y dos reales y Dn Nathan Spear que tiene demandado de cientos ochenta y un pesos con siete reales que lo cual es la cantidad de lo que esta puesto ante de V. que unos me apuno.

A V. Suplico de proveer como pido por ser de Justicia. Jurando no ser de malicia y lo necesario. S. S. S.

Puebla de San-Fos: 7. de Enero.

Antonio Mesa.

Letrado.

Enrique Sen.

Sor. Dn Antonio Juriol. por alimentos $.76

En consideracion del objeto de peticion hecho por el Sor. Dn Antonio Mesa como tambien las repetidas urgencias de los acreedores nombrados para sus pagos de juicios cedido en favor de otro lo pasado: considerando tambien que la propiedad del estado esta disminuyendose diariamente en su valor en consecuencia del falta de suficiente esmero por la parte de las Albaceas del dicho hacienda: y que dichos deritos esta cuiciuno y ultimamente llegara a trajar tasa al estado solamente q. algunos convenio de equidad sera obtenido por dichos pagos.

Yo el abajo firmado Alcalde decreto que el Sor. Dn Antonio Mesa el hijo mayor benevolno y unico. Albaseo del difunto Prado Mesa que ha presentado el arriba peticion, tendra la libertad de vender a cual quiere comprador que asumero de pagar las mencionados deritos en

2. 149

en una parte entre de hacienda como sus bienes y en mas. y por la presente documento Yo el Alcalde del Pueblo de San José de Guadalupe asi declaro valido la junta como un titulo legal con toda fuerza al Comprador y sus siguientes.

Dado en el Juzgado del Pueblo de Sn. José de Guad.e esto 7. dias de Enero de 1848.

James W. Weelkes.
Alcalde.

Filed in office. Jany. 14. 1854.

Geo Fisher
Secy.

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Translation of Exhibit R. S. No. 1. annexed to the Deposition of Pedro Mesa

To the Alcalde of the Town of San Jose

The undersigned respectfully showeth that he is a son and heir of the late Prado Mesa, who left his will at the time of his death. That he was in the said Will appointed one of the executors, and his Uncle Pedro Mesa another, and the latter has resigned his trust, leaving him alone to manage the Estate. That the deceased at the time of his death was indebted to the amount of one thousand three hundred and thirty seven dollars, having no other property to pay this debt than a Rancho known by the name of San Antonio, and a few black cattle, not exceeding three hundred head.

The debt of his late father was for money and goods had on credit in his life time, and the creditors have waited four years for their payment, out of the property of the Estate; but there is no more hope of their being paid, unless a sale be made of some portion of the property.

That being the eldest son & an heir as well as Executor of the estate, he has no objection that a sale be made of this property if it were not granted in the name of the family; and as he is one of the executors, and at

5-2

present the only one acting in the matter, he hopes your Worship will by a decree direct an equitable and just sale to be made of some portion of the above mentioned property, for the payment of the creditors. And that your Worship will do it so as to give the purchaser a legal title.

The creditors of whom mention is made, are the following; A. B. Thompson who has brought a law suit before your worship for the sum of eight hundred and four dollars and five reals; Mr Santiago McKinley for the sum of two hundred & fifty dollars and two reals; and Mr Nathan Spear who had a suit for two hundred and eighty one dollars and seven reals.

He supplicates your Worship to order as prayed, and protests that he is not acting from malice &c. Town of San Jose Jan 7. 1858.

Antonio Mesa.

Witness
Henrique Bee
Mr Antonio Suñol for Alemanteur #76

In consideration of the object of the petition made by Mr. Antonio Mesa, as well of the repeated urgency of the creditors; considering also that the property of the Estate is daily lowering in value in consequence of the want of

in consequence of the grant

53

sufficient effort on the part of the executors of said Estate, and that said Debts are growing, and will lastly come to swallow the whole estate, unlesse some equitable assangement be made for their payment.

383 ND
PAGE 50

I, the undersigned Alcalde do order that Mr Antonio Mesa the eldest son, heir, and the only executor of the late Prado Mesa, who has presented the above petition, be at liberty to sell to any purchaser, who will undertake to pay the above mentioned debts, a half of the seal, as well of the other property, and not more.

And by this Document I, the Alcalde of the town of San Jose Guadalupe thus declare to be valid such sale as a legal one with all force to such purchaser and his assigns.

Given in the court of the town of San Jose de Guadalupe this 27th day of January 1848.

James W. Weeks
Alcalde.

Free translation - Geo. Fisher Sec'y

Filed in Office July 9, 1855
Geo. Fisher Sec'y

Recorded in Record of Evidence Vol 19. Page 209
Geo. Fisher Sec'y

[illegible]

[illegible] a los diez días del mes de

3. 5-5-

En el Pueblo de San José de Guadalupe de la alta California á los diez dias del mes de abril de mil ocho cientos cuarenta y ocho ante mi Carlos White 1.º alcalde de esta Jurisdicion ante los dos testigos de mi asistencia que despues se nombraron y con quienes actuo en forma devida compareció D.n José Antonio Mesa, D.na Maria Concecion Majina Mesa Maria Francisca Mesa y Nicandro Mesa a quien fé conosco y dijo que por si y nombre de sus hijos, herederos y sucesores y de quienes de ellos tuviesen titulo, voz y causa en cual quiera manera vendia y da en venta solemne y enagenacion perpetua á Don Juan Ricord ciudadano de los Estados unidos y Residente de esta Jurisdicion, todo el derecho interes y titulo que tiene al terreno segun el division hecho por D.n E. S. Lyman agrimensor del medio distrito del departamento de alta California del rancho conocido por el nombre de San Antonio del propiedad del difunto Prada Mesa juntamente con la mitad del ganado bronco y yeguas y pertenesa al dho. Rancho los linderos seran mas bien conocido por la mapa del dicho agrimensor y declara y segura el enunciado José Antonio, Maria Concesion, Majina Maria Francesca, José Ramon, Sesticiano y Nicandro Mesa; no tener vendido, enagenado ni empeñado el espresado terreno y que esta libre de todo gravamen, perpetuo temporal especial, general, tacito y espresso y como tal se lo vende en precio y cantidad de dos mil dos cientos treinta siete pesos (2.237 p.s) cuya valor tiene entregado al comprador y recibido el otorgante a su entera satisfacion y asi mismo declaro.

Part of San Antonio.

383 ND
PAGE 51

del espresado terreno ganado y yeguas que ahora vende en la inencionada cantidad dos mil dos cientos treinta y siete pesos. (2.237.) y que no vale mas y aun en el caso que mas valga ó valer pueda del exceso en poco ó mucho suyo hace donacion, ó favor del comprador y de sus hijos, herederos, y sucesores y esta donacion y gracia, pura pura perfecta y irrevocable que le hace se llamaron en derecho entre vivos con insinuacion y otras formas legales con la condicion que se entregava al referido Dn Juan Riconol ó a quien le representa el enunciado terreno ganado y yeguas inmediatamente haverlo concedido en ello el comprador y el enunciado José Antonio, Maria Concesion, Majina, Maria Francesca, José Ramon, Justiciano y Alejandro Mesa renunciaran las leyes que tratan de contratos ventas y truegas y de otras en que hay lesion en mas ó menos del notad del justo precio y queda obligado en que desde ahora en adelante y para siempre jamas quito y aparto asi mismos y sus herederos y sucesores y de quien de ellos tuvieron voz, recursos y otros cualesquiro derechos que le competan el enunciado terreno ganado y yeguas como espresado todo lo cual cede renuncia y traspaso en el comprador y a quien le represente para que le posea goce, cambie use enagene y disponga de ello como de cosa adquerida, justo y con titulo legitimo y se obliga con el otorgante de conseguir las firmas necesario para hacer valedio esta escritura y se somete a los tres Jueces y Justicias que de sus causas deven y pueden conocer conforme a derecho para que a su cumplimiento y apremien

4. 5-0

como sentencia definitiva consentido y pasado en cosa juzgada que por tal lo recibo y renuncio las leyes que en el caso le favoresen.

En cuyo testimonio así le otorgó y firmó con migo y los testigos que doy fee.

Testigos de ass.ª

Señores.
José Noriega.
James Mechuches.
Jonas Campbell.

José Antonio Mesa.
Maria Concesion Mesa.
Majina Mesa.
Maria Francesca Mesa
José Ramon Mesa.
Justiciano Mesa.
Nicandro Mesa.
Antonio Mesa.
alracea.

Chas.ᵗ Bribie. 1.ᵗ alcalde.

Filed for Record. 4. o'clk. P.M.
7. August. 1850
J. F. Richardson.
Recorder's clk.

Recorded in Book of Deeds. A. pages. 315. & 316.
J. F. Richardson.
Record's clk.

Fees 7. $\frac{50}{100}$

Recorded in Rec. of Evid. Vol. 18. p. 228. to 230.
for 707.

Filed in Office. Jany. 14. 1854.

Geo. Fisher.
Secy.

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Translation of Exhibit "R. F." No 1 annexed to the Deposition of José Arriega

At the town of San José de Guadalupe in the Upper California on the tenth day of the month of April Eighteen hundred and forty Eight before me Charles White 1st Alcalde of this Jurisdiction, and my apistant Witnesses hereinafter named, with whom I act in due form appeared Don José Antonio Mesa, Doña Maria Concepcion Mesa, Maria Francisca Mesa, José Ramon Mesa, Justiniana Mesa and Alejandro Mesa, whom I attest I know, and they said that for themselves and in the name of their children, heirs and successors and of whomsoever of them, who might have right, power & cause in any way, they sell & grant in solemn sale and perpetual alienation unto Don Juan Ricord citizen of the United States, residing under this jurisdiction. All that right interest and title they have to the tract of land, according to the division made by Mr C. S. Lyman, Surveyor of the Middle District of the Department of the Upper California in the Rancho known by the name of "San Antonio" of the Estate of the late Prado Mesa, together with one half of the wild cattle and mares, now pertaining to the said Rancho, the boundaries will more clearly appear in the Map of said Surveyor. And the said José Antonio Mesa, Maria Concepcion

Majina, Maria Francesca, José Ramon, Justiniano & Sicandro Mesa, do hereby declare not having sold alienated or mortgaged the said tract of land, and that the same is free from all perpetual temporal, especial, tacit and Express encumbrance, and as such they sell it to him for and in consideration of the sum of Two thousand two hundred and thirty seven dollars ($2237) which sum the vendee has paid, and the vendors have received to their entire satisfaction; and likewise they declare the said sum of two thousand two hundred and thirty seven dollars is a fair price and real value of the aforesaid tract of land, cattle and mares hereby sold; and that they are not with more, and even in case they are so, of the surplus amount, whether in large or small sum, they make a donation on behalf of the vendee, his children heirs and successors; and such donation, perfect & irrevocable to be considered as it is called in law inter vivos; with the production of these presents before the proper Judge for his judicial authority and other legal securities, with the condition that the said tract of land, cattle & mares shall be forthwith delivered to the said Mr Juan Ricord, or his Attorney, and the said José Antonio, Maria

Concepcion, Maria, Maria Francesca, Jose Ramon, Justiniano, & Leandro Mesa hereby relinquish all law regarding contracts, sales & barters and other against fraud of more or less the Moiety of a fair price and they bind themselves from hence forth and forever to quit and desist from all claim they & their heirs and successors may have to the said tract of land, cattle & mares. All of which they hereby grant relinquish and transfer unto the vendee and his assigns, to hold enjoy, use, alienate and dispose of them as their own property, acquired with just & lawful title.

And the vendors further bind themselves to obtain other necessary signatures to make this sale valid. And they submit themselves to the tribunals and Justices who ought and are to take cognizance in such a case according to Law in order to compel its fulfilment as a definitive judgement consented and passed in a tried case, and as such they admit it and relinquish the Law in their favor.

In witness whereof they have hereunto signed their names together with myself and the witnesses

José Antonio Mesa

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Apt Witnesses Maria Concepcion x Mesa
José Arriega Majina x Mesa
James W. Weeks Maria Francesca x Mesa
Thomas Campbell Jose Ramon x Mesa
Justiniano x Mesa
Aricandro x Mesa

Antonio Mesa Executor
Chas White
1st Alcalde

True translation
Geo Fisher Secy

Filed in Office July 9. 1853
Geo Fisher Secy

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Exhibit No 2 annexed to depo of C. S. Lyman

P.L.

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Know all men by these presents, that I, William H. McKee of the city and county of Monterey, State of California, for and in consideration of the sum of seven thousand two hundred dollars to me in hand paid by Henry V. Dana, and William A. Dana both of the city of San Francisco state of California, the receipt whereof is hereby acknowledged have this day granted, bargained, sold and conveyed, and by these presents do grant bargain sell and make over unto the aforesaid Henry V. Dana & William A. Dana, and unto their and each of their heirs and assigns executors and administrators forever all my right title and interest claim and demand, both at law and in equity in and to all that certain piece or parcel of ground, situate, lying and being in the County of Santa Clara, and known as a part of San Antonio Rancho, formerly the property of deceased Juan Prado Mesa, being about twenty five hundred English acres. and being precisely that portion of the Southern half of San Antonio Rancho which was conveyed unto me (the said William H. McKee) by John Ricord by deed bearing date 25th of March 1849 and duly entered on the Records of Santa Clara County at the city of San Jose in Book of Deeds "B" at pages 148 & 149

save and except six hundred acres of the same already sold by me unto Harry C. Curtis and Wm. W. White" all of which will more fully and at large appear, reference being had to the Santa Clara County Archives, said Southern half which was sold to John Ricord, by the united heirs of deceased Juan Pardo Mesa, being bounded and described as follows, to wit, commencing at the Northern angle of the San Antonio Rancho, at a Milano tree on the Southern side of the Upper, southern or winter road from San Francisco to San José where said road intersects or crosses the San José de los Capestrios Creek, and extending thence, course South 55° 45" West 97 chains 90 links; thence 51° 25" West to the edge of the Chemisal; thence South 55° 45" West 66 chains 10 links to an Oak on a hill, about 50 rods to the South East of Mesa's Adobe house; thence South 21° 50" West 115 chains to the base of the Mountain; thence along the base of the Mountain South 80° 10" East 65 chains 50 links to a blazed Oak; thence South 75° 25" East 75 chains 90 links to another blazed Oak; South 55° 20" East 177 chains to a blazed Oak on a slope of the Hills; thence South 68° 45" East 31 chains to the arroyo de San José Capestrio near the foot of a steep bluff, and thence down

along said Arroyo de San José de los Capestinos, to the Milan tree the place of beginning. Said admeasurement contains six thousand one hundred and two English acres as represented on the accompanying diagram.

To have and to hold the above mentioned bargained premises, together with all & singular the rights, privileges & appurtenances, thereunto belonging unto the aforesaid Henry H. Dana & William A. Dana, and unto their heirs and assigns forever, to their sole use benefit and behoof forever.

And furthermore I the aforesaid William H. McKee hereby do agree to warrant & defend the aforesaid Henry H. Dana and William A. Dana in the title to the aforesaid tract of land against the claims of all persons claiming by, through, or under me, or my heirs & assigns forever, but against no others.

In witness whereof I have hereunto set my hand & affixed my seal, at the city of San Francisco, this thirtieth day of April (A.D. 1851) eighteen hundred and fifty one.

Wm. H. McKee (Seal)

Signed sealed and delivered in presence of W. W. Brier

State of California
County of San Francisco } ss.

On this 30th day of April A.D. 1851 personally appeared before me the subscriber a Notary Public in and for the said County, William H. McKee known to me to be the person described in, and who executed the foregoing conveyance, who acknowledged to me that he executed the same freely & voluntarily, and for the uses & purposes therein mentioned.

In testimony whereof I have hereunto subscribed my name and affixed my Notarial Seal the day and year last above written

Seal

Royal H. Waller
Notary Public

Endorsed.

Filed 2 37/100 O. Clock P. M.
2nd May A. D. 1851.
I. T. Richardson - Recorder
I. Flournoy Dept Rec.

Recorded in Book of Deeds C. pages 448 & 449 at 2 37/100 O. Clock P. M. 2nd May A. D. 1851, in Recorder's Office Santa Clara County Cal.
I. T. Richardson
Recorder.

Filed in Office April 15th 1852
Geo Fisher
Sec'y

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Exhibit No 1 annexed to C. S. Lymans depo'

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Boundaries.

Of the Southern half of the Rancho de San Antonio.

Belonging to John Ricord Esq.

Commencing at the Southern angle, at a Milano marked Y. in the middle of a thick clump of Sprouts on the Southern side of the upper road from San Jose' to San Francisco, at the intersection of said road with the Arroyo de San Jose' Capertino, the boundary runs S 55° 45' W. along the land of Mariano Castro 97 chains 90 links to a live Oak marked with three cuts. Thence S. 57° 25' W. along said Castros land to an Oak with two cuts at the edge of the Chemisal; Thence along the other portion of the Rancho de San Antonio S. 55° 45' W. 66 chains 10 links to an Oak with 2 cuts on a hill about 50 rods South Easterly from Mesa's house, Thence along said portion of the Rancho S. 21° 50' W. (passing a blazed Oak on a hill at 81 chains) 115 chains to the base of the mountain, Thence along the base of the Mountain S 80° 10' E. 65 chains 50 links to a blazed Oak. Thence along said base S. 75° 25' E. 75 chains 9 links to another blazed Oak. Thence S. 55° 20' E. 177 chs to a blazed Oak on the slope of the Hills, Thence S. 68° 45' E. 51 chs to the Arroyo de

San Jose Capertino near a steep bluff. Thence along said Arroyo to the place of beginning.

Said admeasurement containing 6102 acres.

C. S. Lyman
Surveyor for Mid. Dept U. C.

Pueblo San Jose Cal'a
April 1st 1858

Filed in Office April 14. 1854
Geo Fisher
Sec'y

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R. P. No 1.
to Dep. of J. A. Yoell.

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Pueblo de San Jose Jany 15. 1848

Sir;

I have this day purchased of Don Antonio Mesa Executor of the deceased Prado Mesa one equal half of the rancho belonging to the heirs and estate of said deceased, and an Equal half of the Wild Cattle and mares, pursuant to your Judicial decree made for the payment of certain debts due from the Estate, and I have to request that you will grant an order to C. S. Lyman Esqr Surveyor for the Middle Department of California to set off to me with metes and bounds, the half of said Rancho, which falls to my share, and that two disinterested persons be appointed to allot me my proportion of the Stock in your presence, on some day when it will best suit your convenience - and when I can attend to brand them.

I have the honor to be

James W. Weeks } Alcalde
Your Obt Svt
John Ricord

To C. S. Lyman Esq
Surveyor for the Middle
Department of California

Sir;

You are hereby authorized and requested to comply with the application to me contained in the

above petition as far as regards the measurement of Land.

The original title deeds as well to Prado Mesa as to the applicant John Ricord Esq will be found at my office and will be subject to your inspection.

You will bear in mind in making the Survey that the proportion conveyed to Mr Ricord is the South half, and also that when said survey is complete, it will be requisite to deposite with me copy of the field notes and a diagram, together with this original order to serve as a voucher between the parties interested

Dam &c

James W. Weeks
Alcalde

Filed in Office Jany 18. 1858 and annexed to the deposition of James A. Yoell in No 706.

Geo Fisher
Secy.

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Deed
John Ricord
To
J. W. Weeks

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This Indenture made & concluded this twenty fifth day of March in the year of Our Lord one thousand
Between John Ricord of Pueblo de San José in the District of San José, Northern Department of Upper California, of the one part, and James W. Weeks of the same Pueblo of San José of the other part; Witnesseth that the said John Ricord for and in consideration of the sum of Three thousand dollars, well and truly paid at or before the ensealing and delivery hereof the receipt whereof is hereby acknowledged, has granted, bargained, sold, transferred, and conveyed, and by these presents does grant, bargain, sell transfer and convey unto the said James W. Weeks his heirs and assigns forever, all his right title and interest, of in and to all that certain lot of land situated & being in the Jurisdiction of San José as aforesaid, and known as the South half of that portion of the ranch of the deceased J. Prado Mesa, which was conveyed to the said John by the united heirs of the said Mesa in concert with, and cooperation of Charles White Esq Alcalde, as the

same was surveyed by C. S. Lyman Esq, the field notes and diagram of which survey now remain on file in the Juzgado of Pueblo de San José.

To have and to hold all and singular the above bounded and described lot of ground as aforesaid, together with all the rights, profits, privileges and appurtenances whatsoever, thereunto belonging as fully as the same was held and possessed by the said John Ricord as aforesaid unto the said James W. Weeks, his heirs & assigns forever.

In witness whereof the said John Ricord hath hereunto set his hand & seal the day and date above mentioned.

John Ricord {Seal}

Signed, sealed and delivered
In presence of us.
Walter Taylor
Wm. H. Mc Kee

State of California }
Santa Clara County } ss.

Be it remembered that on this 18th day of November A. D. 1850 before me personally came W. H. Mc Kee a subscribing witness to the foregoing Deed who upon being duly sworn, deposes and says, that he is personally acquain

ted with the grantor to the foregoing Deed, and that he saw the said grantor sign the said Deed, freely and voluntarily, and for the uses and purposes therein mentioned.

In testimony whereof I have hereto set my hand & private seal, (there being no official seal,) the date above written.

I. P. Richardson Recorder in & for said County.

Endorsed

"Filed 7 30/60 O. Clock P. M. 18th November 1850.

I. P. Richardson Recorder &c

Recorded in Book of Deeds B. pages 149-150, in the Archives of Santa Clara County Cal.

I. P. Richardson
Recorder

Filed in Office July 17. 1855
Geo Fisher Sec'y

Deed
Ricord
To
McKee

This Indenture made & concluded this twenty fifth day of March in the year of our Lord one thousand eight hundred & forty nine, Between John Ricord of Pueblo of San Jose in the District of San José, Northern Department of Upper California of the one part and Wm H. McKee of Monterey

— of Monterey of the other part
Witnesseth, that the said John
Ricord, for and in consideration
of the sum of fifteen hun-
dred dollars to him well and
truly paid, at or before the en-
sealing and delivery hereof
the receipt whereof is hereby
acknowledged, has granted
bargained, sold transferred
and conveyed, and by these
presents does grant, bargain,
sell, transfer and convey
unto the said Wm. H. McKee
his heirs and assigns forever all his
right title and interest, of in & to
all that certain lot of land
situated and being in the Ju-
risdiction of San José as aforesaid
and known as the North half of
that portion of the Ranch of the
late J. Prado Mesa, deceased,
which was conveyed to the said
John Ricord, by the united heirs
of the said Mesa, in concert with,
and by cooperation of, Charles
White Esq. Alcalde, as the same
was surveyed by C. S. Lyman Esq
by order of James Weeks Esq previous
Alcalde, the field notes & diagram
of which survey now remain on
file in the Juzgado of said Jurisdiction.

To have and to hold all
and singular the above bounded
and described lot of ground as
aforesaid, together with all the
rights, profits, privileges and

appurtenances whatsoever, thereunto belonging as fully as the same was held and possessed by the said John Ricord as aforesaid unto the said Wm. H. McKee, his heirs and assigns, to the only proper use, benefit and behoof of the said Wm. H. McKee his heirs and assigns forever.

In witness whereof the said John Ricord has hereunto set his hand and seal the day & date above mentioned.

John Ricord (Seal)

Signed sealed & delivered
In presence of — Walter Taylor
R. M. Harmer

State of California
County of San Joaquin } ss.

On this eleventh day of November A. D. 1850 personally appeared before me Recorder in & for the County aforesaid R. M. Harmer to me known as a subscribing witness to the forgoing signature, and who being sworn deposes & says that the aforesaid John Ricord did acknowledge the said Deed to be his free act and deed, & that he signed his name thereto as a witness. Given under my hand and seal at Stockton, county and state aforesaid A. A. Mix

(Seal) County Recorder

Filed in Office July 17. 1855 Geo Fisher Sec'y

Filed for Record 7¼ O. Clock P. M. 14th November 1850. J. P. Richardson Recorder

Recorded at Book of Deeds B. pages 148. 149 of the Archives of Santa Clara Co, Cal — J. P. Richardson Rec

7 Affidavit & Stipulation No 2

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No 706.

Wm A. Dana et al, Claimants.

Wm H. McKee says on Oath that he was acquainted with John Ricord whose name is signed to two Deeds, referred to in a stipulation this day Entered into, between the Atty for the claimants and the U. S. Law Agent, and with his hand writing having seen him write; and that he believes his signatures in said deeds now shown to him are genuine and that the Deed referred to in said stipulation, as signed by affiant, was signed by him, and the deed executed as therein set forth.

Wm H. McKee

Sworn to and subscribed before me this 16th day of July 1855.

S. B. Caswell Comr.

I hereby consent that the foregoing affidavit be read in evidence in this cause, in the same manner and with the same effect as if the same were a deposition regularly taken upon notice in the above cause.

J. H. McKune
Law Agent U. S.

Filed in Office July 17. 1855
Geo Fisher
Secy

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Stipulation No 1

United States Land Commission for California — Case No 706

William A. Dana — Henry F. Dana & James W. Weeks
vs
The United States
} Part of San Antonio

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It is stipulated that the Deed from John Ricord to Wm. H. McKee of a part of the premises claimed in this case dated March 25th 1849 and proved before A. A. Mix County Recorder for the county of San Joaquin, also the Deed of a part of said premises from John Ricord to James W. Weeks dated March 25th 1849 & proved before I. T. Richardson County Recorder for the County of Santa Clara; also a deed of a part of said premises from William H. McKee to William A. Dana, dated the 30th day of April 1851 and acknowledged before Royal H. Waller a Notary Public for the county of San Francisco, may be given in Evidence, and read on the hearing of this case, without other proof of their execution, than such as is contained in the certificates of the proof & acknowledgement endorsed upon such deeds by the Officers above named. And an affidavit of Wm. H. McKee this day taken in this case. It is further agreed

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and stipulated, that in the above entitled case, the decree rejecting the claim shall be set aside and the case reinstated for further testimony.

July 16. 1855 J. H. McKune
U. S. Law Agent

Filed in Office July 17, 1855
Geo Fisher
Secy.

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Stipulation No 3

Case No 706

U. S. Land Commission

Wm. A. Dana & Others
vs
The United States

It is hereby stipulated and agreed that the following papers shall be considered as filed by the Claimants, and as part of the evidence offered by them in support of their claim viz:

The Deposition of Antonio M. Pico and William J. Lewis taken in case No 269. The affidavit of John Yountz. The affidavit of Magen Mesa. The Approval of the original grant marked "P. C No 2" and the Exhibits marked A & B - all of said papers being on file, in said case 269 being the case of Eucamacian Mesa and others vs the United States.

This stipulation not admitting the genuineness of said original Documents, but permitting the said copies of depositions to have the same force and effect, as though originally taken herein.

July 17. 1855 J. H. McKune
Law Agent U. S.

Filed in Office July 17. 1855
Geo Fisher
Secy

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Deposition of Antonio Maria Pico, taken in case No 269.

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San Francisco Nov 17. 1853

On this day before Com. Thompson Campbell came Antonio Maria Pico, a witness in behalf of Claimants, Encarnacion Mesa et al No 269 and was duly sworn, his evidence being given in Spanish, it was translated by the Secretary as follows.

What is your name, age & place of residence?

My name is Antonio Maria Pico, I am forty three years of age and I reside in San José.

Were you acquainted with Prado Mesa, and if so how long did you know him, & when did he die?

I have known him since my boyhood, we were raised boys together; I do not recollect the precise time when he died. He lived in the Mission of Santa Clara, but he died in the town of San José. I have known his Rancho, it is near the Mission of Santa Clara, within three or four leagues of it. The Ranch was called San Antonio.

State what facts you know in relation to the occupation and improvement of the Rancho called San Antonio, by Prado Mesa?

He built a house on the land and lived in it with his family. He was an Officer stationed at the Mission of Santa Clara but his family

dwell on the Rancho, in the house which he built; his official station prevented him from living on the Rancho with his family, but he went there as often as his official duties would allow.

He had Corrals and fences cattle and horses, and some sheep on the Rancho, and cultivated part of the land. He settled upon and made improvements, immediately after he obtained the grant from the Government. I don't recollect the date.

He went upon the Rancho about one week after he received the patent. The house was built and finished within a year from the date of the grant, and his family moved into it immediately after it was finished

What family did he have? I have known two sons and three daughters. His wife died before he did.

Look on the paper now shown you marked P. C. No 1 annexed to this deposition, and state whether the signatures of Manuel Jimeno, Jose Arrigo, and Jacenta Rodriguez, are their genuine signatures. Also look on the paper marked P. C. No 2 annexed to this deposition and state whether the signatures of Manuel Micheltorena and Manuel Jimeno where they appear on said paper are their genuine signatures, & state your means of knowledge of all the signatures mentioned in this question?

state your means of knowledge

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I am acquainted with the hand writing of all the persons, whose names are mentioned in the foregoing question and which now appear on the papers now shown me, having had official and private correspondence with them. I know all the signatures to be genuine.

Associate Law Agent present.
Antonio Ma Pico.

Sworn to and subscribed before me this 17th day of November A.D. 1853.
Thompson Campbell Com.r

Filed in Office Nov 17. 1853
Geo Fisher Sec'y

Deposition of W. J. Lewis

United States of America
State of California } ss
San Francisco Apl 5. 1854

This day personally came before Peter Lott, a Commissioner for taking Testimony to be used before the Board of U.S. Land Commission in said State, William J. Lewis a witness on behalf on behalf of the Claimant in case No 289 on the Docket of said Board, in which Encarnacion Mesa et al, are claimants, and the said William J. Lewis being duly sworn on oath deposed as follows to wit:

The U.S. Law Agent is present.

Questions by A. P. Crittenden Atty for Claimant.

1st Question. What is your name, age, and present place of residence?

Answer. My name is William I. Lewis, my age 52 years, my residence in Santa Clara County California.

2nd Question. Do you or not know the location of the Rancho of San Antonio, and did you ever make a survey of that Rancho, if yea, look at the Map, now shown you marked "Exhibit 1, accompanying the deposition of William I. Lewis P. L." and state whether that is an accurate delineation of the boundaries of said Rancho, and in what way you made that Survey, if made by you?

The Law Agent, objects to the introduction of this Map because it was not made by authority of Law.

Answer. I do know the Rancho of San Antonio. I made a Survey of it in March 1851. The Survey was made by me as County Surveyor of Santa Clara County, under an order of the Probate Court of that County. The title papers were put into my hands. The paper marked "A. T. C. No 1", and paper marked "Map" both filed in this case.

I made the Survey according to the call and description in the title papers. The title calls on one side for the Arroyo de San Jose

Capertino, that is on the East, or on the Southeast more properly. The words in the title are as follows "bordering on the Creek of San Jose Capertino, on the East, with the Mother mountain of Santa Cruz by the West, with the low Hills and to the North with the Creek of Matedero". These are the words taken from the translation of the title filed in this case. I used the original Spanish Document, in making my survey. I surveyed a line from the Capertino to the Matedero following the base of the main mountain of Santa Cruz, for the boundary on the side of the mountain. I then followed the Matedero to the base of the low hills, to the Capertino, thence up the Capertino to the place of beginning.

This is a correct Map of the Survey made. I believe it to be a correct delineation of the boundaries of the Rancho. The amount of Land embraced in the Survey is one league and eighty two hundreths of a league or 7890 acres, estimating 4350 acres to a league.

3rd Question. Are the Sierra Madre, or Mother mountains of Santa Cruz, The low Hills, the Arroyo de San Jose Capertino, & the Arroyo Matedero, well known natural objects, and their locations and form of general notoriety, so

that you could without difficulty find and ascertain the boundaries by these Land Marks, as mentioned in the Grant?

Answer. They are all well known objects, there is no difficulty in defining them, that is the low hills. The base of the main mountain might be determined somewhat differently by different persons. There is no difficulty in following the two Arroyos, according to my judgement the line I saw was the real base of the main mountain.

In running around some of the Spurs, a slight difference of opinion might occur among Surveyors, but very small if any, they such difference would not materially affect, the general course of the lines, or the amount of Land embraced within them.

4th Question. Where do the Arroyo Capertino, and the Arroyo del Matedero head, and what is their general direction?

Answer. They both head in the Sierra Madre de Santa Cruz, or Santa Cruz Mountains, and their general course is Northwardly.

Cross examined by the U. S. Law Agent.

1st Question. Who assisted you in the survey which you made?

Answer. The chain men and

axemen, Leonard Frost — Prior — Stump, and — Harris I believe these are all.

2nd Question. How long have you been acquainted with this Rancho?

Answer. Since the year 1850.

3rd Question. What words guided you in making your starting point, in making the survey?

Answer. I commenced where the Arroyo Capertino issues from the mountain, Sierra Madre de Santa Cruz, because the grant makes those two objects, two of the boundaries of the Rancho.

4th Question. Why did you select the base instead of the top of the Sierra for your line?

Answer. Because I did not suppose the grant intended to call for the top

5th Question. Why was not that first line drawn to represent the base of the mountains with their courses and sinuosities?

Answer. It was sun to follow the general direction of the base of the Mountains.

6th Question. What is about the distance from the line you run to the summit of the mountains?

Answer. I do not know. I was never at the summit, though it is probably 7 or 8 miles.

7th Question. Does the line

you run marked S. 50° 22' W. ch 25.91, present accurately the foot of that mountain?

Answer. I believe it does.

8th Question. Why was the line run by you at the foot, instead of the summit of the low hills on the north side of the Survey?

Answer. Because I believe that was the intention of the grant.

9th Question. Describe those Low Hills?

Answer. The land comprised within the Survey is made up of rolling hills, irregular in their form and intersected by streams. higher towards the Sierra de Santa Cruz, and lower, near the North line of the Survey. The Low Hills to their extent East & West, are embraced in the Survey.

10th Question. Does the North line of this Survey by you, accurately describe the natural line of the base of the Foot Hills?

Answer. It represents the general direction of the base of the Low Hills, but does not run through the sinuosities of the base of the Hills. The line is not drawn in the plain but close, but close along the base of the hills, occasionally the Spurs of the hills crop the line, as also on the other hand, nooks of the low land crop the line inwardly on the Survey.

Reexamined by Counsel for Claimant.

1st Question. Is the base of the low hills a well defined natural line, or one easily ascertained by a Surveyor.

Answer. Yes it is, the hills rise at an angle of from 10 to 20 degrees, and their base is distinctly marked.

Wm. I. Lewis

Subscribed and sworn to before me on this 5th day of April A.D. 1852.

Peter Lott.
Commissioner.

Filed in Office April 5th 1852
Geo Fisher Secy

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Sello Quinto Un Real:
Habilitado provisionalmt. por la Aduana maritima del puerto de Monterey, en el Departamento de las Californias para el año de mil ocho cientos cuarenta y tres.
Michel Torena Manuel Castañares

A. Santa Anna: to the Depo: of Antonio M. Pico Nov. 14 1853.
Ex: T. C. No. 1

(Sello) Juan B. Alvarado Gobernador constitucional del Departamento de las Californias.

Por cuanto el Alferez Prado Mesa ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de San Antonio colindante con el Arroyo de San José Cupertino, por el Oriente con la vereda madre de Sta. Cruz por el poniente con las Lomas bajas y al Norte con el Arroyo del Matadero: practicadas previamte. las diligencias y averiguaciones concernientes segun lo dispuesto por Leyes y Reglamentos, usando de las facultades que me son conferidas à nombre de la Nacion Mejicana he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras sugetandose à la aprovacion de la Excma junta Departamental y à las condiciones sigtes.

1ª podrà cercarlo sin perjudicar las haveras caminos y servidumbres lo disfrutarà libre y exclusivamte. destinandolo al uso y cultivo que mas le acomode pero dentro de un año fabricarà Casa y estarà habitada

2º Solicitarà del juez respectivo que le de posesion juridica en virtud de este Despacho por el cual se demarcaran los linderos en sus limites poniendo à mas de las mojoneras algunos arboles frutales ò silvestres de alguna utilidad.

3ra El terreno de que se hace donacion

es de un Sitio de ganado mayor poco mas ó menos. El juez que diere la posesion lo hara medir conforme à Ordenanza quedandolo el sobrante que resulte à la Nacion para los usos que le convengan.
4ta Si contravinieren à estas condiciones perderan su derecho al terreno y seran denunciables por otro.

En Consecuencia mando que teniendose por firme y valedero este titulo se tome Razon de el en el Libro Respectivo y se entregue al interesado para su resguardo y demas fines.
Dado en Monterey à veinte y cuatro de Marzo de mil Ocho cientos treinta y nueve

Es copia fielmente sacada del ejemplar que existe en el Espediente Original que obra en la Sria. de mi cargo la que va fiel y legal, corregida y concertada y para la debida constancia lo firmo con dos testigos de asistencia en Monterey à catorce de Obre de mil Ocho cientos cuarenta y tres.

Manl. Jimeno

De casa de asa
José Abrego Jacinto Rodriguez

Filed in Office June 11th 1852.
Geo: Fisher Secy

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Translation of P. C. No 1

383 ND
PAGE 86

Seal Fifth Ore Real.

Provisionally authorized by the Maritime Custom House of the Port of Monterey in the Department of the Californias, for the year Eighteen hundred & forty three.

Michel Torrence Manuel Castanares

L. S.

John B. Alvarado Constitutional Governor of the Department of the Californias.

Whereas the Sub Lieutenant Pedro Mesa has petitioned, for his personal benefit and that of his family, the tract known by the name of San Antonio, bordering on the Creek San Jose Capertino, on the East with the Mother Mountain of Santa Cruz, by the West with the Low hills, and to the North with creek of Matedero having previously produced the necessary preliminaries and Enquiries concerned according to what is declared in the laws and regulations using the faculties that are conferred on me in the name of the Mexican Nation I have determined to grant him the said land, declaring it the property of him by these presents, subjecting it to the approval of the most Excellent Departmental Assembly, and to the following Conditions-

1st He shall be able to enclose it without prejudice to the paths, roads and sinuosities, he shall enjoy it freely and exclusively, destining it to the use & cultivation that may best suit him, but within one year he shall build a house, and it shall be inhabited.

2nd He shall require of the respective Judge that he give him juridical possession in virtue of this patent, by which the bounds shall be marked, in which limits he shall place besides the land marks some fruit trees or wild ones of some use.

3rd The tract of which donation is made, is of one square league, little more or less. He who may give the possession shall have it measured according to ordinance, the surplus which results, remaining to the Nation, for the uses which may best serve.

4th If he shall contravene these conditions, he shall loose his right to the land, and it shall be denounceable by another. Therefore I command that this title being firm and valid it be recorded in the appropriate Book and delivered to the interested party for his keeping, and for other purposes.

Given in Monterey on the

Given in Monterey on the

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twenty fourth of March one thousand eight hundred & thirty nine.

Is a copy truly taken from the original, which exists in the original petition which forms part of the secretary's Office of my charge, which goes true & legal, corrected and confrimed and for the necessary proof. I sign it with two assistant witnesses, in Monterey on the 18th Oct 1853.

Manl Jimeno

José Abrego Asst

Jacent. Rodriguez Asst.

Filed in Office June 11, 1853.

Geo Fisher

Secy

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C. L. C.
No. 2.
Approval
of the Grant
annex: to the
depo: of Antonio
M. Pico Nov:
14. 1853.

Sello Quinto un Real:
Habilitado provisionalmte por la Aduana maritima del puerto de Monterey en el Departamento de las Californias para el año de mil ocho cientos cuarenta y tres
Micheltorena — Manuel Castañares

Sello

Manuel Micheltorena General de Brigada del Ejercito Mejicano Ayudante General de la plana Mayor del mismo, Gobernador y Comandte General é Inspector del Departamento de las Californias.

La Excma. Junta Departamental aprobó en 26 de Mayo de 1840. la concesion que el Gobierno le hizo á Don Pedro Meza del terreno conocido con el Nombre de San Antonio.

Y en confirmacion á la indicada concesion se libra el presente á favor del interesado. En Monterey á doce de Octubre de mil ocho cientos cuarenta y tres.

Mant. Michelta

Mant. Jimeni Sno

Filed in Office June 11th 1852

Geo: Fisher Secy

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Translation of P.C. No 2

Fifth Seal one Rial.

Provided provisionally by the Maritime Custom House of the Port of Monterey in the Department of ~~Monterey~~ the Californias for the year one thousand eight hundred and forty three.

Michaltorena

Manuel Castanares.

{L.S.}

Manuel Michaltorena General of the Brigade of the Mexican Army, Adjutant General of the Staff, of the same, Governor Commander General & Inspector of the Department of the California.

The Most Excellent Departmental Assembly approved on the 26th of May of 1840 the grant which the government made to D. Prado Mesa of the tract known by the name of San Antonio. And in Confirmation to the indicated grant, this present is sent to the interested party.

In Monterey the 12th day of October 1843.

Manl Michaltorena

Manuel Jimeno
Secretary.

Filed in Office June 11th 1852
Geo Fisher Secy

Recorded in Ev B. Vol 11 p 269
Geo Fisher Secy

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Opinion of Board by Com. Thompson

William A Dana Henry F Dana and James Weeks
vs
The United States

383 ND
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The petitioners in this case claim the Southern half of the Rancho of San Antonio the title which was confirmed by the Board and confirmed in Case No 269 Encarnacion Mesa et al vs United States—

They allege that the South half of the said Rancho was duly sold and conveyed by the legal representatives of Juan Prudo Mesa and the original grantee by the sanction and decree of the competent Mexican authorities to John Ricard by metes and bounds pursuant to a survey made by the direction of said Mexican authorities— The petitioners claim according to the boundaries described in said survey, a copy of the field notes of which and a plat made from them are filed and printed in the Case— It is stated in their petition and shown by the testimony that their boundaries embrace near a league and a half of land while the whole tract as confirmed to the legal representatives of the original grantee contained only one league a little more or less

It is very certain therefore that a confirmation could not be made to them in conformity with the prayer of their petition if no other objection was presented—

But in addition

the claimants have wholly failed to connect themselves by proper mesne conveyances with the title from which they allege their rights to be derived

The only evidence of this character which they have presented is 1st the original act of the alcalde of the name of San Jose Guadalupe authorizing the sale of one half of the Rancho for the purpose of paying the debts of the deceased original grantee dated January 7th 1848 and signed James W Weeks – 2d A deed from Jose Antonio Mesa, Concepcion Mesa and others purporting to convey all their right and interest to the half of same according to a division made by M le Seymour Sanger, in the Rancho known by the name of San Antonio of the Estate of the late Pedro Mesa &c. to John Record 3d a deed from Wm H McKee conveying to Henry F Lane and Wm A Lane all that portion of the half conveyed by the last mentioned deed which was deeded to him by John Record on the 25th day of March 1845 excepting certain portions sold by him

The deed from Record to McKee referred to in the one last mentioned is not produced, nor is there any thing to show any interest whatever in the claimant according to the Lands claimed or any portion of them —

The petitioners having thus failed to connect themselves with any

right or title derived from the Spanish or Mexican Government, no decree of Confirmation can be entered in them by this Commission, then claim as presented here must therefore be rejected

It may be proper to remark that the whole claim as originally presented, having been confirmed to the king of Prairie Mesa such confirmation would in the opinion of the Commission enure to the benefit of the present claimants provided they should establish by proper testimony before a competent tribunal that the rights of the said king had been duly transferred to them

Filed in Office July 10th 1855
Geo. Fisher Secy

Recorded in Record of Decisions
Vol page
Geo. Fisher
Secy

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Decree

William A Dunn, Henry F Dana
and James M Weeks
vs
The United States

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In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said petitioners is not valid and it is therefore decreed that their application for a confirmation thereof be denied

R Aug Thompson
S. B. Farwell
Commissioners

Filed in Office July 10th. 1855
Geo. Fisher Secy.

Recorded in Record of decisions Vol page
Geo. Fisher Secy

And it appearing to the satisfaction of the 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 decision in this case be made 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 transmitted to the Attorney General of the United States

of the United States

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 One hundred & four — pages, numbered from 1 to 104, 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. 796 on the Docket of the said Board, wherein

Wm. A. Gano, et al, are

the Claimant s against the United States, for the place known by the name of Part of San Antonio —

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 January A. D. 1856, and of the Independence of the United States of America the ~~seventy~~ eightieth.

Geo: Fisher

Sec.

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U. S. DISTRICT COURT,

Northern District of California.

No. 383

THE UNITED STATES,

vs.

Wm A Dana, et al.

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

Case No. 716

Filed, January 15 1856,

J. A. Brown,

Clerk

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

Henry F. Dana
William A. Dana
James W. Weeks
vs
The United States

No. 383 (L. C. Docket No. 706)

Your Petitioners Henry F. Dana, William A. Dana and James W. Weeks, respectfully show that heretofore viz on the 2d day of March 1853 they filed before the United States Board of Land Commissioners a petition for the confirmation of their claim to a tract of land situate in the Northern District of California viz. in the County of Santa Clara for a description of which land and the title of your petitioners thereto, reference is hereby made to said Petition.

That after hearing said Petition with the proofs and the arguments of Counsel in the cause the said Board on the 10th day of Feby 1855 rejected said claim as invalid. That on the 10th day of January 1856 a transcript of the record of said cause was filed in this Court, by virtue whereof and by force of the statute in that case

made and provided, an appeal to this Court was duly effected. That on the 19th day of January 1856 your Petitioners filed in this Court a notice of their intention to prosecute said appeal.

Your Petitioners pray that the decision of said Board may be reversed and that this Court may confirm their title to the said Land.

~~Respectfully~~

J. Clarke Atty

for Claimant.

U. S. District Court

No. ~~[illegible]~~ 280

Z

Petition of Clark et al.

vs

The United States

Petition

Filed January 19. 1856.

J. Orrick

Clerk.

J. Clarke Atty

for Claimants.

Henry T. Dana
William A. Dana and
James W. Weeks
vs
The United States

No 383

Owners Docket
No. 706.

Appeal from the Board of Land Commissioners.

Sir

Please take notice that the above named claimants will prosecute the appeal in this case.

Respectfully
J. Clarke Coz
for Claimants

To the Clerk of the U.S. District Court for the Northern District of California

U. S. District Court

No. 383.

Henry F. Dana
et al.

vs

The United States

Notice of Appeal

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Filed January 19. 1856
by Chevers
Deputy.

J. Clarke Atty for
Claimants.

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

The United States
~~Appellants~~
vs
Wm A. Dana et al
Appellants

The United States by their Attorney deny the validity of the title set out in the petition of the said Appellants: And pray that the decision of the Board of Commissioners be affirmed, and that the said title be decreed to be invalid.

A. G. Russell
Asst. U.S. Atty.

~~706~~ 383
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William A. Dana et al
vs
The United States

Answer
Filed Feby 4. 1856.
J. Chenes
Deputy

"Encarnacion Mesa and others

vs

The United States"

Affidavit

"Majin Mesa being sworn deposes and says that he is one of the children and heirs of Juan Prado Mesa deceased and one of the claimants in this case, that he has made diligent search and enquiry for the original grant mentioned in the petition from Juan B. Alvarado to Juan Prado Mesa deceased of the land claimed in this case but has been unable to find it that he is informed and believes that said paper was lost or destroyed during the life of said Juan Prado Mesa

his
Majin y Mesa
mark

Sworn & Subscribed before me this 24th day of Nov, 1854 as witness my hand and official seal

(Seal)

J. Alexander Yoell
Notary Public

Filed in office Dec 4, 1854
(Signed) Geo. Fisher Secy"

It is hereby stipulated that the foregoing copy of affidavit of Major Mesa, and the following copy of affidavit of John Yoakley the same being parts of the record in case No 275 "Encarnacion Mesa v. The United States" be considered as a part of the record in case No 383 pursuant to the stipulation contained in said last mentioned record

March 9th 1856

A. Glassell,
Asst. U.S. Dist. Atty.

"Encarnacion Mesa and others
vs
The United States"

Affidavit

John Yontz being duly sworn deposes and says that he is the administrator of the estate of Juan Prado Mesa deceased, duly appointed by the Probate Court of Santa Clara County, and has been acting as such Administrator for about one year and six months that he has made diligent search amongst the papers of the Estate for the original grant mentioned in the petition from Juan B. Alvarado to Juan Prado Mesa for the land claimed in this case, and has enquired for said original grant of the persons heretofore in charge of said Estate, as also of the heirs and others likely to know where said paper was likely to be found that he has not been able to find it, but is informed and believes that said paper was lost or destroyed during the life of said Juan Prado Mesa and while in his possession"

John Yontz

Sworn & subscribed before me this 27th of Nov. 1854 as witness my hand and seal

(Seal)

J. Alexander Yoell
Notary Public

Filed in office Dec 4. 1854

(Signed) Geo. Fisher Secy"

U. S. District Court
N. Dist. of Cal.

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No 383
The U. States
v
W. A. Dana et al

Copy of Affidavits
filed,
Stipulation

Filed March 3. 1856,
By Cohen
Deputy

California Land Claims
Attorney General's Office
12 Febry 1857.

Sir:

In the case of the claim of Wm. A. Dana, et al., rejected by the Commissioners, but confirmed on appeal by the District Court, Case no. Seven hundred and six, (706). appeal will not be prosecuted by the United States.

I am,
Respectfully,
Cushing

Wm. Blanding Esq
U. S. Attorney,
San Francisco.

In the District Court of the U. S.
for the Northern District of Cala

The United States
383 ND
PAGE 107
v
Wm A. Dana et al

D. C. 383 : L. C. 708

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

San Francisco March 20. 1857

Wm Blanding
Dist Atty

J. Clarke
Atty for Claimants

383
706

U. S. District Court

The United States
v
Wm A. Dana et al

Stipulation

Filed March 20. 1857.
W. H. Chevers,
Deputy.

At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the City of SAN FRANCISCO, on Friday the 20th day of March in the year of our Lord one thousand eight hundred and fifty-seven.

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
v
Wm A. Dana et al

D. C. 383: L. C. 704

The Attorney General of the United States having given notice that appeal will not be prosecuted in this case, and a stipulation having been entered into by the District Attorney to that effect.

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

Ogden Hoffman
U. S. Dist Judge

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United States District Court, Northern District of California.

The United States

vs.

Wm A. Dana et al

ORDER.

Final Decree

Filed March 20th 1857

John A. Monroe,

CLERK.

By W. H. Chevers.

DEPUTY.

Decree. No. 385

Wm. A. Dana et al.
vs
U. S.

Statid Term. March 3. 1856.

This cause having come on to be heard on the transcript &c

&c &c &c

It is now ordered, adjudged & decreed by the Court that said decision of the said Commissioners be reversed. And it is hereby further ordered adjudged & decreed by this Court the claim of the Appellants is valid and the same is hereby confirmed —

The land of which confirmation is made is the Southern half of the Rancho of San Antonio as the said Southern half is described and bounded in the deposition of C. S. Lyman on file in this case — provided the land so described be contained within the tract originally granted by Juan B. Alvarado to Prado mesa ~~the boundaries of~~ which said last mentioned tract is of the extent of 1 square league a little more or less and is known by the name of San Antonio — and the boundaries whereof are described in the said grant & map which are in the expediente on file in the case

383

W. C. Lamartal

vs

U. S.

Decree

Entered.

The U. S
a Ds
Tom R. Dana et al

383 ND
PAGE 113

The claimants in this case derive their title from a grant made by Gov Alvarado on the 26th March 1839 & confirmed by the Departmental Assembly on the 26th May. 1840

The non production of the original grant is ~~proved~~ accounted for ~~by~~ the depositions taken in case No 383 and by stipulation made in this case of various witnesses and a copy has been introduced duly certified by Manuel Jimeno & two assisting witnesses as true and legal from the original expedited in the office of the Secretary; this certificate is dated Oct 14. 1843

A certificate signed by Manuel Micheltorena Governor & M. Jimeno Secretary dated Oct 12. 1843 is also produced - from which it appears that the grant was confirmed by the Departmental

assembly on the 26th May 1840
It ~~is~~ also directs that the certificate be delivered to the interested party in confirmation of his grant

A copy The expedente from the archives is also produced containing the original petition and desenho of the land solicited and the subsequent proceedings thereon including the decree of concession the approval of the Departmental assembly, the Governors certificate in confirmation of the grant and a copy of the ~~grantor~~ title delivered to the grantee.

The authenticity and genuineness of these documents are fully established by proof.

The conditions of the grant appear to have been fully and the description in the grant and the delineation of the tract on the desenho identify the land with sufficient certainty.

~~The United States~~
vs
~~Wm A Dana et al~~

02

The claim in this case was rejected by the Board of Commissioners for defect in the chain of mesne conveyances by which the ~~Plaintiff~~ claimants derived ~~his~~ their title —
Those defects has since been supplied. and the ~~only~~ title of the claimants seems to be regularly deduced from the original grantee —
With respect to the original grant there seems to be no controversy — Its validity was not doubted by the Board and it has been confirmed now before this Court in another case ~~already decided in this Court~~ —
But the claim in the present case is for a certain part of the tract originally granted which is alleged to have been sold after the decease of the grantee by his executor to pay his

debts. A deed from the heirs of the grantee is also produced conveying to the purchaser the same land bought by him at the sale by the Executor.

The present claimants have thus shown a prima facie right to the land petitioned for and as it clear that the United States have no rights in the land as part of the public domain we consider it our duty to confirm this claim and to leave the parties to litigate between themselves any questions which may arise as to the validity of the Executors sale or the conveyance by the heirs of the original grantee. The decree of this Court can have no effect upon the conflicting rights of third parties and merely determines the validity of the claim as a

gainst the U. S.—

The elaborate and conclusive argument of Mr Commissioner Thornton on the right of contesting claimants to intervene in a suit before Board relieves us from the necessity of discussing the question involved in this case, ~~[illegible]~~ especially as no opposition is made to the confirmation of this claim on the part of any persons holding adverse titles to the land—

The claim must therefore be confined to so much of the land petitioned for as is contained within the boundaries of the ~~original~~ tract granted to Prado Mesa

N. B. The affidavits of John Bounds & Rayer Mesa admitted in evidence under stipul p. 79 are not in this record—(to prove loss of original grant)—

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Wm A. Dana

vs

U. S.

Opinion

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Office of the Board of Commissioners,

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

San Francisco, Jany 10th 1856

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. 706 on the Docket of the said Board, wherein Wm A. Duna, et al, are the Claimants against the United States, for the place known by the name of "Part of San Antonio" and request your receipt for the same.

I am, Respectfully,
Your Obt Servant,

Geo: Fisher