

CASE No.

413

NORTHERN DISTRICT

RIO ESTANISLAOA GRANT

FRANCISCO RICO et al.

CLAIMANT

LAND CASE 413 ND 200 pgs.

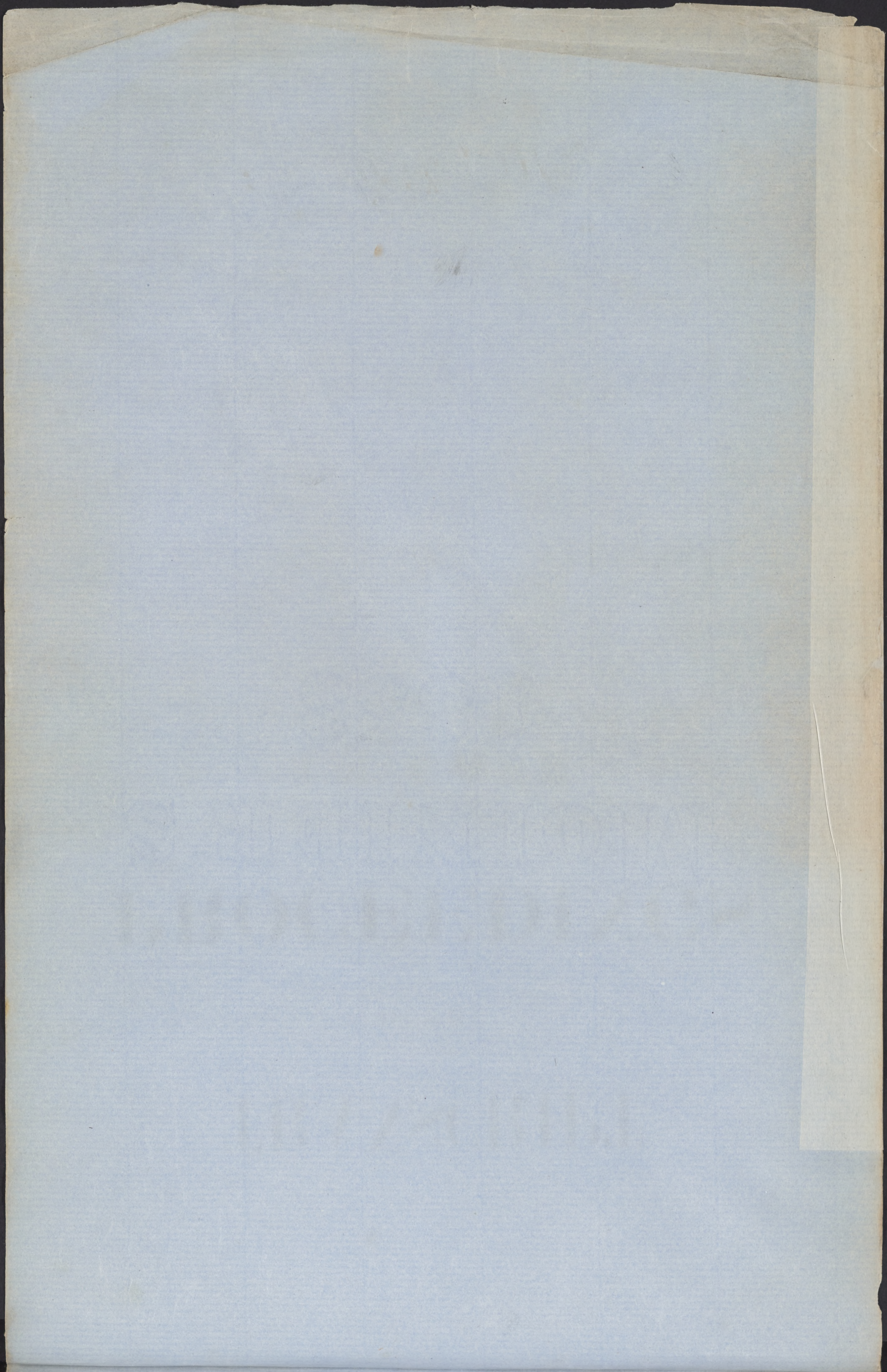
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TRANSCRIPT
OF THE
PROCEEDINGS

IN CASE

NO. 767

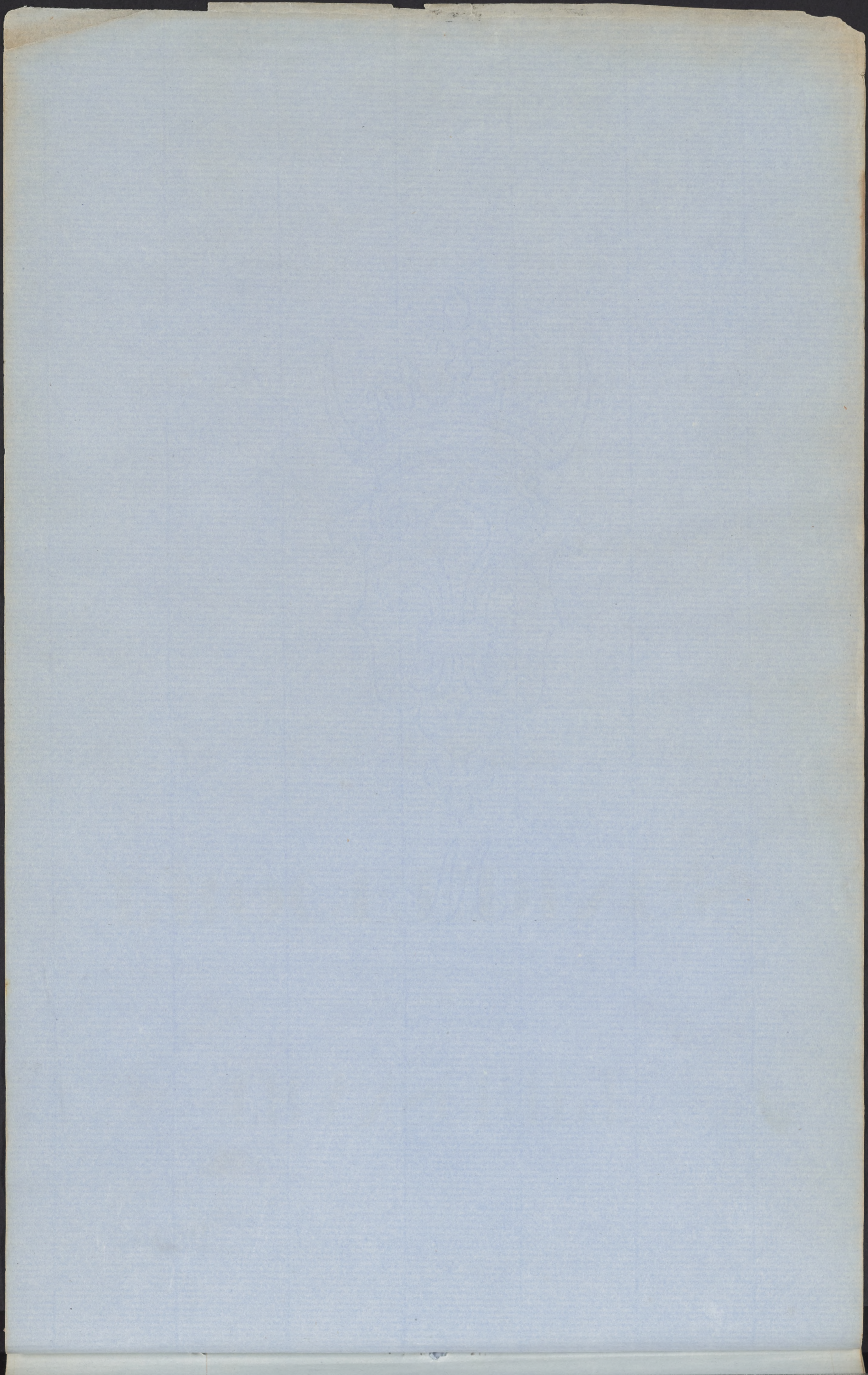
Francisco Rico, et al CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

Rio Estanislao



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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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 Francisco Rico, et al. for the Place named "Rio Estanislao," was presented, and ordered to be filed and docketed with No. 767 and is as follows, to wit

(Vide page 5 of this Transcript.)

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

San Francisco August 27th 1853.
In Case no. 767, Francisco Rico, et al. for the place named "Rio Estanislao," the deposition of Jose M. Simenton, a witness in behalf of the claimant, taken before Commissioner Thompson Campbell, with document marked "(A) Thompson Campbell," annexed thereto, was filed;

(Vide page 11 of this Transcript.)

San Francisco January 10th 1854.
In the same case the deposition of Jose Noriega, a witness in behalf of the claimants, taken before Commissioner A. Aug. Thompson, was filed;

(Vide page 12 of this Transcript.)

San Francisco, June 7th 1854.
Case no. 767 was ordered to be placed at the foot of the 1st class cases on the Trial docket.

San Francisco, Aug, 17' 1854.
Case no. 767 was submitted on briefs.

San Francisco, December 5' 1854.
In the same case the counsel for the claimants
filed the following motion, and affidavits of
Alexander Campbell and Manuel Castro, *testis*,
(*vide* pages 6 & 9 of this Transcript)
which motion was granted, and the case
ordered to be placed at the foot of the 4th class
cases in the trial docket.

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San Francisco, February 9' 1855.
In the same case the deposition of Francisco Ace,
a witness in behalf of the claimants, taken before
Commissioner Alphas Felch, was filed;
(*vide* page 13 of this Transcript)

San Francisco February 13' 1855.
In the same case the deposition of José Castro,
a witness in behalf of the claimants, taken
before Commissioner Peter Holt, with document
marked "A. P. 2", annexed thereto, was filed;
(*vide* page 25 of this Transcript)

San Francisco March 20' 1855.
In the same case the counsel for the claimants
moved for a postponement thereof upon the facts
set forth in the following Affidavit, *testis*;
(*vide* page 8 of this Transcript)
which motion was taken under advisement.

San Francisco March 21' 1855.
In the same case the deposition of Geo. H. Glidden,
a witness in behalf of the claimants, taken before
Commissioner R. Aug. Thompson, was filed;
(*vide* page 32 of this Transcript)

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San Francisco March 22 1855.
Case no. 767 was assigned for hearing on the 3^d
day of April next.

San Francisco April 3^d 1855.

In the same case the counsel for the Claimants
filed the following Stipulation, to wit:

(Vide page 6 of this Transcript.)

In the same case the deposition of Charles M. Weber,
a witness in behalf of the Claimants, taken before
Commissioner R. Aug. Thompson, was filed;

(Vide page 34 of this Transcript.)

San Francisco April 4th 1855.

In the same case the deposition of Vicente Perfecto
Gomez, a witness in behalf of the Claimants, taken
before Commissioner S. B. Farnwell, was filed;

(Vide page 46 of this Transcript.)

San Francisco, April 14th 1855.

In the same case the deposition of Wm. B. Hood,
a witness in behalf of the United States, taken before
Commissioner R. Aug. Thompson, with a map marked
"B. R. A. S." annexed thereto, was filed;

(Vide page 52 of this Transcript.)

San Francisco, June 7th 1855.

In the same case the depositions of Thomas O. Salkin
and Harry J. Thornton, witnesses in behalf of the
United States, the first taken before Commissioner
R. Aug. Thompson, and the last before Commissioner
S. B. Farnwell, were filed;

(Vide pages 57+60 of this Transcript.)

San Francisco June 8th 1855.

In the same case the deposition of James C. Crane

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a witness in behalf of the claimants, taken before
Commissioner S. B. Farwell, was filed;

(Vide page 63 of this Transcript)

San Francisco June 12' 1855.

Case no. 767 was submitted without argument and
taken under advisement by the Board.

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In the same case the U. S. Land Agent filed the
following Stipulation, to wit;

(Vide page 6 of this Transcript)

San Francisco, October 16' 1855.

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

(Vide page 68 of this Transcript)

and the following order was made, to wit;

(Vide page 73 of this Transcript)

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N.

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To The U.S. Land Commission for the  
ascertaining & settling of Private Land  
Claims in California,

The petition of Francisco Riera  
and José Antonio Castro respectfully  
showeth unto your Hon Board, that  
they are the owners of a tract of land,  
known as "Rancheria de río Estanislao",  
under a Mexican grant, issued to them  
under the signature of M. Micheltreano  
on the 29<sup>th</sup> of Dec. 1843,

Petition

That said land is bounded on the East  
by the Sierra Nevada, on the North by  
the Lomaeria and on the South by said  
Stanislao's river and contains eleven  
square leagues more or less,

And your Petitioners further state,  
that they have been in the quiet  
and undisputed possession of said land  
from the time of obtaining said grant  
and still are in possession thereof,  
and are not aware of the existence of  
any title conflicting with or superior  
to their own.

Submitting therefore said original  
grant & translation thereof to the in-  
spection of your Hon Board, they pray  
that your Hon Board will confirm  
and validate their claim and title  
thereto.

Clark Taylor & Beckh  
Atty for claimants

Filed in Office March 2. 1853.

Geo. Fisher Sec

Case 767  
The claimants move to restore the  
cause to the docket.  
Alex Campbell  
of Counsel.

Motion

Filed in Office Dec 5<sup>th</sup> 1854,  
Geo. Fisher Sec

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Francisco Pico Claimant,  
This stipulated and agreed that  
the Deposition of Pablo de la Guerra  
may be taken and filed as evidence in  
this case after it shall be submitted  
notice of taking the deposition to be given

Stipulation

J. H. McKune  
W. S. Leary Agents,  
A. Packard for  
Claimants,

Filed in Office June 12, 1855,  
Geo. Fisher, Sec

No 767  
Francisco Pico et al.  
vs.

The United States of America  
This hereby stipulated that the deposition  
of Joseph L. Tolson taken in Case No 18 may  
be used and read in evidence in the above  
entitled cause with the same force & effect  
as though originally taken in this case.

Stipulation.

J. H. McKune,  
W. S. Leary Agent,  
A. Packard Atty  
for Claimants

Filed in Office  
April 3, 1853,  
Geo. Fisher Sec

742.

W. Redman Claimant,

Jose Castro says on oath that he was & is well acquainted with Pio Pico former Governor of California and was well acquainted with Juan Castaneda one of the Grantees in this case that he knew said Castaneda in 1846.

That said Castaneda was Secretary of Affairs as Commandant General during the whole of the months of April May June July and August of that year that said Castro says said Castaneda every day during that time and knows that he was at Santa Clara, near Los Angeles during either of those months.

That he has examined the original Grants filed in this case and knows the handwriting to be that of said Castaneda except the signatures, and further says that the original paper filed herein purporting to be a receipt of the date of July 2<sup>nd</sup> 1846 signed by Pico is in the handwriting of said Castaneda.

Jose Castro  
Subscribed & sworn to  
before me this second  
day of December 1854.

Alphus Felch  
Commissioner

Filed in Office Feb'y 13. 1855.  
Geo. Fisher Sec.

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"Exhibit"  
A. P. L.

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San Francisco, Pico et al.  
vs  
The United States of America  
County of San Francisco

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Affidavit of  
Albert Packard

Albert Packard being duly sworn deposes and saith that he is an Attorney in the above entitled cause, in behalf of the Claimants, and believes the said cause cannot be submitted for the decision of this Honorable Board, without great prejudice to said Claimants, at the present time, as the testimony of one Charles Webber and one Swartz both living out of this Country are material to this cause. Subpoenas have been issued for said witnesses by the Secretary of this Board but as yet their attendance has not been procured, your deponent will use due diligence to procure their attendance and submit the case at as early a day as possible, provided the further continuance of the cause is granted, further your deponent saith not.

Albert Packard,  
Sworn & subscribed  
Before me March 15<sup>th</sup> 1855  
O. A. Phelps  
Commissioner

Filed in Office March 20. 1855.  
Geo. Fisher Sec

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Case No 367,

Before the W.S. Board of Land Commis-  
sioners, County of San Francisco, &c.

Alexander Campbell being duly sworn  
saith that he is Counsel for Claimants  
in the above case, but is wholly unac-  
quainted with and has not seen either  
of them.

That deponent was not aware that Man-  
uel Castro was their agent in reference  
to this claim until about ten days ago  
when deponent was applied to by said  
Castro to have the cause restored to the  
docket upon the ground that the same  
had been submitted without taking  
the necessary testimony, & while said  
Castro believed it to be on the 4<sup>th</sup> Class.

That deponent was not aware  
of the existance of testimony in support  
of the grant other than that already  
given until so informed by said Castro

That as deponent has been  
informed within the last ten days and  
verily believes Charles Weber, Benjamin  
Williams, José Castro, Francisco de Arce  
& A. M. Pico are material & necessary  
witnesses for the Claimants & can sub-  
stantiate their claim to the land in question  
& that deponent expects to be able to procure  
their testimony within three weeks.

Alex Campbell,

Sworn & subscribed

before me Dec 5<sup>th</sup> 1854,

Alphens Felch,  
Commissioner

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Affidavit of  
Alex Campbell

Filed in Office  
Dec 5<sup>th</sup> 1854,  
Geo. Fisher  
Sec.

10  
Case No 767

Claim of Pico & Castro to Estanislao

Before the Board of U.S. Land Commissioners  
County of San Francisco, fs.

Manuel Castro being duly sworn deposes & saith that he is the agent of the Claimants in relation to this Claim & that its prosecution has been entrusted to him, that through some misapprehension he supposed that this case was on the 4<sup>th</sup> Class of cases on the Docket, until about two weeks ago when he ascertained that the same had been submitted for decision.

That in consequence of deponents belief that said case was on the 4<sup>th</sup> Class & that there was ample time yet remaining he did not inform the Counsel for the Claimants of the testimony by which the grant could be sustained, & did not consult with said Counsel in relation to the case.

That deponent believes that said claim is a valid one & should be confirmed. That Francisco de Arce, Jose Castro, A.M. Pico, Charles Weber & Benjamin Williams are material witnesses to prove the execution of the grant, the loss and contents of the Expediente & map accompanying the same, also to prove the boundaries of the land granted & the occupation & settlement thereof by the grantee & deponent verily believes that the testimony of said witnesses would establish said claim.

Manuel Castro

Filed in Office

Dec 5<sup>th</sup> 1854, sworn & subscribed

Geo. Fisher before me Dec 5<sup>th</sup> 1854.

Sec.

Alphens Pelch

Commissioner

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Affidavit of  
Manuel Castro



Office of the Commissioners of Land  
Claims in California.

San Francisco,

This day before Commissioner Thompson  
Campbell came J. G. Lermantour a witness  
in behalf of Claimant Francisco Rico  
Case No. 767, who after being duly  
sworn deposed as follows:

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Deposition

and place of residence?  
What is your name, age,

J. G. Lermantour

My name is Joseph Yves  
Lermantour, my age is forty years  
and at present I reside in the City of  
San Francisco.

Will you look upon the  
document now shown you, and marked  
A / purporting to be a grant from Mich.  
eltrera to the Claimant.

Please state whether you are acquaint-  
ed with the signatures, and whether  
the same are genuine.

I am acquainted with  
the signatures of Manuel Micheltrera and  
Manuel Jimeno, having frequently seen  
them write their names, and I believe  
the signatures on this paper to be true  
and genuine.

J. G. Lermantour

sworn to & subscribed  
Before me this 27<sup>th</sup> day  
of August A.D. 1853.

Thompson Campbell  
Commissioner

Filed in Office Aug 27<sup>th</sup> 1853.

Geo. Fisher Sec

Case No 767

Board of U.S. Land Commissioners etc,  
San Francisco Jan 10. 1854,

On this day, before R. Aug. Thompson,  
Commissioner, came José Noriega, a witness  
in behalf of the Claimants, Francisco Rico  
et al. petition No 767, who being duly sworn  
deposed as follows, his evidence being  
interpreted by the Secretary,

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Present Claimants Atty and U.S.  
Associate Land Agent,

Deposition of  
José Noriega

Witness states his name is José Noriega  
his age, fifty three years and residence  
San José,

Question by Claimants Atty,

State what you know of  
the occupation and improvements of the  
lands claimed in this case called Rancharia  
del Rio Stanislas by Francisco Rico and  
Antonio Castro the Claimants, in this case

Answer. About the middle  
of the year 1844 I went to said Ranch charged  
with the building of a house and corral on  
the same by Antonio Maria Pico who  
was acting as agent for the Claimants  
Francisco Rico and Antonio Castro.

I built the house & corral and took about  
a hundred head of cattle to the land on ac-  
count of the same parties, also had ten  
horses on the place.

I lived in the house about a month  
and a half with seven or eight others who  
were employed by said parties.

After that time in consequence of the

depredations of the Indians I had to remove  
the stock from the Ranch and leave it.

José Noriega

Sworn to & subscribed

Before me Jan 10. 1854,

R. Aug Thompson,

Cour.

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Filed in Office Jan 10. 1854.  
Geo. Fisher Sec.

United States Land Commission  
San Francisco Feb 9. 1855.

On this day before Commissioner  
Alphens Felch came Francisco Arce  
a witness on behalf of the Claimant, Fran-  
cisco Ries, in Case No 467, who, after  
being duly sworn, deposed as follows,  
his evidence being interpreted by the  
secretary.

Deposition  
of  
Francisco  
Arce.

Questions by Mr Beckh Attorney for  
Claimant.

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

Answer. My name is  
Francisco Arce, my age is thirty two  
years, and I live in Monterey County  
California.

Question. Did you know  
Manuel Michelton and Manuel Jimeno, and  
are you acquainted with their hand  
writing and signatures?

Answer, I knew them and know their respective handwriting and signatures. I was second secretary in the office of said Micheltrera while he was Governor.

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3 Question, Look at the Document now here presented to you marked "A" Thompson Campbell, annexed to the Deposition of J. V. Leimantour heretofore filed in this case, and state whether you recognize the signatures thereto as the true and genuine signatures of said Micheltrera and said Jimeno and please state if you recollect by whom the body of the Document was written?

Answer, I recognize the signatures as those of said Micheltrera and Jimeno respectively. I have often seen them write and sign their names. These are their genuine signatures. The body of the instrument is in my own handwriting.

4 Question, Did you at the time of writing said Document have before you the Expediente belonging to it. If you did the same contain a drawing or map? Describe it according to your best recollection.

Answer, I had the Expediente before me when I drew this Document. It had a map attached to it. The map according to my recollection represented the land as situated on the North side of the River Estanizlas.

and having for its Eastern boundary a line drawn from said river in a northerly direction along the foot of the mountain called Cerro de la Torre about one league; and a line running from the termination of the Easterly line in a westerly direction to the Tulan make the northern boundary. And a line running thence southerly to said River Estenizles make the western boundary, the said river being the southern boundary. In all it contained as near as I can recollect about eleven square leagues of land.

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Questions by Mr McKune. Law agent.

1 Question. How long have you resided in Monterey? and have you ever visited the land claimed in this case?

Answer. I have resided there about eighteen years. I saw said land in 1849.

2 Question, In what business was you engaged in 1842, 1843 and 1844.

Answer. I was first Officer in the Office of the Secretary of the Government of California during those years.

3 Question, Were Manuel Michelena and Manuel Jimeno rapid or slow in writing their signatures?

Answer. I was not very curious to observe whether they wrote

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their signatures rapid or slow.  
I have seen them write in three or four  
years perhaps a million of times, but  
I never took particular notice whether  
they did it rapidly or slowly.

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4 Question. Did each  
of them write his signature with a rea-  
sonable degree of uniformity?

Answer. I think that  
they did.

5 Question. Did you con-  
sider yourself a good judge of the  
signatures of those two men and can  
you detect slight differences between  
their true signatures and false ones?

Answer. I think I am able  
to know the signatures of those two men,  
but I do not know whether I could de-  
tect a difference in a false signature  
from the true one.

6 Question. Are you  
equally well acquainted with the rubrics  
of these names?

Answer. I am.

7 Question. Did you ever  
know Micheltoresca to amend his signature  
after having once written it?

Answer. I answered before  
that I never took particular notice of  
his making his signature. I had other  
business to attend to. I do not  
recollect of seeing him amend his  
signature.

8 Question. Did Manuel  
Micheltoresca make the "l" in the contraction

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of the word "Mannel" in his signature with a single stroke of the pen and rapidly?

Answer. I do not remember I was then young and did not pay particular attention.

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Question. Look at the letter "l" in the contraction of the word Mannel at the bottom of the second page and state whether it appears to have been made with a single stroke and as rapidly as Micheltoena usually wrote, or was it formed slowly and afterwards amended with the pen?

Answer. The "l" is very badly made. It is my opinion it was made with one stroke but with a tremulous hand. I believe it was made according to the way in which Mannel Micheltoena wrote. I cannot say whether it was amended or not, after it was made, to me it seems to be well made according to the way Micheltoena made it.

10 Question. Look at the word "Jimeno" on the third page of said document and state your opinion of the causes which make that signature look unlike Jimeno's usual signature?

Answer. It is my opinion that the last signature of Jimeno is not as perfect as the others and I attribute it to the fact that the author was not in as good a condition to sign his name or rather to not having at

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the time a good pen well pointed according to the style.

This is my opinion nevertheless recognizing it as his general signature.

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11 Question. Look at the fabric of the paper at and around said last mentioned signature and state whether it does not appear to have been injured by some chemical application? and is not that the reason why the ink has spread in writing said name?

Answer. I see that there is a spot about the signature which appears yellowish; but as to a chemical application I do not understand that science. It may have spread on account of the paper having been wet.

12 Question. Do you believe it possible to forge the signatures of said Jimenez and Michelto-rena so that they would appear as much like the genuine as the signatures on this document?

Answer. I do not believe that any person could do it.

13 Question. Do you recollect distinctly where and when you wrote the body of the document in question?

Answer. I cannot remember well when it was done without reference to the date of it. I suppose it was done at Monterey.

14 Question. Do you



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remember distinctly where and when you wrote the body of the document in question.

Answer. I cannot remember well when it was done without reference to the date of it. I suppose it was done at Monterey.

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14. Question. Do you remember to have written the document from any other circumstance - that you see it in your handwriting?

Answer. That is the only circumstance that enables me to remember it. I wrote so many that it would be impossible for me to remember them particularly or especially.

15. Question. Now that you recollect it by looking at the handwriting, do you remember the circumstances of it, how long you was writing it, who was present, to whom it was delivered &c.?

Answer. I remember that Jimeno was present when it was written and he took it to the Governor for his signature. After note was made of it Jimeno took it to deliver to the interested party. I do not remember any other circumstances.

16. Question. Where did you get the paper on which it is written?

Answer. I do not remember from whom I received it. The interested parties generally brought it to the office. I do not remember about the paper on which this is written.

17. Question. How many other grants do you recollect you have written?

Answer. I recollect grants to myself, to Alvarado, Gomez, Jimeno, Pico, Vallijo, Rodriguez and others.

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18. Question. Can you recollect the circumstances of writing the one now in question, as well as the others which you have mentioned?

Answer. No.

19. Question. Have you not stated on oath or otherwise that you was not present when Jimeno or Micheltrana signed this document, and that you did not know of your own knowledge whether either of them signed it?

Answer. I do not remember to have said so.

20. Question. Did you see either of them sign it?

Answer. I went with Jimeno when he took it to the Governor to get him to sign. I saw Micheltrana sign it. I saw Jimeno sign the first paper, the grant.

21. Question. In what room was the document written by you?

Answer. In the Secretary's Office.

22.<sup>nd</sup> Question. How long before it was signed by Jimeno?

Answer. I do not remember. It might have been one day.

23. Question. Where did the document remain during that time?

Answer. I do not remember.

24 Question. When did you deliver it to Jimeno? How long after you wrote it?

Answer. I do not remember probably two minutes, or it might have been an hour.

25 Question. Did Jimeno or Micheltoeva sign it first?

Answer. Micheltoeva signed it first. I do not remember how long first. It might have been half an hour or it may have been two minutes.

26 Question. Did each sign it in presence of the other?

Answer. They did.

27<sup>th</sup> Question. How long after Micheltoeva signed it, did Jimeno sign?

Answer. I do not remember.

28. Question. How did it happen that you three were together on that occasion?

Answer. It was customary.

29. Question. Who gave you the necessary information how to draft the description in the grant?

Answer. It was the duty of the secretary to give the description. I do not remember whether he gave it in this case or not.

30<sup>th</sup> Question. Have you not said that you received the description from the Expediente.

Answer. I do not remember whether I have said so or not.

The description I think was given to me by Jimeno. I cannot remember whether it was in writing or verbally. I do not remember whether it was taken from the Expediente or not.

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31 Question. Was there any Expediente in the case? If yes to whom was it referred for information?

Answer. I remember that there was an Expediente, but I do not remember to whom it was referred for a report. That was the business of the Secretary and not mine.

32 Question. State all you know of the Expediente?

Answer. There was an Expediente formed in the usual manner, I recollect that it had a diseño and a report and the usual proceedings of an Expediente. I think there was a decree of reference.

33 Question. How does it happen that you can remember the map, or diseño, and forget all the other matter in the Expediente?

Answer. I remember that an Expediente is composed of a diseño & reports.

34 Question. State what the diseño described?

Answer. To tell that would require me to have the title. I can scarcely remember what it did

describe. I remember that the design or map commenced its boundaries running a line along the margins of the Stanislay River in a Northerly direction until it terminated at a tular which is on the banks of the San Joaquin River.

I remember another line which commenced from the Perra called de la Torre, which terminated at the same tular. The extent of the land was eleven square leagues a little more or less. This was contained on the map according to my memory of it.

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35. Question. How was the quantity of the land indicated on the map?

Answer. I do not remember. I think the quantity was indicated on the map but I do not remember how.

36. Question. What induced you to swear that it was indicated on the map to be eleven leagues a little more or less, if you do not remember how it was indicated on it?

Answer. If I have sworn that it contained eleven leagues it was because I have seen the title and the Expediente and I remember it was for eleven leagues; but I do not remember that it was so stated on the map.

37. Question. Was not your answer to Question 4 in chief made upon and after consultation with some party interested in this claim?

Answer. It was not. The only consultation I have had was with Mr Packard who told me that he wanted me to attend as a witness and to declare the truth as I knew it. I did not tell him what I should swear to, nor have I told any other person. I told him I should swear to the truth.

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38 Question. When was your Examination in chief in this Deposition taken? and how does it happen that after this lapse of time you recollect to have seen Micheltorena and Jimeno sign the document in question, when you did not recollect in your Examination in chief?

Answer. I believe it was in December last that the examination in chief was had. It sometimes happens that a man does not remember a thing at one time which at other times he can remember.

Joan<sup>co</sup> Arce.  
Subscribed & sworn to  
before me this 9<sup>th</sup> day  
of February 1855.  
Alphus Felch  
Commissioner

Filed in Office Feby 9, 1855.  
Geo. Fisher Sec.

United States of America Bp  
 State of California 3

San Francisco February 12, 1855

This day came before Peter Lott, Com-  
 missioner for taking testimony to be used  
 before the Board of U.S. Land Commis-  
 sioners in said state, José Castro, a witness  
 on behalf of the Claimant's Francisco Rico  
 et al. in case No 767, on the docket of  
 said Board, and said witness being sworn  
 deposed in Spanish which was inter-  
 preted as follows:

Deposition  
 José Castro

The U.S. Associate Land Agent is present  
 Questions by Mr Packard for Claimant,

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

Answer, My name is  
 José Castro, my age 46 years, my  
 residence in Monterey, California.

2<sup>nd</sup> Question, State all  
 you know of an Expediente of a grant of  
 land to Francisco, Rico, and José Antonio  
 Castro, if you know any thing concerning  
 it?

Answer. I saw such  
 an Expediente among the papers which  
 I had in my command as com-  
 manding General when I was at Los  
 Angeles, said Rico was an Officer,  
 a Captain under me, and he reques-  
 ted me to keep said Expediente for  
 him, I took charge of it, and kept  
 it till it was lost with all my other

papers in the country of the <sup>Rio</sup> Colorado, on my way to Mexico in 1846.

This Expediente related to land on the Stanislaus River.

Cross-Examined by U.S. Law Agent,

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1 Question. How many papers did you lose on that occasion which you mention. Identify each one you can now recollect?

Answer. I do not remember how many papers I lost. There were sundry official communications from Almonte and Ponce, Ministers of War, some six or seven Expedientes for land grants, and titles, one was of a grant to Francisco Pico and José Antonio Castro, relating to lands on the Stanislaus river.

I remember one was a communication from the Ministers of War authorizing the Commanding General to dispose of Government property.

There was an Expediente relative to lands of one Ignacio Ferrin.

There were three or four proclamations which I had made to the people of California. sundry communications from different authorities as well as private letters, at this time I do not think of any others. I might tomorrow think of some which I do not now recollect.

2 Question. How many times have you sworn in this Commission to the loss of Expedientes, and what Expedientes have you thus sworn were lost on



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12

the same occasion?  
(2<sup>nd</sup> Question objected to by Claimants Attorney)

Answer. I do not remember.

3 Question. How does it happen that you can thus identify papers and cannot remember what ones you have sworn to?

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(3<sup>rd</sup> Question objected to by Claimants Attorney as irrelevant and impertinent.)

Answer. It happens because I swore to what is true, and because I remember some things and do not remember others at a particular time?

4 Question. How many times has Mr Packard applied to you to become a witness to prove last documents?

(4<sup>th</sup> Question same objection as to 3<sup>rd</sup> question.)

Answer. He has never applied to me for such purpose.

5<sup>th</sup> Question. Do you recollect all the circumstances under which you received the Expediente mentioned relating to said Rico & Castro?

Answer. Said Francisco Rico brought it to the Office of my Secretary in Los Angeles, my Secretary I think at that time was Castañeda, He (Castañeda) and Juan B. Alvarado, Ignacio Perain and Joaquin de la Torre were present. Rico when he

Came into the office said Brothers I bring this paper which I wish to take care of " and he handed it to the Secretary. This was about the 2<sup>nd</sup> or 3<sup>rd</sup> day of August 1846.

6 Question, Have you never sworn that you were in Santa Clara in the first half of the month of August 1846?

(6 Question objected to as impertinent)

Answer, I have not.

7<sup>th</sup> Question, Look at the paper now shown to you marked "A & L" as an Exhibit to this deposition and state whether it is an affidavit made by you at the time it bears date, and whether you did not before Alphen's Felch Commissioner swear to the truth of the contents thereof?

(7<sup>th</sup> Question objected to by claimant's Counsel)

Answer, This paper is signed by me and I swore to it before Commissioner Felch. I did not swear to the truth of the contents as now translated to me by the Interpreter, this paper was not translated to me, and what I then stated was that Castaneda was at Santa Clara in the month of June, and that during the other months mentioned he was my secretary.

This paper was read to me at that time differently from what it now is, and it is written differently from what was then stated by me and differently from what it was then represented to me.

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8<sup>th</sup> Question, Into whose hands did said Rico deliver said Expediente and what was done with it.

Answer, He laid it on the Secretaries table and spoke as I have before stated. It was left there on the table with other papers and when I left Los Angeles it was gathered up with the other papers and taken along and lost with them.

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I ordered Castañeda to gather up the papers and pack them in a leather trunk, and he did so, and the trunk and contents were all lost.

9<sup>th</sup> Question, How many times did you see said Expediente after it was laid on the table there in the office?

Answer, I never saw it after that, and never thought of it till afterwards when I received letters from said Rico stating that I had his Expediente and requesting me to take care of it for him. I have said Rico's letters still in my possession. I received one in Altar in Sonora about October 1846 and the other in Tepic about March 1847.

Those letters are now in Monterey, at least I think I have them among my papers. I feel quite certain I have them. I saw them recently and am willing to produce them here and let them be filed in this case.

10 Question, What business were you engaged in there in the office

when Riera gave said paper to the Secretary?

Answer, I cannot recollect what particular thing I was engaged in at that time. I had so many things to attend to, I do not remember them now in the precise order in which I did them.

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11 Question, Did you confide the care of that paper wholly to your Secretary?

Answer, Riera brought it there to the Secretary as a friend, and it was taken charge of by him as other papers, it was customary for the officers to leave their papers with the Secretary, and to get them again whenever they wanted them. This was in the Secretary's case as wholly as all the other papers.

12 Question, Did you see the paper taken from the table after Riera placed it there?

Answer, I never saw it after that, and did not see it taken from the table.

13<sup>th</sup> Question, Was the paper folded up?

Answer, No, It was the full size open, in the usual form of Expedientes.

14. Question, How many leaves were in it?

Answer, I do not know I did not open it, I only saw the outside leaf & the endorsement.

15. Question, How was it endorsed?

Answer, "Expediente promovido por los Señores Don Francisco Rico y José Ant<sup>o</sup> Castro en solicitud de un terreno sobre el Rio Estanislau" were the words endorsed on it.

16<sup>th</sup> Question, Was it customary for the Governor & Secretary of California to keep the Expediente of a grant of land, when it was made in the office of the Government or not?

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Answer, It was customary to keep the Expediente in the Archives of the Government of the Department.

17<sup>th</sup> Question, In this instance why was that custom departed from?

Answer, I believe that Rico took his Expediente from the Office of the Secretary of the Department and placed it with the Military Secretary for greater safety, as it was in time of war and danger.

Jose Castro  
subscribed & sworn to  
Before me this 13<sup>th</sup>  
day of February A.D. 1853.  
Peter Scott Commissioner

Filed in Office Feby 13, 1853  
Chas. Fisher Sec

United States Land Commission

San Francisco, March 21/855.

On this day before Commissioner R. Aug. Thompson, came George R. Glidden, a witness on behalf of the Claimant, Francisco Rico et al. who after being duly sworn deposed as follows,

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Present. Claimants Atty and U.S. Land Agent.

Deposition of  
George R.  
Glidden

In answer to questions witness states that his name is George R. Glidden his age twenty seven years and his residence San Francisco, California.

1. Question by Claimants Counsel.

Did you know Francisco Rico the Claimant in this case and one B. K. Thompson during the year 1847, and if you, did you know any thing relative to the occupation of the land claimed in this case by the said B. K. Thompson for the said Francisco Rico.

Answer, I know them both, Thompson is since dead. I interpreted between them in the year 1847 in regard to the occupation of Rico's farm on the Stanislaus River.

2<sup>nd</sup> Question by same.

State what you know in regard to said occupation, and the terms upon which said lands were to be occupied.

Answer, I know nothing personally of said occupation I only interpreted the agreement between them, the terms

of that agreement as far as I can recollect were that Thompson was to occupy the place for Rice, and Rice was to furnish him with cattle for that purpose, he also gave him some money, a Mexican ounce of gold in my presence, I do not remember the amount of cattle were to be furnished.

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Cross. Examined by W. S. Saw Agent.

Question by same,  
Where and at what time in the year 1847 did the consideration above referred to, take place, and was said agreement reduced to writing.

Answer, I think it was in September or October 1847 in the town of Martese. I saw no writing, I merely met them occasionally in the street and was requested to interpret for them.

George R. Glidden  
sworn to & subscribed  
before me March 21, 1855,

R. Aug Thompson,  
Commissioner

Filed in Office March 21, 1855.  
Geo. Fisher Sec.

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United States Land Commission,  
San Francisco April 3<sup>d</sup> 1855.

On this day before Commissioner  
R. Aug. Thompson came Charles Webber,  
a witness on behalf of the claimants in case  
767, who, after being duly sworn, deposed  
as follows:

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Questions by Mr Packard Counsel for claimants

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

Deposition  
of  
Charles M.  
Webber.

Answer. My name is  
Charles Weber, my age, forty years, and  
I reside in the City of Stockton.

2<sup>nd</sup> Question. Do you  
know the land claimed in this case and  
the claimants?

Answer. I do.

3<sup>rd</sup> Question. Do you know of  
any occupation of this land by or in behalf  
of the said claimants, if yes, when  
and in what manner was it so occupied?

Answer. I know of a man  
named B. R. Thompson, and another one  
named Rock to reside with their servants  
at the point on the north side of the Es-  
tavislas River known as the Rancharia  
of José de Jesus, or formally Estavislas  
in the year 1847.

In the fall of that year Mr Thompson  
and his servants arrived at my (house)  
place at Stockton in a destitute condi-  
tion asking my aid to save his property  
in consequence of the Indians having menaced



his life, and compelling him to leave the settlement. I started consequently with the necessary number of people to his place of residence & collected all the stock that could be found on the Rancho, and other valuables, and brought them to Stockton.

Thompson afterwards, by my invitation joined my settlement.

4 Question. Did you or not see any evidences of cultivation on the land at the time you made that visit?

Answer. The improvements were new, and I noticed a garden spot begun, and there was a rough brush corral within view of the house and these were all the improvements that I saw.

The number of Cattle which I collected amounted to about two hundred or more besides some horses.

Cross-Examined by the U.S. Land Agents.

1<sup>st</sup> Question. What time in 1847 did you go to the place where you now live, and how long afterwards did Thompson come to your place?

Answer. I am permanently residing there since August 1847, and Thompson arrived at my place the latter part of that year. The month I do not recollect distinctly.

2<sup>nd</sup> Question. Are you acquainted with the Country bordering on the river Estanislau and west of the Sierra Nevada Mountains, if yes,

state what the character of the country is, where the river issues out of the mountains and how far it is to the Dale from that point?

Answer, I am acquainted with that section of Country: the River issued out of the mountain some distance from the Rancho formerly mentioned, and the distance from that point to the mouth of the Estanislau may be twenty miles, more or less.

The Country is a level & rolling country, and rather of a barren nature and fit only for grazing purposes a few spots along the margin of the River excepted.

3<sup>d</sup> Question, Where was the settlement of Thompson you alluded to, when did he first make it?

Answer, I have already stated the answer to the first part of this question, in my answer to quest 2<sup>nd</sup> of my direct examination, I do not know when he first made the settlement, but suppose it was in 1846 according to information by the settlers Thompson & Rock.

4 Question, Were you acquainted with the Indians in that year, if yes of what tribe were they, and state what you know of their character?

Answer, I have been acquainted with a number of tribes of Indians in that section of Country, none resided in 1847 on this Rancho, their character was generally very unfriendly and hostile, except those, who, by my representations,

presents, and chastisements, were compelled to become friendly.

5<sup>th</sup> Question. State all the instances of unkindness and hostility you can recollect?

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Answer. Amongst many depredations committed one was made during the winter of 1847 and 1848 when several Rancheros at the head waters of the Estanillo, stole a large band of horses from different Rancheros in the vicinity of San Ramon Valley. By the petition of some of the owners of that stock I started with a company of mounted men into the mountains to recover the property if possible and with the assistance of some Indians who were then friendly, I succeeded in recovering some of the horses which were not slaughtered then and after some fighting succeeded in punishing the Indians. I do not remember the particulars of any others.

6. Question. When and where did you know for the first time Thompson & Rock?

Answer. I knew both men for some time previous, but do not recollect the precise period. I mean previous to the time when they came to my settlement as I have before mentioned. I have seen both of them in the Pueblo of San Jose frequently. Thompson I think was a hunter and Rock I remember to have seen occupied as a shoemaker in that place.

7<sup>th</sup> Question, How do you know that Thompson & Rock resided on the Eastern island, with their servants, and in what did they reside?

Answer, I had been informed to by those very persons.

The building was such as beginning settlers usually made, roughly constructed of brush and I believe a large tent.

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8. Question, Of what diameter and altitude was the brush hut, and of what diameter and altitude was the tent?

Answer, I do not remember the size of the tent, or the peculiarities of the improvements.

9. Question, How long did you remain there near those improvements?

Answer, But a few moments.

10. Question, In whose charge had the cattle been left when Thompson & Rock left? and where did you find the cattle?

Answer, There was no person left on the Rancho, and we found the cattle scattered over the plain.

11. Question, How long had Thompson & Rock been absent from the place when you arrived there?

Answer, Probably some few days.

12. Question, Why did not Thompson & Rock drive their cattle

away from that point if they were in danger from the Indians?

Answer, Their flight was precipitate as they expected to be attacked by the Indians.

13<sup>th</sup> Question, What reason had they to expect such attack and how do you know that their flight was precipitate?

Answer, I think they received their information through some servant Indian, and they arrived at my place leaving some of their property behind.

14. Question, How near did you go to the hut and corral, and how far was the tent from the hut?

Answer, I did not alight from my horse, I did not see the tent, but the brush hut & the cultivated spot for a garden of which I have spoken was in view.

11 Question, Who went with you when you went to the place, and were you all on horseback?

Answer, Persons in my employ, and we were all on horseback, I do not recollect who were of the party at that time.

12<sup>th</sup> Question, Name the persons in your employ at that time who might have been along?

Answer, I cannot recollect who were along. I had many persons in my employ at that time but I do not remember the name of

any of them now.

13<sup>th</sup> Question. Do you remember the name of any one in your employ at that time, if you state it?

Answer. I remember one man named McKee who was at my place at that time, he got shot afterwards I remember the names of two Indians one named Juan, and the other Patricia.

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14<sup>th</sup> Question. Is there a white man now living in California who was at your settlement at that time? if yes, who is he and where is he?

Answer. I think there was a man named Loast at my place at that time. His name might be Lord who I think resides on the Tuolumne River I do not recollect distinctly another at this moment, who may yet be in the country.

15<sup>th</sup> Question. Why did not Thompson & Rock go with you to the place?

Answer. I think Thompson was with the party.

16<sup>th</sup> Question. What was done with the tent?

Answer. I think Thompson afterwards lived in it at my place. I do not recollect whether it was brought along with the party.

17<sup>th</sup> Question. Where at your place and how long did Thompson live in it, and how do you know that it was the same tent?

H1

Answer, Thompson lived in Stockton, near Centre Street. I do not know how long he lived in it. I did not say that it was the same tent, but I presume it to be so. The place Thompson occupied was not far from the levee.

18. Question, Where are Thompson & Rock now?

Answer, Thompson left the Country, and Rock I have been informed is dead.

19. Question, How near did you go to the cultivation mentioned and how far from the bush hut was it, and in what direction?

Answer, I was some distance back on the higher ground, probably several hundred steps - the little spot of cultivation seemed to be in the direction towards the River, it did not appear to be very far from the hut.

20. Question, Had the garden spot you have mentioned been plowed, if yes, to what extent?

Answer, The spot to which I have made reference, seemed to have been worked with some improvements, as it had a different appearance from the surrounding grass.

21<sup>st</sup> Question, How do you know by whom & for what purpose it was used?

( Objected to by claimants Counsel )

Answer, I neither know by whom nor for what purpose it was used.

22<sup>d</sup> Question, Was either?

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Thompson or Rock in view of those improvements with you, and how do you know that either of them built them?

Answer. Rock was not of the party and I do not remember whether Thompson was in view. I did not state that either of them built them, nor did I see them build them, but we went to that spot as Thompsons settlement.

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23<sup>d</sup> Question. Who guided you to it as such settlement?

Answer. I suppose there was no particular guide, because most of the party must have been acquainted with the Rancharia, and Thompsons Settlement was known to be at the Rancharia by myself through report. I suppose I learned this through Thompson or Rock not recollecting the time; and probably through others, though I do not now know when.

24. Question. At what time did you first contemplate making a settlement at San Joaquin?

Answer. Probably as early as 1841 when first I saw that section of Country.

25<sup>th</sup> Question. When did you first make a purchase of a grant in that place?

Answer. I persuaded my partner Mr Culnack in 1842 and 1843 to get a grant from the Mexican Government of the French Camp Country in his name on being a Mexican Citizen, and in 1840 I purchased his part of the interest in the same.



26<sup>th</sup> Question. (Was the grant confirmed by the Departmental Assembly at the time you purchased of Gulnaek?  
(Objected to by Counsel of Claimant)

Answer. I think not but the documents filed with the Board will show the time.

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27. Question. Did you ever see the certificate of approval before you purchased from Gulnaek?

Answer. I do not remember.

28<sup>th</sup> Question. Did you ever see the approval of the Departmental Assembly in the grant of the French Camp Country, if yes when did you first see it?  
(Objected to by Claimant's Counsel)

Answer. I decline answering the question on the ground that it is irrelevant to this case.

29<sup>th</sup> Question. Do you read Spanish, if yes have you ever read the proceedings of the Departmental Assembly for 1846?

Answer. I read Spanish not fluently. I do not remember having read those proceedings.

30<sup>th</sup> Question. From whom did you receive the certificate of the approval of the Departmental Assembly of the "Campo de Franceses"  
(Objected to by Claimant's Counsel)

Answer. I decline answering this question, and any thing which has

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not referance to the other case,

31. Question, In what were you employed when you first knew Rock & Thompson and in whose, and in what way were they employed?

Answer, I think I knew them first in the Pueblo of San José when I was engaged in mercantile pursuits. I do not recollect how they were employed when I first knew them. I have already stated that I knew Rock to be employed as a shoe maker at San José. Thompson in 1846 was in the service of the United States.

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32<sup>nd</sup> Question, by same,

Had you at that time made the purchase of the place called Camp de los Franciscos, (Objected to by Claimants Counsel)

Answer, I have stated before that I do not recollect the precise time when I made the acquaintance of the one or the other, consequently I could not say whether I had then made the purchase or not.

33<sup>rd</sup> Question, At what time did you commence merchandising in San José and when did you discontinue that business.

Answer, I think I began in the year 1842 in connection with Mr Culnac, after dissolving business with Mr Culnac my business was principally conducted by agents, and I directed my personal attention more to transactions in stock, (Cattle)

45-

The precise time of closing my commercial business in San José I do not recollect I had an interest in the business as late as 1847.

34 Question, Can you fix any particular time or instance when you knew Rock or Thompson in San José

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Answer, Thompson enlisted in a company of mounted rangers in the Pueblo of San José. I think during the fall of 1846. Of Rock I have no distinct recollection as to a special time or instance.

35<sup>th</sup> Question, Had you at the time of your seeing Thompson in San José referred to in your last answer the certificate of the approval of the grant of the Rancho of Campo de las Francesas. (Objected to as irrelevant and not called for in direct examination)

Answer, I do not see the relevancy of the enquiry. I answer it by saying I do not recollect.

36<sup>th</sup> Question, From whom did you receive that certificate. (Objected to by Claimants Counsel)

Answer, As before stated I consider the question improper, all I know of Thompson or Rock I have before stated. I do not recollect from whom I received the certificate at this time.

Filed in Office  
April 3<sup>rd</sup> 1855,

Charles M. Weber.

Sec. Fisher sworn to & subscribed before me

Sec. April 3<sup>rd</sup> 1855.

R. Aug. Thompson, Com<sup>r</sup>

U.S. Land Commission v.c. &c.

San Francisco, April 2, 1855

This day came before Commissioners J.B. Barwell, Vicente Profecto Gomez, a witness on behalf of the Claimants in Case No 767 on the Socket of said Commission wherein Francisco, Rico and Antonio Castro are the Claimants, who after being duly sworn testified as follows. His evidence being interpreted by the Interpreter to said Commission

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The U.S. Land Agent is present.

Questions by Mr Packard for

Deposition (Claimants)

Vicente Profecto Gomez,

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

Answer. My name is Vicente Profecto Gomez, my age 33 years, and I reside in the County of Monterey, California.

2<sup>d</sup> Question. Look at the document marked "A" / Thompson Camp. - bell annexed to the Deposition of J.G. Limantour and herein Exhibited, and state whether you have seen said document before, if yes under what circumstances did you first see it, when & where?

Answer. I have examined the said document marked / A / v.c. I have seen it before. I made the record of it in the Book of "Lomas de Rayon" in the Office of the Secretary of the Government, at Monterey, in the year 1843, at which time I was a clerk in the said Office.

#7  
of the Secretary.

Cross. Examined by the U.S. Survey Agent,

1<sup>st</sup> Question. What entry did you make in the Book of Fomas de Rayon, that you have mentioned?

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Answer. I made sundry entries of Titles, in the Book referred to. The Titles were recorded in full in said Book and the usual note of Record appended. In this way was recorded the Title shown and marked A/vc and exhibited herein.

2<sup>nd</sup> Question. In what kind of Book was the said Title recorded?

Answer. It was recorded in a Book commonly bound in leather. It was a large Book but I cannot say how many pages it contained.

3<sup>d</sup> Question. How many pages did the Record of the said Title occupy in the said Book?

Answer. It occupied about one page and a quarter, more or less.

4<sup>th</sup> Question. In what part of said Book was the said Title recorded.

Answer. About the middle of the said Book.

5<sup>th</sup> Question. What other title did your record in the said Book.

Answer. I now remember to have recorded in the said Book, the title of the English Consul, Mr Forbes, that of Francisco, Arce, two or three of Lerman-toun my own for the Paracha de San Juan, and one of Francisco, Arias.

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6 Question. Which of the said grants did you record first and give each its respective order?

Answer. This I cannot tell they were recorded according to their dates.

7<sup>th</sup> Question. How long after you recorded any one of the said titles was it that you recorded the title in this case?

Answer. I don't know.

8 Question. Did you write the note on the grant certifying to the record before or after you recorded the grant.

Answer. I did write the note on the grant referred to, I think Arce wrote it.

9<sup>th</sup> Question. How do you know Arce wrote the said note on the said grant?

Answer. I know it, or believe it, because I have seen the title and am well acquainted with the hand writing of said Arce in whose hand writing the said grant appears to be written.

10<sup>th</sup> Question. Was the said Note written on the grant before or after it was recorded?

Answer. It was written

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before the grant was recorded.

11<sup>th</sup> Question, In what business are you at present engaged, and in what for the two preceding years?

11<sup>th</sup> Question objected to by Mr Packard

Answer, My present business is to eat drink and make visits or travel about, as also in the two preceding years.

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12<sup>th</sup> Question, How long have you been in San Francisco, for the sole purpose of giving testimony in such cases as you might be called on to do so?

(12<sup>th</sup> question objected to by Mr Packard)

Answer, I came to San Francisco because I chose to do so, I am here because I chose to be, and I will leave when it may please me, and I have been here, not for the sole purpose of giving testimony as intimated, as long as it has been agreeable to me. I have been here for two or three months on this my last visit, and as for what I have received for giving testimony the Loan agent is welcome to it.

(13<sup>th</sup> question objected to by Mr Packard)

13<sup>th</sup> question, In what other business have you been engaged in San Francisco, as above stated, besides that of getting up testimony in cases before the U.S. Loan Commission?

Answer, I did not come to San Francisco to get up testimony, I came here on my own business, and

hope the Land Agent will not attempt so undeservedly to insult me. If he is a gentleman, so am I another. I came here to attend to my claim which has been unjustly rejected, and also a lot on Dupont Street.

14<sup>th</sup> Question, What have you done in relation to the said claims?  
/ 14<sup>th</sup> Question objected to by me, Packard /

Answer. I have urged Mr. Packard, to press the prosecution of my suit for the said lot on Dupont Street.

15<sup>th</sup> Question, At what house have you boarded and slept during your last stay in San Francisco, who keeps said house and what class of persons usually stay there?

Answer. I have slept in one of the best rooms in the St. Francis Hotel at the corner of Clay & Dupont Streets, where gentlemen usually stay, and I have taken my meals wherever it has suited me. I refer you to the Land lords of said house for their names.

16<sup>th</sup> Question, Are you acquainted with Pio Pico, if yea, where and where did you last see him?

Answer. I am acquainted with the said Pico, and I last saw him in San Francisco, about two or three months ago.

17<sup>th</sup> Question, Who first spoke to you about giving evidence in this case?



Answer, Mr Packard was the first person to mention it here.

18<sup>th</sup> Question, What pay do you get (provided a confirmation can be obtained in the case)?

Answer, The thanks of the parties interested.

19<sup>th</sup> Question, Name each person who is interested in the case?

Answer, Francisco Rico and Jose Antonio Castro, are all that I know anything of.

San Francisco, April 4, 1855,

Re-Examined by Mr Packard for the Claimants.

1<sup>st</sup> Question, Look at the Document heretofore shown you in this deposition marked "A" &c and state whether you know the signature of Manuel Jimeno affixed to the note of registry thereof to be the genuine signature of said Jimeno, if yea, how do you know it?

Answer, I do know the said signature to be the genuine signature of the said Manuel Jimeno.

I know it because I saw him / the said Jimeno / make the said signature, and I received the said Document from his hands to deliver it to Don Francisco Rico.

Vicente P<sup>to</sup> Gomez,

sworn to & subscribed before me the 4<sup>th</sup> day of April 1855. A.B. Farwell, Comr.

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The Land Agent being notified  
of the last examination and  
declined putting any further  
Cross. interrogatories.

J. B. Farwell Comr.

Filed in Office April 4, 1855,  
Geo. Fisher Sec.

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No 767  
U.S.

United States of America )  
State of California )

San Francisco, April 14<sup>th</sup> 1855.

This day came before R. Aug Thompson  
one of the Commissioners to ascertain & settle  
the Private Land claims in the State of Califor-  
nia, Wm B. Hood, a witness in behalf  
of the United States, in Case No 767 on  
the books of the Board, and being duly  
sworn deposed as follows.

Deposition  
of  
William B.  
Hood.

Question by the U.S. Land Agent.

Mr Packard appears for claimant.

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

Answer. My name is  
Wm B. Hood, my age forty years and  
residence San Joaquin County.

2<sup>nd</sup> Question. Look at map  
marked B. R. A. L. and state what you know  
of the accuracy, and how you know it?

Answer. This map I

procured in the Office of the Surveyor General of California, the location of the rivers are correct, having been acquainted with the country which this map represents.

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3<sup>d</sup> Question. Are you acquainted with the Country bordering the Rio Estanislao, if yes, state where, and point out on the map the location of the only Rancheria on said River with which you are acquainted, and state whether there are other Rancheria's there or not.

Answer. There is at this time an Indian Rancheria opposite Knights Ferry on the south side of said River, in the South East corner of "T. 1. S. R. X. 1. E." near the foot of the hills. There are no other Rancherias on the river except the reservation that has been made by General consent on the same side where they have scattering huts, within three or four miles down the river from Knights River. There are appearances of long settlements in that neighborhood by the Indians.

4<sup>th</sup> Question. Look at document marked A / Thompson Campbell, annexed to the deposition of J. G. S. Martin and at the name "Jimeno" written on the 3<sup>d</sup> page thereof, say from its appearance whether there has been an erasure or mutation of the paper at that place. Look also at the name "Jimeno" as it appears on the 2<sup>nd</sup> page of the same document and compare it with the same name on the 3<sup>d</sup> page, and give your opinion

whether or not they were written by the same hand, giving your reasons.

Answer, The signature of Jimeno on the 3<sup>rd</sup> page appears to have been touched over with other ink than that by which it was originally written.

There is a material difference in the signatures of Jimeno on the 2<sup>nd</sup> and 3<sup>rd</sup> pages / I am not acquainted however with his signature / The reason is that the two words are written differently in the two places and I think they have the appearance of having been done by different hands.

Cross. Examined by Mr Packard.

1<sup>st</sup> Question, Have you any interests either direct or indirect in the issue of this claim?

Answer, No Sir.

2<sup>nd</sup> Question, Whose in San Joaquin County do you reside.

Answer, Near the city of Stockton, about one mile north of it, a little east.

3<sup>rd</sup> Question, Do you claim any lands there, if so by what title?

Answer, I do, I claim under a possessory title.

4. Question, Is there any Spanish or Mexican claim over the land you occupy or file in this Board?

Answer, There is, The

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three claims for the place named Campo de los Franceses embrace it.

5<sup>th</sup> Question, How long have you lived in this country?

Answer, Since May 1850.

6<sup>th</sup> Question, Are you an expert in Spanish signatures?

Answer, I cannot say that I am in Spanish signatures, although my experience in English signatures has been considerable, having been two years in the Post Office.

William B. Hood.

Sworn & subscribed  
Before me April  
14, 1855.

R. Aug Thompson  
Clerk

Filed in Office April 14, 1855,  
Geo. Fisher Sec.

United States of America  
State of California

San Francisco, June 11, 1855.

Deposition  
of  
Juan B. Alvarado

On this day before Court R. Aug Thomp-  
son came Juan B. Alvarado, a witness  
on behalf of the Claimants, Francisco  
Rico et al. in Case No 76, who, after being  
duly sworn, deposed as follows, his  
evidence being interpreted by the Interpre-  
ter of the Board.

The U.S. Loan Agent is present,

Questions by Mr Packard for claimant,

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

Answer, My name is Juan B. Alvarado, my age is 46 years and I reside in Contra Costa County California.

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2<sup>nd</sup> Question, Do you know Vicente P. Gomez, if yea, what is his character for truth and veracity?

Answer, I am acquainted with the said Vicente P. Gomez. I have known him ever since the year 1836, and he has resided since that time, the greater portion of the time in the town of Monterey where I have resided a considerable part of the same time, and he has always bore an honest character, and has been considered to be a man of truth and veracity amongst his neighbors, and I would believe him on oath with entire confidence.

I am present and decline to cross-examine.

J. H. McTune } Juan B. Alvarado  
U.S. Loan Agent, }

Filed in Office  
June 11, 1855,

Ce. Fisher sworn to & subscribed

Sec. before me June 11, 1855,

R. Aug Thompson

Comm.

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United States of America }  
State of California }  
3 p.

San Francisco June 7. 1858

This day before R. Aug. Thompson, one of the Commissioners to ascertain and settle the private land claims in California, came Thomas O. Loarkin, a witness in behalf of the United States, in case No 769 on the Locker, who being sworn, deposed as follows.

The Counsel for claimants is present.

Questions by U.S. Land Agent.

Deposition  
of  
Thomas O.  
Loarkin.

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

Answer. My name is Thomas O. Loarkin, my age 52 years, and residence San Francisco.

2<sup>nd</sup> Question. Are you acquainted with the hand writing of Manuel Micheltona former Governor of California, and with that of Jimeno his secretary, if yes, state your means of knowledge and look at document marked "A" Thompson Campbell annexed the deposition of L. G. Simantour, and at the signatures appearing therein, & say whether in your opinion they are genuine?

Answer. I am very well acquainted with the hand writing of both of them, having seen them write a great many times. I should not like to decide on the signatures on the second page of said document, the signature of

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Jimeno on the 3<sup>d</sup> page. I do not think is his handwriting. If he wrote it on damp paper it may have spread, but the letters do not appear to be put together, as I have seen him write it.

The two signatures on the 2<sup>nd</sup> page appear on theirs, but I would not like to decide, taken in connection with the one of Jimeno on the 3<sup>d</sup> page.

I can detect nothing in the signature of Michelena on this paper except the letter which appears at the end of the last "l" which looks something wrong to me.

3<sup>d</sup> Question. Are you acquainted with the business character of Manuel Jimeno. if yes, state how he usually noted on a grant, the note of its record?

Answer. I was acquainted with his business character, he was generally careful and particular in his writing and official business: the form of the note is the general one except that he generally named the Book and page where it was recorded.

This paper mentions the respective book but not the page.

4<sup>th</sup> Question. Are you acquainted with the general character of Francisco Arce, and Vicente Gomez, for truth and veracity, if yes, what is it, good, or bad, and judging from that character would you believe them on oath?

Answer. I am acquainted with those two men a good many years,

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The old foreign residents who own land claims who come within my intimate acquaintance, would prefer not getting those men as witnesses.

Aree has had two or three conversations with me when he was called on as a witness in this Court, in the past year to know whether myself on my intimate acquaintance, had interests in the cases and whether he should come or not.

There is evidence in this Office given under oath by myself and Gomey which is entirely contradictory to each other: he has also given evidence on oath before a Notary Public which I consider contrary to his evidence on oath in this Office.

I think his vindictiveness would sway his evidence, from these circumstances I would not believe generally his evidence on oath. I think likewise that my acquaintances would coincide in my opinion.

3<sup>d</sup> Question, What has been the business of those two men in San Francisco during the past year, so far as you know?

Answer, From my knowledge of them I should not think they could have business of their own that would detain them more than a day or so. Aree has informed me that he has been tendered money as a witness, and Gomey has informed me that he has received money as such. Aree's business I think is a Ranchero in the neighborhood of Monterey

I do not know that Soney has had any since 1845.

Cross. Examined by Claimants Attorney.

1<sup>st</sup> Question, Is it custom  
any here to pay witnesses a compensation  
for expenses and loss of time, while in  
attendance before this Commission?

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Answer, It is a common  
thing to pay them their reasonable expenses  
while attending on the Court, I have done  
it but very seldom for the reason that  
I almost always find witnesses who  
happen to be here. I have heard of  
large sums being paid for expenses  
or for a gratification but I have  
never seen them.

Thomas O. Searkin

Subscribed & Sworn to  
before me this 6<sup>th</sup> day  
of June A.D. 1855.

R. Aug. Thompson,

Filed in Office June 7. 1855.

Geo. Fisher Sec.

United States of America  
State of California 3<sup>rd</sup>

Deposition

of  
Harry J. Thorton

San Francisco, June 7. 1855.  
This day before J. B. Farwell, one of  
the Commissioners to ascertain and settle  
the private land claims in California,  
came Harry J. Thorton, a witness in

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behalf of the United States in Case No 767 on the Lockett, who being duly sworn, deposed as follows;

Claimants Counsel is present.

Questions by U. S. Loan Agent:

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

Answer, My name is Henry J. Thomson, my age 37 years and I reside in San Francisco.

2<sup>nd</sup> Question, Look at the signature "Jimeno" as it appears on the third page of the document now shown you marked "A" Thompson Campbell annexed to the deposition of J. B. Scimantoun and state whether in your opinion it is a genuine signature, whether you have seen him sign his name, and whether you have seen his signature on other documents in the Commission?

Answer, I have seen said Jimeno write his name when I have taken his depositions, at least in one case, as that is the only one I now remember, and have never paid such attention to his handwriting, as would enable me to form any opinion on the subject satisfactory to myself.

Upon reflection I have seen him write his name several times. I have also seen his name attached to papers in this Commission, and I can only say

that I can form an opinion from Comparison only; and from that Comparison there is evidently a difference of appearance between his hand writing as I have seen him write, and the said signature on this document before me.

3<sup>d</sup> Question, Describe those differences and, also the appearance of the paper where the signature is written on said third page?

Answer. The letter "I" in the signature on said third page, is different from that I have seen him make in writing his name: the letter "m" on said document, is evidently differently formed, being pointed at the top instead of rounded on the one I saw him write is. There appears to be on the paper a slight discoloration where the name is written, and the letters of the name seem to have spread as if written upon wet paper or to have been retouched; but whether this discrepancy is the result of accident or design I am unable to say.

The Counsel for the Claimants is present and declines asking any cross-interrogatories.

Henry J. Thomson.

Sworn to & subscribed before  
me this 5<sup>th</sup> June 1855.

L. B. Farwell  
Commissioner.

Filed in Office June 7, 1855.

Geo. Fisher Sec

United States of America }  
 State of California }  
 San Francisco June 8. 1855.

This day came before A. B. Herwell, one of the Commissioners to ascertain & settle the private land claims in the State of California James C. Crane, a witness in behalf of the Claimants, in Case No 767 on the Locks who being duly sworn, testified as follows.

Questions by Claimants Counsel.

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

Answer. My name is James C. Crane, my age 49 and I reside in Marin County.

2<sup>nd</sup> Question. Are you acquainted with the General Character of Vicente Gomez for truth and veracity, if yes, is it good or bad, & would you from that character believe him under oath?

Answer. I have known him for seven or eight years. I never knew any thing against his character for truth and veracity; I have heard persons say that they could not reconcile his testimony; but I have known him to fill responsible positions which he could not have obtained without the parties employing him had confidence in his honesty. I have known him to be employed to take charge of a store in the absence of the proprietor and was entrusted with the business thereof, a part of which was purchasing gold dust. Jose' Abrego was the owner of the store I refer to. About this time (1848) I en-

trusted

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Deposition  
 of  
 James C. Crane.

goods to him to sell on Commission and I have no reason to suppose he did wrong by me, he transacted my business satisfactory,

3<sup>d</sup> Question, Are you acquainted with Thomas O. Learkin, and do you know of any ill feeling existing between him and Gomey?

Answer, I know said Learkin said Learkin told me that he felt hurt with Gomey. He did not appear to be vindictive towards him, but there appeared a coolness, whereon he was formally friendly towards him. He told me that he felt friendly towards the family, and as an evidence he told me also he made him (Gomey) a small present when they lost property by the burning of the St. Francis Hotel.

He also told me he believed that Gomey lied in his testimony given in the Lein-antour claim, and also that he lied in his testimony about him striking him; he / Learkin / appeared hurt at the way Gomey pursued in the matter but did not express any vindictive feelings towards him as I have before stated.

I decline to Cross. Examine

J. H. McKune U.S. Court Agent

James C. Coane,

Subscribed & Sworn to

Before me this 8<sup>th</sup> day of June 1855,

S. B. Harwell, Com<sup>r</sup>

Filed in Office June 8<sup>th</sup> 1855,

Geo. Fisher Sec

United States of America }  
State of California } J. J.

San Francisco April 14, 1857

This day personally came before  
Peter Scott a Commissioner appointed  
to take testimony to be used before the  
Board of U.S. Land Commissioners,  
Joseph S. Folsom, a witness on behalf  
of the claimant in case No 18. on the  
Docket of said Board wherein Anto-  
ny Maria Osio is Claimant and said  
witness being duly sworn on oath  
deposed in the English language as  
follows, to wit:

The U.S. Land Agent is present.

Questions by the Attorney for Claimant.

Question. What is  
your name age and present residence?

Answer. My name is  
Joseph S. Folsom, my age, 35 years,  
my residence San Francisco,

Question. State whether  
at any time you obtained, from the  
Spanish Archives of this State, a book of  
records of Titles, from the years 1836  
to 1844, if yea when and for what  
purpose, and where is that book  
now, or what became of it?

Answer. A few  
weeks before the occurrence of the May  
fire of 1851 in this City a book of  
Spanish Records was put into my

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Deposition  
of  
J. S. Folsom.

hands by a Staff Officer of Gen Persifer A. Smith of the U.S. Army there, the Commanding General in California to be used as evidence in a suit then pending in the Superior Court of this City, being Leese & Vallejo vs Clark.

The Book was brought from Benicia where the Archives were then kept, and it formed a portion of those Archives. It was used in evidence in the case referred to, was afterwards in a few days returned to me and afterwards was destroyed by fire on the 3<sup>d</sup> of May 1851 with nearly all the contents of my office.

To the best of my recollection it contained entries as far back as the year 1837 and down as late as 1844, of Synopsis of grants of land, embracing names of Grantees, dates description of grant by name or in brief &c. being a mere synopsis.

The Book was offered in evidence on the Trial spoken of, as I suppose, as a matter of opinion in support of some claim whereof the Book bore record of some grant in which the parties were interested, by business was nearly to identify the book as being of the Archives, which I did. I was at that time a Staff Officer in the U.S. Army, on duty in this City, and as such the book was entrusted to me.

Cross-Examined by U.S. Law Agent.



Cross-Examined by U.S. Court Agent.

1 Question. What officer placed the book in your possession?

Answer. Capt. Frederick G. Steele, an Aid-de-Camp of Gen Smith.

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2 Question. Is the fact of that officer placing the book in your possession, and the information he gave you, the only means you have of knowing the book to be an authentic record?

Answer. The only personal means of knowledge, I never saw the book before.

3 Question. How long was the book in your possession?

Answer. Perhaps one week, perhaps 3, I cannot tell precisely. It was in the hands of the Court about 10 days. It may have been some 5 or 6 weeks from the time I received it until it was destroyed.

4 Question. Did you at that time understand well the Spanish language, if yea, state to what extent you examined the book.

Answer. I could then with some little difficulty read the Spanish language. but I made no examination of the book except to glance through it cursorily to find the record of the Case, which was in question in the Court. I did that as a matter

of curiosity nearly, and had no interest in the case.

5<sup>th</sup> Question. Describe what kind of a Book it was?

Answer. It was a volume about the size of foolscap paper, say about  $\frac{1}{2}$  inch thick, I do not think it would have contained over 200 pages. It was bound in paste board covers, with either cloth or leather on the out side. It was not apparently newly bound, but seemed soiled by use. It was written on a yellowish paper, such as was in use among the Spanish people.

6<sup>th</sup> Question. What other grants do you recollect besides the one mentioned, as being entered in the book?

I do not recollect a single one. The entries were in the nature of an abstract, each entry embracing some 6 or 8 lines. I looked at it once in my office and again in the Court with reference to the case spoken of, and made no other examination of it. The mode in which the book was kept struck me with some force, as it was the first book of the Spanish Archives I had seen.

7<sup>th</sup> Question. Having examined but one case, how did you learn the points of time within which the record was embraced as before stated by you?

Answer. I was asked

Answer, It was because I was struck with the small size of the Book, and in looking through it, according to my present recollection there were entries in it, running from 1837 to 1844. The book struck me as peculiar in its form & appearance as a book of record being so different from those I had been accustomed to see, there was some writing on a fly leaf of the book, and my impression is that gave some indication of what the Book contained.

My actual Examination of the book was very cursory, and I can now only give my impressions of its contents, not feeling very positive as to the minute particulars of its contents. The grant for which the book was used in evidence on that occasion was of a date before 1840.

8<sup>th</sup> Question, What was the Character of the Entry you examined?

Answer, It was a mere synopsis of the date, names of Grantor or officer granting, and the grantees the name or description of the place granted, the quantity of land and its Locality &c. embracing in all perhaps 6 or 8 lines of writing.

Re-Examined by Attorney for Claimant

1<sup>st</sup> Question, Do you recollect whether you was required

by a subpoena or otherwise officially  
to produce the book before the court?

Answer. I was notified  
by some officer of the Court, my  
impression is it was the Clerk of  
the Court where the book would be  
required. - I do not recollect cer-  
tainly how I was called upon, but  
I understood myself to be required  
officially to produce the book.

The Clerk said he would be  
responsible for its safe keeping  
while in the hands of the Court and  
he returned it to me when they were  
done with it.

Question. Where is Capt  
Frederick G. Steele of whom you have  
spoken.

Answer. I do not know  
I think he is in California, I believe  
he is somewhere in N. York and still  
in the Army.

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

Question. How was the  
grantor described and who was named  
as such in the entry which you examined.

Answer. I cannot tell.  
now whether it gave the name, or title  
of the grantor, and do not recollect  
who was the grantor.

Question. How could

you ascertain from those entries whether the grants were made by Governors or Alcaldes?

Answer. I do not profess to know how they were made in this particular case I recollect there was something about it which conveyed to my mind the idea and left the impression that the grant emanated from head quarters at Monterey, tho' I cannot now remember what that was -

The Alcalde grants, I have seen have been a full record of the grant and the entries in this book were in brief as I have before stated, I saw no full records in this Book spoken of -

3<sup>d</sup> Question. Can you state the contents of the entry mentioned in relation to the grant to Leese and Vallejo, as to where the land was situated, and by whom the grant was made?

Answer. I do not remember by whom the entry represented the grant to have been made I have before answered as to my impression upon that point.

The place or situation of the land I can recollect was called or described as at the Russian landing or embarcadero embracing some hundreds of varas, and being on the Bay Shore. It was granted to Jacob P. Leese and Sen Salvador Vallejo.

J. L. Tolson

Subscribed and sworn to  
before me on this 14<sup>th</sup> day  
of April, A.D. 1854.

Peter Lott  
Commissioner  
for taking testimony &c

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It is hereby stipulated and agreed  
by and between the U.S. Law Agent  
and Volney E. Howard Esq. Attorney  
for claimants in case No 74. that  
the foregoing deposition may be  
considered as taken, and may be used  
and read in evidence in cases No  
74 and No 11. on the docket of the  
Commission.

San Francisco, April 14. 1854.

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

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Dello sumero Dero pesos:  
Habilitado provisionalmente por la Aduana  
Maritima del puerto de Monterey en el  
Departamento de las Californias para  
el año de mil Ocho cientos cuarenta y tres  
Michelarena Manuel Castaneda

A

Thompson Campbell  
to the Depo:  
of S. T. Liman  
tour.

El C<sup>no</sup> Manuel Michelarena Gene  
ral de Brigada del Ejército Mexicano  
apudante del de la plena Mayordel  
mismo Gobernador y Comandante General  
del Deparm<sup>to</sup> de Californias.

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Por cuanto los Ciudadanos Fran  
cisco Pico y José Antonio Castro, han peticio  
nado para sus beneficios personales el  
terreno conocido con el nombre de Ran  
chera del Rio Estero la Cruz colindante  
por el Este con la sierra por el Oeste con  
preheniendo el terreno de dicha Ranchara  
por el Norte con la Lomera y por el Sur  
con las margenes del mismo Rio; segun  
se explica en la Doliitud y Dico de  
pectos practicada previamente las dili  
gencias y averiguaciones concernientes  
segun lo dispuesto por las Leyes y Reglam<sup>tos</sup>  
de la materia; usando de las facultades  
que me son conferidas por la Comision  
y de las amplias que el supremo Gobierno  
me ha cometido, a nombre de la nacio  
Mexicana, he venido en concederles a los  
Expresados Pico y Castro el terreno mencio  
ado, declarandole la propiedad de el  
por las presentes letras bajo las condiciones  
siguientes.

1<sup>a</sup> Nochan ser caidos sin perjuicio de las  
caminos y servidumbres, destinandolos  
al uso o cultivo que mas le acomode.  
2<sup>a</sup> El terreno de que se hace donacion es de  
ancestros de ganado mayor. El prezo que  
les diere la posesion lo han a medir conforme

à Ordenanza quedando el sobante que  
Resulte à la Etacion p<sup>o</sup> los usos combinos

En consecuencia de lo que teni  
endose p<sup>o</sup> forme y baledero el presente titulo  
se entegue à los interesados, tomando p<sup>o</sup>vi  
am<sup>o</sup> razon por la Sena del Despacho  
Dado en Monterey Capital del Departamento  
à Veinte y nueve de Diciembre de mil  
ochocientos cuarenta y tres.

Man<sup>o</sup> Michel<sup>a</sup>

Manuel Ameno. D<sup>o</sup>

Queda tomada Razon de Este  
Despacho en el libro Respectivo.

Ameno

Alcaldin Office March 2. 1853.

Geo: Fisher Secy



The Citizen Manuel Micheltoena General of  
Brigade of the Mexican Army, Adjutant  
General of the Staff of the same, Governor &  
Comandante General of the Department  
of the Californias.

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"B"

Translation of  
Grant.

Whereas the Citizens Francisco Rico  
and Jose Antonio Castro, have solicited  
for their personal benefit the land  
known by the name of Rancharia del  
Rio Estanley, bounded on the East  
by the Sierra, on the West comprehen-  
ding the land of said Rancharia, on the  
North by the Comeria, and on the South  
with the borders of the same River,  
as the respective petition and design  
explains; having previously taken  
the steps and investigations concerning  
it, according to the laws and regulations  
upon the matter; in use of the power  
conferred upon me by the same and  
the ample ones which the Supreme  
Government has transmitted to me,  
in the name of the Mexican Nation,  
I have determined to grant to the  
mentioned Rico and Castro the mentioned  
land, declaring to them the property  
thereof by these presents, based on  
the following conditions:

1<sup>st</sup> They may fence it without prej-  
udicing the roads and servitudes, desti-  
ning it to the use or cultivation which  
best suits them.

2<sup>nd</sup> The land of which donation is  
made is of Eleven sitios de ganado mayor.  
The Judge who will give them the  
possession, will have it measured.

according to ordinance, Keeping the Surplus which may result for the Station for the convenient use,

In consequence I do order that holding this present title for firm and valid, it be delivered to the interested parties, previous registry thereof to be taken by the Secretary of State.

Given in Monterey, Capital of the Department on the Twenty Ninth of December Eighteen hundred & forty three,

(Signed) Manuel Michel

(Signed) Manuel Jimenez  
Secy

Registry of this Despatch has been taken in the respective book,

(Signed) Jimenez,

Filed in Office March 2, 1855,

Geo. Fisher

Secy

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Opinion of Francisco Rico et al }  
 Board by vs. 311 Square Leagues on  
 Com. Thompson The United States } The Estanislus River

This claim purports to be founded on a grant made by Gov. Manuel Micheltorena to Francisco Rico and Jose Antonio Custro on the 29th. of Decr. 1843. The original Grant is produced and the genuineness of the signatures of Gov. Micheltorena and Manuel Simeno Secy are proved by the depositions of Jose N. Lamantora, Francisco Ace and Vicente Perfecto Gomez. An attempt is made to discredit the grant from the fact that the name of Simeno where it appears on the third page of the title attached to the certificate, that it had been entered in the proper book is unlike the ordinary signature of that Officer, and appears to have been written over the place where some other word had been obliterated or effaced.

The paper around the name has a discolored appearance as if it had been wet, and the ink seems to have spread as if it had been written over before it was entirely dry. Notwithstanding these appearances, the witnesses mentioned all swear to the genuineness of that signature, as well as those of the Governor and Secretary affixed to the body of the Grant.

Francisco Ace swears that he was the Chief Clerk in the Office of the Secretary and the time the grant bears date, that he wrote the body of

the grant, and that it was signed by the Governor and Secretary in his presence. He also swears that there was then in the Office of the Secretary an Expediente containing the usual petition and informes together with a despacho of Sances granted amounting to Elvin Squares leagues, but he does not recollect which he got the description contained in the grant from the Expediente or from the Secretary whose duty it was to furnish him with the proper description.

Vicente Gomez swears that he saw the grant in the year 1843 at which time he made a record of it in the book of "Tomás de Ruzon" in the Office of the Secretary of the Government where he was then a clerk. He further swears that he saw the Secretary Manuel Jimeno make the signature "Jimeno" where it appears on the third page of the grant and that he received said grant from the hands of the Secretary for the purpose of delivering it to the grantee Francisco Rico.

Jose Castro swears that Francisco Rico was a Captain in his Command as Commanding General; that about the 2<sup>o</sup> or 3<sup>o</sup> of August 1846 said Rico deposited the Expediente upon which said grant was founded with his Secretary Castañeda for safe keeping, and that the same was lost with all his other papers near the Colona river on his way to Mexico. That it was a time of war and danger and he thinks Rico withdrew said Expediente from the

office of the Secretary of the Government and deposited it with his (Castro's) Military Secretary for greater security. That he received several letters from Rico while in Mexico informing him that he had his Expediente and requesting him to take care of it for him.

This evidence is clearly strongly in favor of the validity of the grant, and the isolated fact that the name of the Secretary attached to the Certificate of record differs from his ordinary signature on the discoloration of the paper around it, which might be result of accident, can scarcely be considered sufficient in opposition to it, to destroy its authenticity, and stamp it as a forgery. More especially when the genuineness of the signatures to the body of the grant are fully sustained by the proof and bear every appearance of being what they purport to be, the genuineness and authentic signatures of the Governor and Secretary—

An effort was made to discredit the testimony of the witnesses Arce and Gomez, but nothing was elicited which in a legal point of view, which authorizes us to disregard their testimony. We must therefore consider the genuineness and authenticity of the grant as established by the proof.

It is also in proof that about the middle of the year 1844 Jose Noriega was employed by the Agent of the grantees, to occupy the land for them, he accepted the same for seven

He accordingly went on the premises, built a house and corral and took there about a hundred head of Cattle and ten horses, he occupied the same with seven or eight others who were employed by the parties, about a month and a half when in consequence of the depredations of the Indians he was compelled to leave and remove the stock -

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It further appears from the testimony of George R. Gleason that in the year 1847 he was called on to interpret a conversation or agreement between Francisco Rico and D. R. Thompson who is since dead, in relation to the occupation by the latter of Rico's farm on the Stanislaus River, which agreement was that Thompson should occupy the land for Rico, and the latter was to furnish cattle for the purpose. Rico also gave Thompson in his presence some money a Mexican ounce of gold on the same account.

Charles M. Lebbler deposes that he knows that Thompson and a man by the name of Rock were residing with their servants at a point on the North side of the Stanislaus River known by the name of Rancho of Jose de Jesus formerly Estanislao in the year 1847 in the fall of that year Thompson and his servants came to the settlement of Altaville at Stockton asking his aid to save his property in consequence of the Indians having menaced his life and compelled him to leave the settlement. He accordingly went with a sufficient

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number of people to his place of residence  
Collected all the stock and other valuables  
which could be found on the  
Rancho, and brought them to Stockton  
when on his emigration Thompson after  
wards joined his settlement.

He further states that at the time he was  
there, the improvements consisted of a  
house and corral, and garden spot  
begun, the amount of Cattle collected  
was about two hundred head.

The whole evidence in the case if it is  
to be believed, and there is nothing to  
impeach it, except as above stated, is  
clearly sufficient to establish the validity  
of the claim, and a decree of Confirmation  
must accordingly be entered.

Filed in office October 16 - 1855

Geo. Fisher Secy

Francisco Rico and  
Jose Antonio Castro

vs  
The United States

Decree

In this case on  
hearing the proofs and allegations it  
is adjudged by the Commission that  
the claim of the said petitioners is  
valid, and it is therefore decreed that  
the same be confirmed to them.

The land of which Confirmation is  
made is situated in the County  
of \_\_\_\_\_ and is known by the  
name of Rancho del Rio Estanislao  
containing Eleven square leagues to be

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PAGE 83

located within the following boundaries to wit; On the West by a line running North from the "Rio Estanislao" to the "Loma" (Low Hills) so as to include the lands of the said Rancho; On the North by the said Loma (low hills) on the South by the said Rio Estanislao and extending up said River and between the same since the "Loma" until the quantity of Eleven leagues is obtained.

For a more particular description reference to be had to the Original grant filed among the papers of the Case

Alpheus Felch  
R. Aug. Thompson  
S. B. Fenwick

Commissioner

Filed in Office Oct. 1855

Geo. Fisher Secy

And it appearing to the satisfaction of the Board that the land hereby acquired is situated in the Northern District of California It is hereby ordered that two transcripts of the proceedings and decision in this Case and of the papers and Evidence upon which the same are founded be made out, and duly certified by the Secretary, one of which transcripts shall be filed with the clerk of the United States District Court for the Northern District of California and the other be transmitted to the Attorney General of the United States.



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 *Seventy three* pages, numbered from  
1 to *73*, both inclusive, to contain a true, correct and full Tran-  
script of the Record of the Proceedings and of the Decision of the  
said Board, of the Documentary Evidence and of the Testimony  
of the Witnesses, upon which the same is founded, on file in this  
Office, in Case No. *767* on the Docket of the said Board,  
wherein

*Francisco Rico, et al,* are  
the Claimant, against the United States, for the place known by  
the name of "*Rio Estanislao*."

In Testimony Whereof, I hereunto set my hand  
and affix my private Seal (not having a Seal  
of Office) at San Francisco, California, this  
*Eleventh* day of *February*  
A. D. *1856*, and of the Independence of the  
United States of America the *seventy-eighth*.

*Geo. Fisher*

*Geo. Fisher*  
*Secy.*



413  
U. S. DISTRICT COURT, *MD*  
*Northern* District of California.

No. *413*-  
413  
THE UNITED STATES,

vs.

*Francisco Rico*

TRANSCRIPT OF THE RECORD  
FROM THE  
BOARD OF U. S. LAND COMMISSIONERS.

In Case No. *767*

Filed, *February 15, 1856*  
*J. A. Monroe,*  
*Clerk*

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Office of the Attorney General of the United States,

Washington, 11. Feb. 1856.

767) "Rio Letunias"

Marius Rio et al Claimants

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the

1st day of February, 1856, the appeal in the district court of the United States for the northern district of California will be prosecuted by the United States.

Cushing

Attorney General.

No-413-

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United States

-ad-

Francisco Rico  
et. al

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Appeal Notice

- No. 467 -

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Laid April 4. 1856.  
Cherub,  
Deputy.

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

The United States  
Appellants

vs

Francisco Pico, and  
Antonio Castro

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The Petition of the United States by  
their Attorney represents, that this cause is  
an application for a review of the decision  
of the Board of Commissioners whereby  
the claim of the said Appellee was confirmed  
as appears by reference to the Records in  
the case; That the transcript of the said  
Records was filed in this Court on the  
23<sup>rd</sup> day of October 1855, that a notice  
of appeal was filed on the 11<sup>th</sup> day of  
February 1856 - and that the land  
claimed lies in the said District -  
That the said claim is invalid -  
Wherefore appellants pray that the said  
claim decision of the Board be reversed  
and that this Court deem the said title  
to be invalid - Respectfully

W. Seassell, Asst. U.S. Dist. Atty

N<sup>o</sup> 413

The United States

vs

Francisco Pico et al,

Petition

Filed April 28. 1856

Charles

Deputy

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

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The United States  
Appellant.  
as  
Francisco Pico and  
Antonio Castro  
Appellees

The answer of said Francisco Pico and  
Antonio Castro, respectfully shows - that  
it is true as alleged in the petition of  
Appellants, that the claim of these Re-  
spondents was confirmed by the Board of  
U. S. Land Commissioners, and that a  
transcript and notice of appeal was filed  
as alleged in said petition - and that the  
land claimed lies in the Northern District

But that respondents allege that their  
claim is valid as will appear by reference  
to the records on file - sent from said  
Commissioners.

Wherefore they pray that the decision of  
said Commissioners be affirmed and that  
this Court decree the said title to be valid.

Respectfully submitted  
J. Clarke Olby  
for Claimants

No 413

U. S. District Court

The United States

vs

Francisco Pico et al.

Answer

Filed April 28, 1856,  
Chas  
Deputy

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United States District Court  
Northern District of California

413 ND  
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The United States  
vs  
Francisco Rico &  
Jose Antonio Castro

No. 413  
Stated Term  
Nov: 10<sup>th</sup> 1856

Appeal from the final decision of the  
Commissioners to ascertain and settle private  
land claims in California

This cause coming on to be heard  
at the stated term of this court on an appeal  
from the final decision of the Board of Com-  
missioners to ascertain and settle private  
land claims in the State of California,  
Under the Act of Congress approved March  
3<sup>d</sup> 1851 upon the transcript of the proceed-  
ings, and decision, and the papers and  
evidence in which said claim was  
founded, and it appearing to the Court  
that said Transcript has been duly filed  
according to Law, and counsel for both  
parties having appeared, It is ordered,  
adjudged and decreed that said decision  
be, and the same is hereby affirmed.

And it is further ordered adjudged and  
decreed, that the claim of the Appellees be  
confirmed to the tract of land known as  
by the name of "Rancheria del Rio Estanislao"  
containing Eleven square leagues to be located  
within the following boundaries to wit:  
On the West by a line running North  
from the "Rio Estanislao" to the Laguna  
(Low Hills) so as to include the lands

of the said Rancharia; on the North by  
the said Samaria (low hills) on the South  
by the said Rio Estanislao, and Extending  
up said River, and between the same and  
the "Samaria" until the quantity of Eleven  
leagues is obtained. For a more particular  
description reference to be had to the Original  
grant filed among the papers of this case.

Agdon Hoffman  
U. S. Dist Judge

United States  
District Court  
Northern District

No. 413.

The United States

v

Francisco Nieto  
Joaquín Antonio Castro

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Done

Filed November 10, 1856,  
N. D. Chivers,  
Deput.

California Land Claims.  
Attorney General's Office  
7 Feby 1857

413  
Sir: In the case of the claim of Francisco Rico et al. confirmed by the claimants by the Commissioners, case no. seven hundred and sixty-seven, (767), appeal will not be prosecuted by the United States.

I am  
Respectfully,  
Curtis

Wm. T. Plauding Esq  
U. S. Attorney  
San Francisco -

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

The United States  
v  
Francisco Rico et al

} D.C. 413 : S.C. 767

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

San Francisco April 1st 1857

Wm Blanding  
Dist Atty  
for Claimants

*[Faint, illegible handwritten notes on the left page, possibly bleed-through from the reverse side.]*

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767

U. S. District Court

The United States

v

Francisco Ries et al

Stipulation

Filed April 1, 1857.  
W. H. Chew,  
Deputy.

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

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

Francisco Rico et al

D. C. 413: L. C. 7/7

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

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. District Judge

413

United States District Court, Northern  
District of California.

*The United States*

vs.

*Francisco et al*

ORDER.

*Final Decree*

Filed *April 1st* 1857

*John A. Murree,*

CLERK.

By *M. H. Chevers,*

DEPUTY.

*54/2*

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U. S. District Court,

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The United States

vs  
Juan R. Rico et al

} No. 413

And now comes  
Calhoun Benham, U. S. atty  
and asks that the official  
survey of the land finally  
confirmed herein be ordered  
into Court for examination and  
adjudication, the said survey  
being erroneous and including  
land belonging to the U. S. as  
appears by the affidavit hereto  
annexed

Dated San Francisco  
Oct 10. 1861.



U. S. District Court.  
Northern Dist Cal.

The United States

vs. <sup>3</sup> No. 413 : L. C. 767.  
Francis Rice, et al. Rio Estanislao.

413 ND  
PAGE 99

J. S. Coleman  
R. M. Bryant

W. P. Page

of Stanislaus County being duly sworn  
depose and say, each for himself, that he  
claims an interest under the United  
States, by settlement, in a portion of the  
land surveyed by the Surveyor General  
of the United States for California, under the  
final decree of confirmation herein, and  
that the survey and location of the  
land finally confirmed is erroneous; that  
the said survey was approved by the  
said Surveyor General on the Fifth day of  
September, and has duly advertised  
such approval, commencing on the 5th day  
of September A. D. 1860, in the City of San Francisco,  
and on the 13th Sept in the paper published nearest the land.

Subscribed and sworn to before  
me this 8th day of October  
A. D. 1860. E. J. Stone

Justice of the Peace  
in & for the County of  
Stanislaus

J. S. Coleman  
R. M. Bryant  
W. P. Page

<sup>413</sup>  
W. S. Dist. Court.  
413.

The United States

<sup>m</sup>  
Francisco Riesal

Motion for return  
of survey

24th Oct

Filed Oct. 10, 1860,  
W. D. Cheney,  
Clerk

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the CITY OF SAN FRANCISCO, on Wednesday the 24th day of October in the year of our Lord one thousand eight hundred and sixty.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

v.

*Francisco Rico, et al.*

IN LAND CASES.

District Court No. 413

Land Com. No. 767

AND now at this day on application of Calhoun Benham Attorney for The United States IT IS ORDERED, that the Surveyor General of the United States for California return into this Court, on or before Wednesday, the 24th day of October A. D. 1860, his Official Survey and Plat of the land finally confirmed in the above entitled cause, known as "Rio Stanislaus" and situated in the County of Stanislaus in said District; AND IT IS FURTHER ORDERED, that the United States Marshal for this District serve upon the said Surveyor General, without delay, a certified copy of this order, and make due return hereon.

W S Marshall's office  
San Francisco Oct 10 1860

I have this day made personal service  
by copy of this order on D W Mandwell  
W S Surveyor General for California  
P L Solomon  
W S Marshall

No. 413

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

San Joaquin & Co. Respondents,

ORDER TO RETURN SURVEY.

Returnable Oct. 21. 1860.

Issued Oct. 10. 1860.

Filed Oct. 11. 1860.

W. St. Charles,  
Clerk.

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United States of America, )

SS.

Northern District of California. )

THE PRESIDENT OF THE UNITED STATES OF AMERICA,  
To the Marshal of the United States for the Northern District  
of California,

GREETING:—

WHEREAS, objection has been made to the official survey and location of the land finally confirmed in case No. *413*, to *Francisco Rico et al.*, known as "*Rio Stanislaus*", and situated in the County of *Stanislaus* in said District.

NOW THEREFORE YOU ARE HEREBY COMMANDED, in the name of the President of the United States of America, to give due notice to all parties having, or claiming to have, an interest in such survey and location, that they be and appear before the District Court of the United States for said District, sitting in Land Cases, on or before Wednesday, the *20th* day of *October* A. D. 1860, at 11 o'clock, A. M. (if that day shall be a day of jurisdiction, and if not, on or before the next Wednesday thereafter,) then and there to intervene for the protection of such interest, or their defaults will be taken. And what you shall have done under this writ do you then and there make return thereon.

WITNESS, the Hon. OGDEN HOFFMAN, Judge of said Court, at San Francisco, in said District, this *teenth* day of *October* A. D., 1860.

*H. A. Chevers.*

CLERK.

The within Motion was received by me on  
Wednesday the 10 day  
of October 1860, and in obedience thereto  
I have given due notice, as therein commanded, by causing  
the publication of said notice, for 2 consecutive  
Wednesdays, in the San Francisco Herald, commencing  
on the 17<sup>th</sup> day of October  
1860; and for 2 consecutive Saturdays, in the  
"Stanislaus Index"  
a paper published nearest the land, commencing on the  
13<sup>th</sup> day of October 1860

Dated San Francisco, Oct 21<sup>st</sup> 1860

A. L. Solomon  
U. S. Marshal.

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No. 413.

UNITED STATES DISTRICT COURT,  
Northern District of California.  
IN LAND CASES.

THE UNITED STATES.

v.

Franco, Rico, et al.,

MONITION.

Returnable Oct: 24, 1860

Issued Oct: 10, 1860

Filed Oct: 24, 1860

H. A. Chereid

Clerk.

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the CITY OF SAN FRANCISCO, on Wednesday the 24th day of October in the year of our Lord one thousand eight hundred and sixty,

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

v.

*Francisco Rico, et al.*

IN LAND CASES.

District Court No. 413,

Land Com. No. 767

AND now at this day the United States Marshal having made return upon the Monition heretofore issued in this cause, that he had given due notice as therein commanded; on motion of \_\_\_\_\_ Attorney for the United States

proclamation was made that all parties having, or claiming to have, an interest in the survey and location of the land finally confirmed in the above entitled cause, appear and intervene for the protection of such interest; The U. S. Attorney, and P. Della Torre appearance for the United States, no other party appearing

whereupon IT IS ORDERED, that the default of all parties not appearing as aforesaid be and the same is hereby entered.

No. 413.

UNITED STATES DISTRICT COURT  
Northern District of California.  
IN LAND CASES.

THE UNITED STATES,

v.

Fran<sup>co</sup>, Rico, et al.

ORDER ON RETURN OF MONITION.

Filed October 24 1862

H. H. Chesler  
Clerk.

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on *Monday* the *21st* day of *January* in the year of our Lord one thousand eight hundred and sixty-one,

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,  
v.  
Francisco Rico, et al.

No. 413.

And now at this day, on reading and filing stipulation, and on motion of Williams, Patterson, & Stone, it is ordered by the Court that the default heretofore entered herein, be, and the same is hereby opened so far as to permit James Ross to file his intervention in this cause,

413.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States,

v.

Franco Rico,  
et al.

Order opening  
default & allowing  
James Ross to  
intervene.

Filed

January 21, 1861.

W. A. Cheever,

Clerk.

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The United States } U.S. Dist Court  
} Southern District.  
Francisco Rice et al } Do. 413. L.C. 767-

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It is suggested that the default judgment  
taken in the matter of the Groves be set  
aside & opened so as to allow James Rice  
to intervene -

Dated Dec 27 - 1860 -

Calhoun Pinham  
U.S. atty  
P. Della Torre  
of counsel for the U.S.

The United States

<sup>m</sup>  
Francisco Rico

No. 413-

Deputation to open  
default & allow  
Jas. Ross to  
intervene.

Filed July 21, 1861.

W. A. Chever  
Clerk

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In the District Court of the  
United States for the Southern  
District of California

In the Matter of the Survey  
of the Rancho Rio  
del Estanquillo -  
No 413 -

The United States  
vs  
Francisco Rico &  
Manuel Castro

The Intervention of James Rob  
shows to this Court -

That Francisco Rico & Manuel Castro  
presented their Petition to the late Board of  
Land Commissioners, asking confirmation of  
their claim to the Rancho Rio del Estan-  
quillo, and that said Board confirmed such  
claim -

That subsequently an Appeal was taken  
to this Court and a Decree rendered therein  
affirming the Decree of said Land Commissioners.

That afterwards an Appeal from the  
said Decree of this Court was taken to the Supreme  
Court.

That afterwards and on the 1<sup>st</sup> day of April  
A.D. 1857 the District Attorney, under the direction  
of the Attorney Genl of the United States, entered  
into a stipulation with the Attorney for

The claimants, whereby it was stipulated and agreed that no further appeal be taken in this case on the part of the United States and that claimants have leave to proceed under the decree of this Court until forpendent in their favor as under final decree, which stipulation was filed in this case; Whereupon this Court ordered adjudged & decreed, <sup>that claimants</sup> have leave to proceed under the decree until forpendent as under final decree.

That afterwards the lands confirmed and covered by said Final Decree, were surveyed by the <sup>Surveyor</sup> ~~Attorney~~ General of the United States for the State of California; that such survey was approved by said Surveyor General, and a plat thereof with a certificate of his approval endorsed thereon, forwarded to the Commissioner of the General Land Office at Washington. That such survey and approval were made under and by virtue of and <sup>in</sup> pursuance with the Acts of Congress passed and in force prior to the <sup>day of June</sup> 15<sup>th</sup> 1850.

That subsequently to the entry of said Final Decree and the making and approval of said survey as aforesaid; to wit on the 9<sup>th</sup> day of July 1858 this Intervenor became the successor in interest of the said Rice & Castro to that

portion of the said Ranch so confirmed &  
conveyed, which is bounded and described  
as follows:

413 ND  
PAGE 113

Commencing at the intersection of the West line  
of land sold to one Packard by said Manuel Castro  
by said date Oct 28<sup>th</sup> 1854 and Recorded in the Records  
Office of the Com<sup>o</sup> of New Mexico in Book A of said  
Vol: 6, pages 34 & 35 with the River Stanislaus; thence  
Westward following the course of said River to its intersection  
with the Western boundary line of the said Ranch  
thence Northward along said Western boundary line  
to the Northern boundary line of said Ranch; thence  
at right angles Eastward along the said Northern boundary  
line to its intersection with said Packard's said  
Western line; thence Southward with said Packard's  
said line to the point of beginning on the Stanis-  
laus River excepting thence from one side a square  
as shown in Intervenor's said - ready to be produced.

That this Intervenor was a bona fide  
purchaser in good faith of said tract of Land  
and paid therefor its full value, to wit the sum  
of \$13,000 -

Intervenor further shows, that on the 10<sup>th</sup> day  
of July A.D. 1860 he sold and conveyed the said  
tract of land above specifically described to  
Leah B. Burbank for and in consideration  
of the sum of Eighteen thousand dollars;  
that he took from said Burbank a mortgage

to secure the payment of nearly the whole of  
the said purchase money; that said mort-  
gage, by its terms & provisions is not due and  
payable until a Patent shall be issued by  
the United States for the said land

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That Intervenor further agreed  
to and with the said Bank that he  
would take charge of and prosecute the  
claim to a Patent, before the Comrs of the  
United States and Mr. D. B. Hudson.

Wherefore Intervenor prays that  
the Survey a Plat of which is on file in  
this Court may be confirmed by this Court.

Sworn & subscribed before  
me this 13<sup>th</sup> day of Jan'y 1861

Sam<sup>l</sup> C. Forman

J. S. Ross

Notary Public



No. 413

United States Dist  
Court - W. District

The United States

vs

Francis Pierrel

Intervention of  
James Ropes

Filed January 21, 1861.

W. H. Chesnut,

Clerk.

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William Patterson & Son

Atty for Ropes

3 copies

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

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United States } Case No. 413  
vs }  
Rico et al } Rancharia de Stauston

To the Honorable Ogden Hoffman  
Judge of the District Court of the United  
States for the Northern District of California

The petition of James C. Stebbins  
Salisbury Haley & Albert Packard  
respectfully shows that they are interested  
in the survey of the land finally  
confirmed in the above entitled  
Case, that they are owners in fee, as tenants  
in Common of the Ranch known by  
the name of Rancharia de Stauston,  
that the said Ranch Rancharia de Stauston  
was originally granted to Francisco Rico  
& Francisca Castro, through various  
mesne conveyances from the said Rico  
& Castro, title in your petition,  
that the claim for said Ranch Rancharia  
de Stauston was confirmed to the  
said Rico & Castro by the Board of  
United States Land Commissioners  
for the State of California and this  
Honorable Court, & that the said

But also to have conveyed a part of  
said Ranch to your petitioners

And your petitioners further show  
that the said Ranch Rancharia de Sta. Ana  
has been surveyed by the United States  
Surveyor General for California  
which said survey has been approved  
by said Surveyor General, and that  
the land embraced within the said  
survey was granted as aforesaid.

That by virtue of orders of this Honorable  
Court said survey has been returned  
into Court and is now pending for  
examination and adjudication.

Wherefore your petitioners pray  
that they may be permitted to intervene  
in the matter of the examination &  
adjudication of the survey of said  
Ranch Rancharia de Sta. Ana  
for the protection of their rights in  
the premises. Salisbury Haley  
James C. Stebbins

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State of California }  
County of San Francisco } SS -

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James Robinson, Salisbury  
being sworn says that <sup>he is one of</sup> ~~they are~~  
<sup>the persons</sup> named in the foregoing petition  
that ~~they~~ <sup>he has</sup> read said petition &  
knows the contents thereof & that the same  
is true of <sup>his</sup> own knowledge & as to  
as to the matters which are therein stated  
on information & belief & that as to  
those matters <sup>he</sup> believes it to be true

James Robinson  
Salisbury Naley

Sworn to and subscribed  
February 27, 1861, before me,  
W. H. Chesebrough,  
U. S. Comr.

U.S. Dist Court  
413.

The United States  
vs -

Rico et al

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Petition for Interim  
by L. C. Stebbins

Salsbury Haley &  
Albert Packard

Filed February 27, 1861.

H. G. Chesnut,  
Clerk,

H. Love

Atty for  
Petition

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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 *Saturday* the *7<sup>th</sup>* day of  
*September* in the year of our Lord one thousand  
eight hundred and ~~forty~~ *sixty one*

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States  
v.  
Francisco Rico, et al

No. 413.

And now at this  
day on application of W. W. Sharp  
Esq, U. S. attorney, it is ordered, that  
the United States have leave to  
file their exceptions to the official  
survey of the land confirmed herein,  
nonne pro tunc as of Oct 29. 1860

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UNITED STATES DISTRICT COURT,  
Northern District of California.

*The United States*

vs.

*Francisco Rico et al*

*Order allowing U.S.  
to file exceptions as  
of Oct 29. 1860.*

Filed *September 7<sup>th</sup>* 1860,

*A. S. Cheever.*

CLERK.

By

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PAGE 121

DEPUTY.

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U. S. District Court.

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The United States }  
v. } No 413.  
Francisco Ricobal

And now come  
the United States by their attorney  
Wm H Sharp, and object to the  
survey of the land confirmed in  
the above entitled cause, a certified  
copy plat whereof was filed in this  
Court Oct 29. 1860.

And the United States aver: That the  
grant produced by the claimants  
in said cause is fraudulent and  
false, and its confirmation by this  
Court, and the dismissal of the  
appeal by the attorney General of  
the United States, null, void, and of  
no effect.

Wherefore the United States  
pray that the said survey be  
rejected and set aside as null



void and of no effect.

Wm H. Sharp  
U. S. Atty.

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U. S. District Court

The United States

v.

Francisco Rico et al

Exceptions to survey  
by United States.

Filed September 7, 1861,

as of

October 29, 1860.

A. D. Chevers,

Clerk

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In the District Court of the United States

FOR THE *Northern* DISTRICT OF CALIFORNIA.

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The United States,

IN LAND CASES.

Dist. Court No. 413,

Land Com. No. 767

*Francisco Ries et al*

BE IT REMEMBERED, that on this 5<sup>th</sup> day of *August* A. D. 1861  
at *San Francisco* in the District aforesaid, before me, *John B. Williams*,  
a Commissioner duly appointed by the Circuit Court of the United States for the Dis-  
tricts of California to take acknowledgments of bail and affidavits, and also to  
take depositions of witnesses, in civil causes depending in the Courts of the United  
States, pursuant to the Acts of Congress in that behalf, personally appeared  
*R. C. Hopkins* a witness produced in behalf of  
*the United States* in the above entitled cause, now  
pending in said Court under the Acts of Congress to ascertain and settle the private land  
claims in the State of California, who, being duly sworn, testified as follows:

PRESENT:

*W. H. Sharp & J. B. Williams*  
*for U. S. - Wm. H. Patterson for Jas*  
*Ross Interuenor - James Stebbins*  
*for Interuenors Packard, Haley & Stebbins*

QUESTIONS IN BEHALF OF THE

*United States*

Question 1st,

*Your name, age & place of residence?*

*W. H. Patterson objects to any evi-  
dence in the case on the ground  
that the case is finally closed*

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& that all the matter pending is whether or not the final survey of the Rancho Rio del Estanislau made by the Surveyor General & returned into this Court October 1860 shall be confirmed or rejected -

Q<sup>d</sup> - That the United States have never filed any objections or exceptions to such survey?

Ans 1 -

R. C. Hopkins is my name - I am of lawful age - I reside in San Francisco - I am keeper of the Archives in the Surveyor General's office - Have been in said office since 1855 -

Ques 2 -

Please examine the paper now shown you marked exhibit Hopkins No 1 annexed to your deposition & state what it is?

Ans 2,

The paper shown me is a photographic copy of the original Grant to Francisco Pico & Jose Antonio Castro of a place called Rancho de Rio de Stanislaus

Ques 3.

State in whose custody said original grant is?

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Ans 3.

It is in the custody of the U. S. Surveyor General for California. It was transferred to his custody about the month of March 1856 on the expiration of the late Board of U. S. Land Commissioners, & is now on file among the Archives of said Board, which are directly under my charge as Keeper of the Spanish Archives in the office of the U. S. Surveyor General for California.

Ques 4.

Have you the said original grant with you & if so please produce it, & state when it was filed & to whose deposition it was annexed?

Question objected to by James Ross Intervenor on the ground that the U. S. cannot in this proceeding try the validity or invalidity of the Grant in question, & a determination

having been heretofore made estab-  
lishing by a final Decree the  
validity of the said Grant),  
Ans 4

I have said original grant with  
me it is endorsed filed in office  
March 20 1853 George Fisher  
Secy - Annexed to the deposition  
of J. Y. Limantour -

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Quest 5.

Examine the Book now shown  
you being Photographic Exhibits  
filed in the case of the United  
States vs Jose Y. Limantour  
in the District Court of the United  
States for the Northern District  
of California at Pages 1 & 12  
of said book, state what those  
pages exhibit.

Counsel for Intervenor Ross  
demands that the whole of  
said book be filed in this cause  
& that when so filed the pages  
mentioned in the question will  
show for themselves what they  
are, without the opinion of the  
Witness.

Counsel for the U. S. reply that  
the book referred to in the ques-

tion is, already on file in this Court in the Cases of the United States vs Jose Y. Limantour Nos 424 & 429.)

(Counsel for Intervenor objects to the Question of on the grounds that the U. S. Atty refuses to put said book in evidence (which refusal is here made in presence of said Commissioner).

Inst 5.

Page 1 is a photographic copy of the 1<sup>st</sup> page of the Grant to Jose Y. Limantour of land adjoining the Pueblo of Buena Buena -

Page 12 is a photographic copy of the first page of the Grant to Jose Y. Limantour of the Islands in the Bay of San Francisco -

Inst 6

Compare the original of Exhibit Hopkins to 1 & state whether the "Habilitacion" & the Seal shown upon the first page of said original are identical with the originals of the papers shown upon pages 1 & 12 of said Book of Photographic Exhibits &.

Intervenor Ross objects on the ground that the U.S. is seeking by the evidence collaterally to attack & go behind the final decree of Confirmation & that the question calls for the opinion of the Court.

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Sub  
The printed part of the "Habilitación" & the Custom House seal I think are the same -

The United States offers in evidence to attack to this deposition the paper marked Exhibit Hopkins No. 1.

James Ross Intervenor objects on the ground

1st It is immaterial

2d It has no tendency to determine as to the correctness or incorrectness of the survey under pending in this Court for confirmation -

3d That there is no question before this Court except the question whether the final survey conforms to the decree of Confirmation.

Quest 7



Ques.

Examine pages 117 to 132 both inclusive of said book of photographic Exhibits & state whether or not those pages represent photographic representations of the impressions of seals found on documents in your custody as Keeper of the Archives, which documents are admitted to be genuine?

(Objected to on the same grounds as to Ques 5).

Ans.

They do.

Ques.

Now examine page 136 of the same book purporting to represent photographs of impressions of what is called the Linantour seal & state whether or not, the impression of the seal on the original of Exhibit Hopkin's 101 & the impressions of the originals of those shown upon pages 136 were made from the same seal?

(Objected to on the same grounds as to Ques 5).

Aug 8

I think they are -

(Atty for Intervenor Packard & others joins in the objections to foregoing questions &c.)

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It is agreed & admitted that on the 24 day of July 1858, the Intervenor James Ross purchased of Francisco Rico & Castro that portion of the premises described in the Grant which is described in his petition of Intervention herein, & paid therefor the sum of Thirteen Thousand dollars & more or less (purchase in good faith)

R. C. Hopkins.

Subscribed & sworn to before me this 3<sup>rd</sup> day August 1861. Cutler McAllister

Us for me

(It is agreed that since the final Confirmation Stebbins & Haley purchased their interest in the Ranch) that they paid for said interest Twenty five hundred dollars,

Cutler McAllister

Us for me

No 413.

U. S. Dist Court  
For Dist of California

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The United States

vs.

Francisco Rico et al

---

Deposition of R. C. Stok  
This United States Witness

---

Filed Sept. 7, 1861,

W. D. Chever,  
Clerk

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**SELLO PRIMERO OCHO PESOS.**

Habilitado provisionalmente por la Aduana marítima del puerto de Monterey, en el Departamento de las Californias, para el año de mil ochocientos cuarenta y tres.

Micheltorona.

Manuel Castañares.

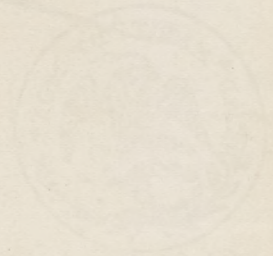


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El Sr. Manuel Micheltorona General de Brigada del Ejército Mexicano, Comandante en Jefe de la Plaza Mayor del mismo Gobernador y Comandante General del Departamento de California.

Por cuanto los Ciudadanos Francisco Pico y José Antonio Castro, han pretendido para sus beneficios personales el terreno conocido con el nombre de Rancharia del Rio Estanillo, colindante por el Oeste con las Sierras, por el Oeste con pretendiendo el terreno de dicha Rancharia por el Este con la Sonora y por el Sur con las margenes del mismo Rio; segun se explica en la solicitud y Diano respectiva practicada previamente las diligencias y averiguaciones correspondientes, segun lo dispuesto por las leyes y reglamentos de la materia, usando de las facultades que me son conferidas por las mismas y de las amplias que el Supremo Gobierno me ha trans-

NOV 13 1881



55

México, á nombre de la Nación Mexicana, he tenido en consideración á los expresos Riera y Castro el terreno mencionado, declarándoles la propiedad de él por las presentes letras bajo las condiciones siguientes.

1<sup>a</sup> Podrán servirla sin perjudicar los caminos y arboledumbres destinándola al uso agrícola que mas les acomode.

2<sup>a</sup> El terreno de que se hace donación es de once sitios de ganado mayor. El suer que los tiene la posesion lo hará medir conforme á ordenanza quedando el sobrante que resulte á la obacion por los usos convenientes.

En consecuencia mando que teniendo por firme y baledero el presente título se entregue á los interesados, tomándose previamente raras por la Oficina del Despacho. Dado en Montevideo Capital del Departamento á veinte y nueve de Diciembre de mil ochocientos cuarenta y tres.

Mano Juncos  
Juncos  
D. Juncos

118  
231

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La cantidad sujeta de este Despacho  
en el Libro respectivo.

Firmado



|  |  |  |  |  |  |  |  |
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U. S. District Court,

The United States

v  
Francisco Rico, et al.

Exhibit Hopkins N.º 1

Filed Sept. 7, 1861,

W. D. Cheever,  
Clerk

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D. C. No. 1

N. D. of California

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No. 1

ads 3

Francisco Rico

Jose Antonio Castro

The United States by  
W. H. Sharp their atty present  
to the Court the following statement

On the 27<sup>th</sup> of March 1853,  
the claimants herein, Francisco Rico  
and Jose Antonio Castro, filed  
their claim before the U. S. Court  
sitting in Land cases, under the  
Statute of 1851, for a tract of Land  
of Eleven leagues in extent called  
the "Rancheria del Rio Estanislao",  
and alleged a Grant to themselves  
therefor, from Manuel Micheltorena  
formerly Governor of California,  
of the date Dec<sup>r</sup> 29<sup>th</sup> A. D. 1843

and on the \_\_\_\_\_ day of \_\_\_\_\_  
they filed the said alleged Grant  
with the Land Commission, and it is  
now among the papers of the said  
Commission

Commission, which by law are de-  
posited in the office of the Surveyor  
General for the State of California.

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After certain proceedings had,  
the Commission confirmed said claim  
whereupon by proper means the  
cause was transferred to this Honor-  
able Court and is still here pending.

On the 1st day of April A. D.  
1857 the U. S. Atty. Wm. Blanding  
Esq. by virtue of a letter from C.  
Cushing Esq. Atty Genl., dismissed  
the Appeal, and claimants have  
since then had a survey made  
which has been returned into this  
Court.

The U. S. nevertheless show  
further, that the claim is fraudulent  
and void; that the alleged Grant is  
forged and counterfeit, and that  
the decree heretofore made herein,  
should be set aside for the fraud  
in procuring it: the alleged Grant  
be declared a forgery, and this  
claim be rejected.

Among the other signs and evidences of fraud which the U. S. are prepared to prove, are the following

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The Grant purports to be made on Habilitated paper of the former Custom House at Monterey, for the year 1843, duly stamped with the proper seal of the said Custom House. But in fact, the seal is spurious, and is a fraudulent imitation of the seal or stamp of the said Custom House, and the whole paper is a mere imitation and forgery.

The paper and dye or stamp, are the same as those employed in other cases which have been brought before this Court, and are well known as the Simantour paper and seal, and they have been solemnly adjudicated and held by this Court to be false and counterfeit.

In commenting upon the seal now under examination the Court has held the following language  
Court.

" The fourth document which bears  
" the same seal as that on the Linautour  
" papers, is the grant to Francisco Rico  
" and Jose Antonio Castro

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" It purports to be signed by  
" Micheltorena and Manuel Jimeno,  
" Secretary. In the Index of Land Grants  
" made by the latter officer, no mention of  
" the grant is to be found, although  
" a grant made upon the very same  
" day (29th Decr 1843) on which this  
" grant purports to be made is duly  
" recorded indexed. No Expediente was  
" produced in this case. The Court  
" though entertaining and expressing  
" much doubt as to its genuineness,  
" confirmed the claim, not conceiving  
" itself at liberty to substitute its sus=  
" picions for the positive testimony of the  
" witnesses who testified to its genuineness.  
" Those witnesses were Francisco Arce,  
" Vicente P. Gorney and Jose J.  
" Linautour. It is proper to add  
" that at that time, the discrepancy  
" in the seals had not been discovered

And further the V. S. shew,  
that the signatures to said alleged  
grant are not the genuine & proper  
signatures of Gov. Micheltorena and  
Manuel Jimeno as they purport to be,  
but are also false & forged.

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The V. S. allege, that of all  
those matters & things the Atty Genl  
of the V. S. and the V. S. Atty for  
this District were ignorant when  
they consented to dismiss the appeal in  
this case, and that otherwise the claim  
would neither have been confirmed, nor  
the appeal been dismissed. But the  
course of proceeding was induced by  
the fraudulent representations and  
assertions of the claimants, that the  
alleged grant was genuine

The V. S. further shew, that  
there is no Expediente on file, nor note  
in the Index of Grants, nor any mention  
whatsoever in the Archives of said pro-  
tended grant

The U. S. allege, that the said  
Decree of confirmation was obtained by  
fraud & surprise; that the matters and  
things hereinbefore alleged against said  
Grant have come to the knowledge of the  
Government through its proper agents,  
since the rendition of the said decree  
of confirmation.

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They therefore pray, that  
this Honorable Court will set aside  
the order ~~made~~ hereinbefore made dis-  
missing the appeal, as also the said  
decree of confirmation; and order and  
decree that the said alleged Grant be  
held null and void, and that the  
said claim be rejected.

Wm. H. Sharp  
U. S. Atty.

P. Della Torre

of Counsel



No. 413.

U. S.

vs } Petition

Rico + Castro

---

Petition of U. S. Atty.

Filed Oct. 10. 1861.

W. A. Cheever,  
Clerk.

19.

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U. S.

<sup>vs</sup>  
Francisco Rico & J. A. Castro

No. 413.

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The claim in this case was confirmed by the Board, and that decision was affirmed in this Court the not without much doubt as to the genuineness of the title papers — An appeal was taken to the Supreme Court which was subsequently ordered to be dismissed by the Attorney General, and the usual stipulation was taken <sup>thereupon</sup> made by the district Attorney and an order entered vacating the order granting the appeal & allowing the claimants to proceed under the decree of this Court as under final decree. A survey of the land confirmed has accordingly been made and ~~it has been~~ returned into Court on the application of the U. S. pursuant to the provisions of the act of 1860 —

Objections on the return of the survey objections to it were filed and the parties permitted to take proofs —

~~Survey~~ ~~has character~~ The <sup>only</sup> principal objection presented on the part of the U. S. is that the grant is forged ~~and~~ false and fraudulent and <sup>the</sup> signature of the Governor and seals upon the papers forgeries —

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Proofs in support of this allegation have been taken — and the question is now presented whether ~~these proofs are~~ ~~admissible~~ ~~and~~ whether the Court has jurisdiction at this stage of the cause to reopen it for further proofs, and to reverse and annul the decree heretofore rendered —

It may be observed that the proofs <sup>offered</sup> are of a nature to leave no doubt as to the fraudulent character of the claim — and if ~~it must be~~ the Court has jurisdiction to receive them, & decree accordingly the claim

Must certainly be rejected —  
 It must also be mentioned  
 that the present parties in interest  
 are innocent bona fide purchasers  
 who paid a large considera-  
 tion in money after the dis-  
 missal of the appeal and  
 the filing of the consent of the  
 District Attorney <sup>the claimants might proceed under</sup> that the decree  
 of this Court should be under-  
 final decree. —

The <sup>point</sup> ~~question~~ ~~is~~ ~~to~~ ~~be~~ ~~decided~~ is  
 thus presented in the ~~strongest~~  
 strongest form in which it  
 could arise — On the one side  
 an unquestionably fraudulent  
 claim confirmed by <sup>a decree of</sup> this Court  
 which has become final by  
 express stipulation and consent —  
 and on the other <sup>side</sup> the rights  
 of innocent third parties who  
 have acquired their rights ~~interests~~  
 and paid with their money  
 over ~~the~~ relying on the supposed  
 final adjudication of the Court.

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stated Prior to the decision  
 of the Supreme Court in the  
 case of the U. S. vs. Fossett it  
 had been universally supposed  
 both by the Bench and the  
 Bar that the jurisdiction  
 of this Court was limited to  
 deciding on the validity of  
 claims, together with such  
 questions as to extent and  
 boundary, as might be inci-  
 dentally presented - but that  
~~the~~<sup>the</sup> location and survey were  
 to be determined by the Surveyor  
 General under the instructions  
 of the proper Executive department  
 of the Government -

In the case referred to it  
 was decided by the Supreme  
 Court, that this Court has  
 the power to direct a survey  
 to be made and to review  
 and correct the surveys of  
 the Surveyor General made  
 in pursuance of its decree  
 and to adopt and to make  
 its official decree there.

5 and the Court declares that  
"the jurisdiction of the dis-  
"trict <sup>Court</sup> does <sup>in the case</sup> not terminate until  
"the issuance of a patent  
"conformably to its decree"

W. S. vs. Yopatt.

21 How. p. 450-

It is on this declaration that  
It is contended that the sup-  
reme Court have by this decla-  
ration in effect affirmed the juris-  
diction of the district <sup>Court</sup> on the  
whole cause, until the patent  
is issued, and that it has  
power at any time prior thereto  
to reopen ~~the~~ it for proofs, on  
a proper showing and to review  
and reverse the decree it  
may have previously entered.

But such I do not conceive  
to be the true construction  
of the language of the sup-  
reme Court -

1. Had that Court intended  
to subordinate this principle  
with reference to land cases  
generally,

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b

1. The doctrine enunciated by the Supreme Court tho' it embraced all in general terms all cases, must have more especially referred to the case before them.

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If then the construction of their language, contended for be wholly ~~is~~ inadmissible with respect to the case in ~~an~~ their consideration it follows that it would be equally inadmissible with reference to other cases -

The claim of Tossatt had already been finally passed upon by the Supreme Court. By its decree allowed at a previous term it had been adjudged to be valid to the extent of one league to be taken at the election of the grantee or his assigns within the southern Eastern & western boundaries mentioned in the grant and this Court was directed to declare those boundaries -

Those boundaries within which  
the league was to be taken  
were accordingly declared by  
this Court but ~~the~~ <sup>for</sup> no  
Survey was made & approved  
nor was the precise location  
of the league fixed by ~~the~~ <sup>its</sup>  
decree of ~~this Court~~ -

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On appeal the Supreme Court <sup>held</sup>  
that the decree of this Court  
declaring the three external  
boundaries of the tract within  
which the league was to be  
taken was not a final decree  
but that the league must  
be surveyed and located  
by the Surveyor General under  
this direction of the Court -

In answer to the objection  
that this Court had no means  
of ascertaining the specific bound-  
aries of the Confirmed claim  
and no power to enforce the  
execution of its decree <sup>the Supreme Court</sup> ~~it~~ <sup>observed</sup>  
in effect that the Court  
had power to enforce the execu-  
tion of its decree by the Surveyor  
General - and added that



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its jurisdiction of the cause  
on the cause <sup>did</sup> does not ter-  
minate until the issuance  
of a patent conformably to its  
decree —

It will be perceived that  
the principle ~~was~~ thus laid  
down, referred exclusively to  
the jurisdiction of the Court  
to enforce a decree admitted  
to be final — and it newly  
affirmed its right to take  
such supplemental ~~in~~ the pro-  
ceedings to secure the due  
execution of its decree as might  
be necessary —

But it could not have been  
intended to declare that in  
that case, this Court would  
have had the <sup>authority</sup> to reopen the  
cause and to take further  
proofs ~~on~~ the questions as to  
the validity of the grant, or the  
extent of the granted land  
and to reverse the solemn  
adjudication of the Supreme  
Court by which those questions  
had been finally determined

9

If then the language of the Supreme Court cannot be interpreted as is claimed with reference to the case before it neither can it be so interpreted with reference to other cases —

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It is urged that the fact that this Court has jurisdiction after decree and survey to correct ~~and modify~~ the latter proves that the whole cause remains sub-judice until patent issued — that the decree is therefore not a final decree — but that it may be ~~reversed~~ vacated, modified on a proper showing such as would authorize ~~to~~ <sup>the granting of</sup> ~~to~~ rehearing, or of ~~table~~ leave to file a bill of review and that ~~the~~ ~~all~~ <sup>the</sup> purchases from the confinee are bound by the rules applicable to <sup>all</sup> purchases pendente lite.

It has already been shown that the Supreme Court does

not in the passage referred to have intended to affirm the rights of this decree, that this Court its own adjudication could be reversed by this Court — and that thus for the power ~~of this Court~~ over the cause which was held not to terminate until the issuance <sup>of the patent</sup> must be taken to mean ~~for the~~ not <sup>the</sup> power over the whole cause, including every question of validity and authenticity already determined by this Court or the Supreme Court, but power to enforce the execution of the decrees & to control and modify the actions of the Subregor General under it —

That the decree of this Court affirming the validity and extent of the claim is a final decree is evident from the fact that ~~appeal~~ every appeal which has yet been taken to the Supreme Court and passed upon without objection has

seen from such a decree—  
 It is therefore too late to  
 say that those decrees were  
 not final at least in the  
 sense of being appealable—  
 Again the Surveyor is by  
 law authorized to survey  
 only claims which have been  
 "finally confirmed"—unless  
 then the decree confirming the  
 claim be a final decree of  
 confirmation no survey can  
 be regularly be made— &  
 yet until a location be made  
 and the lines run the Court  
 is without the means of making  
 any other decree than the  
 general decree of confirmation.  
 It is plain therefore that this  
 decree was <sup>is</sup> regarded by the  
 law as the final decree of  
 confirmation under which  
 the survey is to be made  
 and this is evidently the  
 view of the Supreme Court  
 as explained in the case  
 of *Hendricks vs Castro* 23 How. 442

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In that case the court referring to the case of Jossatt v. Andam the it is stated that "though in the case of Jossatt it was held that if questions of a judicial nature arose in the settlement of the location and boundaries of grants the District Court was empowered to settle those questions upon a proper case submitted to it before the issue of a patent yet that it was not expected that the Surveyor would make returns to the District Court in every instance nor was it implied that the validity of a Survey depended on the recognition of that Court or its incorporation into a decree of that Court"

From these observations it is clear that tho' the intervention of this Court may be invoked in a proper case to settle disputed questions of boundary & location direct a location

by the Surveyor General in  
 its ~~the~~ its final decree yet ~~its~~  
 its interposition is not in every  
 case necessary - That the  
 survey is valid if not objected  
 to, and the decree of the  
 Court remains ~~its~~ final &  
 not only its final decree in  
 a technical sense but its  
 last act in connection with  
 the Cause -

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again

The proceeding by which this  
 Survey has been brought into  
 Court has been taken under  
 the provisions of the Act of  
 1860, by which the power ~~to~~  
 of this Court to correct ~~the~~ survey<sup>as</sup> declared by  
 the Supreme Court to exist  
 was regulated and defined.

By the provisions of this act  
 only those surveys made by  
 the Surveyor under the provision  
 of the 13<sup>th</sup> § of the act of 1851  
 could be ordered to be returned  
 and these surveys must be  
 as we <sup>has been</sup> have already remarked  
 of ~~land~~ <sup>lands</sup> finally confirmed -

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The 4<sup>th</sup> § provides that on the return of the survey evidence may be taken as to any matter necessary to show the true and proper location of the claim - and the Court is authorized to approve the survey or to correct and modify it, and the surveyor to cause a new survey to be made in obedience to the directions of the Court -

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It is clear that this act in no manner authorizes or contemplates the introduction of evidence as to any matter except those necessary to show the true location of the claim which has been confirmed ~~and the power of~~ <sup>and the power of</sup> ~~the Court~~ <sup>the Court</sup> to ~~make any other~~ <sup>make</sup> ~~act,~~ <sup>act,</sup> ~~then~~ <sup>then</sup> is limited to making a decision upon the correctness of the survey - & giving the proper instructions to the Surveyor - All testimony therefor relating to the validity

And authenticity of the claim is ~~under~~ ~~there~~ in a proceeding under the act of 1850 clearly in a dispute. If then the meaning of the Supreme Court, in the passage cited from its opinion in *U. S. vs. Rossatt*, were doubtful, the subsequent definition and regulation by statute of the power of the Court ~~over surveys made~~ ~~as to~~ surveys made after final decree, must be taken as ~~a limitation~~ ~~on~~ the restriction of the <sup>its</sup> jurisdiction to the precise matters specified in the statute, and as a legislative definition of the extent and nature, & mode of exercise of ~~those~~ <sup>its</sup> powers after final decree —

But ~~in truth~~ the meaning of the Supreme Court, as explained in *Hendricks & Castro* <sup>can</sup> not I think be mistaken. — And it merely affirms the jurisdiction of this Court to enforce



the execution of the final decree of confirmation, which jurisdiction the subsequent statute requires. Definitions for the exercise of which the subsequent statute prescribes more precise regulations—

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The proceedings under the act of 1860 are therefore closely analogous to a Bill in Equity filed to enforce the execution of a decree. In such cases it is clear that the original decree though obtained by fraud cannot be set aside except by original bill nor can the fraud be set up in the answer to the bill to enforce the same—

16 Cal<sup>a</sup> R. 530-1 Caldwell vs Ellis 1 Pil: Ch. 120  
~~12 Johns 521~~ 1 Bland. 120  
~~3 Vesey 488~~ 4 L Marshall 497  
~~5 Johns Ch: R 335~~ 1 Sandf. Ch R. 103  
 Daniels Ch 1788. 2 Wells Ch. 548

It is conceded that this Court has no jurisdiction to entertain a Bill of Review, under the special powers conferred by the

14

Statute in this class of cases. But even if it had, and if this were an application for leave to file such a bill it is not clear that it ought to be granted.

This claim was presented to the Board in April, <sup>March</sup> 1853.

It was presented to a tribunal instituted <sup>for</sup> with the sole object of ascertaining the validity of claims of the class to which it belonged. — The first question of the genuineness of the title papers was of course the first question to be inquired into. After an investigation extending over a period of more than 2 years and a half the Board determined <sup>decided</sup> that the papers were genuine.

The case was appealed to this Court and an opportunity afforded <sup>to</sup> the U. S. for further investigations and a additional proof. — On ~~the~~ the tenth

day of November '56 more than 3 1/2 years after the appeal the claim was confirmed in this

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18 Court take its opinion with  
without substance, and hesi-  
tations, doubt as to the authen-  
ticity of the title papers - It  
would not be easy to convey  
a clearer intimation that the  
case required further investiga-  
tion than was contained  
in the opinion of this Court -  
An appeal to the Supreme  
Court was taken - ~~It remained~~  
~~pending for~~

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On the 1<sup>st</sup> April 1857 the dis-  
tinct Attorney under instructions  
<sup>from</sup> of the Attorney General withdrew  
the appeal and formally con-  
sented in writing that the  
decree of this Court should  
stand as the final decree  
of confirmation - ~~The present~~  
It was after the abandonment  
of the appeal and the  
filing of this consent that  
the present owners effected  
their purchase - They are  
not denied to have been inno-  
cent purchasers for a large  
consideration in value -

The testimony to duce which it is now sought to introduce is derived from the Archives of the former Government. These Archives have <sup>at all times</sup> ~~always~~ been since the commencement <sup>of the suit</sup> ~~in~~ in the possession of the Govt U. S. They would at any time if carefully examined, have afforded ~~proved~~ incontrovertible proof of the true character of this claim - The fact that the seals on the title papers are ~~proved~~ ~~was~~ ~~discovered~~ known as the Sim Autow seal ~~is~~ ~~proved~~ ~~in~~ ~~Court~~ ~~in~~ ~~November~~ ~~1857~~ - It was probably discovered <sup>some</sup> ~~years~~ ~~previously~~ - It was <sup>there</sup> ~~known~~ ~~to~~ the U. S. less than 6 months after the dismissal of the appeal - nearly five years have elapsed since the decree became final by consent - and nearly four years since the ~~discovery~~ ~~of~~ ~~the~~ ~~seals~~ ~~was~~ ~~discovered~~ ~~detected~~ -

Under all these circumstances

It may well be doubted whether a Court possessing full Equity powers would suffer a Bill of review to be filed - The U. S. as a Court in Court is bound by the rules and principles which determine the rights of individuals.

See

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For more than 3 years <sup>8 1/2</sup> during which this case was pending before the Road & the District <sup>of Court</sup> the U. S. have omitted to present testimony as to the principal points in issue which on diligent search could have been obtained - No new document has been discovered nor any new evidence suddenly brought to light - A comparison has merely been made between the seals on these papers, & those on others admitted to be genuine - Of both the U. S. due power the requiring the appointed custodian - Though apprised by the opinion of this Court that the case

21 was open to the gravest sus-  
 picious the U. S. have through  
 their appointed agents formally  
 acknowledged the validity  
 of the claim and consented  
 that the decree confirming  
 it should be treated as final  
 If under these circumstances ~~and~~  
~~after the lapse of nearly 5 years~~  
~~from the time when the validity~~  
~~of the claim was thus formally~~  
~~a bill of review~~ I think it  
 more than doubtful whether  
 a bill of review could be  
 permitted ~~to~~ effect of and a  
 decree obtained, the effect of  
 which would be to divest  
 the title of those who would  
 have parted with their mo-  
 ney on the faith of the for-  
 mal acknowledgment of the  
 Government that the claim  
 was valid and the decree  
 of confirmation not only final  
 but just —

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- 12 Johns 521
- 13 Vesey 488
- 5 Johns Ch. R. 559
- Danvers Ch.
- 16 Wheat. 140
- 3 McLean 416
- 1 Barb. Ch. 272

But whatever be the true view  
 to be taken of this question  
 it is enough to say that trade

22 in a proceeding to correct  
a survey under the act of  
1860. This Court has no juris-  
diction to ~~by course~~ review &  
revoke the final decree  
whereby the genuineness and  
validity of the claim have  
been established. And thus  
whether the final decree is  
that of the Board or this  
Court which has become final  
by the dismissal of the appeal  
or is the decree of the Supreme  
Court

No other objection being made  
the survey is approved.

N<sup>o</sup> 413.

U. S. Dist. Court.

The United States.

vs.

Francisco Rico, et al.

Opinion approving Survey.

Filed December 9, 1861.

W. H. Chewers.

Clerk.

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U. S. D. C.  
N. D. of California

States Term, Jan'y 8. 1862

U. S.

vs

Francisco Rico &

Jose a. Castro

And for further objection  
to the confirmation of the Survey  
heretofore returned to this Court,  
the U. S. show: That the  
description of the Land claimed  
in this case as given in the  
alleged Grant and decree of con-  
firmation is too vague & uncertain  
for definite location, and the Survey  
is merely one of eleven leagues of  
land taken at random

W. H. Sharp  
U. S. Atty.

P. Della Torre

of Counsel

Leave is granted to file above exceptions  
nunc pro tunc as of Sep 7. 1861.

Edw Hoffman  
Dist Judge

413

U. S. District Court

The United States

Francisco Rico et al

Further exceptions  
by the United States

Filed Jan'y 8. 1862

as of Sep 7. 1861.

W. A. Cleaveland.  
Clerk.

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At a stated term of the District  
Court of the United States for the  
Northern District of California, held at  
the Court Room, in the City of San Francisco,  
on the 10<sup>th</sup> <sup>Scuttle</sup> day of January 1862.  
Present  
Hon. Ogden Hoffman, Dist. Judge.

The United States }  
vs } No 413.  
Francisco Rico, and }  
Jose Antonio Cashe }

It appearing to the Court that the claim of the  
above named Claimants, was confirmed by de-  
-cree of this Court of November 10 1856; that  
on April 1<sup>st</sup> 1857, a Stipulation was filed  
in open Court, and an order entered giving  
leave to said Claimants to proceed under said  
decree as under final decree; that thereupon  
the Surveyor General of the United States,  
for the State of California, caused a Survey  
to be made of the land confirmed by said  
decree, that in pursuance of an order of this  
Court, the said Surveyor General on October  
24 1860, returned to the Clerk's office a certified

copy plat of his said Survey, and that  
Exceptions to said Survey were duly filed  
by the United States. That on January 21.  
1861. James Cass was allowed to intervene  
for the protection of his interest, and on  
Feb. 27. 1861. J. C. Stebbins, and others  
were allowed to intervene for the protection  
of their interests, whereupon testimony was  
duly taken upon said Exceptions, the  
Cause regularly brought to a hearing,  
Counsel for the respective parties heard  
and the Case submitted.

Now therefore, due deliberation  
being had in the premises, it is ordered, ad-  
judged and decreed that the said Exceptions  
be and hereby are overruled

And it is further ordered and adjudged  
and decreed that said Survey, made in the  
month of May 1857, the field notes whereof  
were captioned by said Surveyor General  
June 4. 1858. is a good and valid Survey  
of the land heretofore confirmed to the said  
Rice, and Cash, and the same is hereby  
approved and confirmed to the extent of

Eight thousand Eight hundred and

forty Eight thousand Eight hundred and  
Eighty Six <sup>1/2</sup> Acres, as shown by the  
said certified copy plat. hereto annexed  
and made part of this decree. marked  
"Approved January 10<sup>th</sup> 1862. Ogden  
Hoffman, U. S. Dist Judge". - to which said  
plat reference is had for a more particular  
description of the land hereby finally con-  
firmed to the said Claimant Rice & Foster.

Ogden Hoffman  
U. S. Dist Judge

413 ND  
U.S. District Court  
North Dist  
California

The United States  
vs.

Francisco Rico &  
Jose Antonio Cashe

Deceit

Filed January 10, 1862.

W. A. Chiles

Clerk

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At a Stated Term of the DISTRICT COURT OF THE  
UNITED STATES OF AMERICA, for the Northern District of  
California, held at the Court Room, in the City of SAN FRANCISCO,  
on *Monday* the *13<sup>th</sup>* day of  
*January* in the year of our Lord one thousand  
eight hundred and ~~fifty~~ *sixty* ~~two~~.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v.

Francisco Rico, et al

No. 413.

This cause having  
come on to be heard on objections filed to  
the survey and location by the Surveyor General  
of the United States for California of the land  
heretofore confirmed to the claimants, pursuant  
to the ~~act~~ provisions of the Act of Congress approved  
June 14. 1860; and the said survey and location  
having been approved by the Court by its final  
decree entered January 10. 1862; Now, on applica-  
-tion of Wm N. Sharp Esq, United States Attorney,  
It is ordered, that an appeal in behalf of ~~and~~  
the United States from said final decree be  
and the same is hereby granted; and that a  
certified transcript of the pleadings, evidence,  
depositions and proceedings in said cause be  
sent to the Supreme Court of the United States  
without delay.

{ U. S. Marshall's Office  
Nor: Dist. of Cal<sup>a</sup>

I hereby certify that I have this the 13<sup>th</sup>  
day of January, 1862, served the within Order  
upon the Surveyor-General for Cal<sup>a</sup>, by delivering  
a certified copy thereof to Edw. Conway Esq,  
Chief Clerk in U. S. Surveyor-General's Office  
San Francisco }  
Jan'y 13<sup>th</sup>, 1862 }  
Wm Rabe, U. S. Marshal  
By, M R Grant Deputy

413.

UNITED STATES DISTRICT COURT,  
Northern District of California.

The United States.

vs.

Francisco Rico et al.

Order granting  
appeal in behalf  
of the U. S.

Filed January 13, 1862.

M. R. Grant  
CLERK.

By

DEPUTY.

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Towne & Bacon, Printers, 125 Clay Street, corner Sansone.



The United States

v.

Francisco Rico

No 413.

U. S. Court

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The Intervenor James Profs, contends that the Dismissal of Appeal, made by the Attorney General, and the Stipulation of the District Attorney in pursuance of Instruction of the Atty General that the claimant have leave to proceed, as under final decree, made the Decrees of this Court and of the Land Commission final, in other words it was a consent decree and, is final and conclusive vs. the United States.

A decree by consent be set aside on motion.

Movell v. Lawrence 12 John R. 521. 529. 534 citing Harrison v. Rumsey 3 Vesey 488, and Lord Stardwicke said "he would by no means set aside a decree obtained by consent of Counsel on both sides for it would be most dangerous, and it was an established rule not to do it, nor would he make

the precedent"

In *Bradish v Gee* (cited 12 John 534) Amblex 229 case 115. "where a decree is made by consent of Counsel, there lies not an appeal or re-hearing, tho' the party did not really give his consent but his remedy is against his Counsel. (citing *Northcote v. Northcote* Colles Practice Cases 287. 7<sup>th</sup> Viners Ab. 398. *Allanson v. Dolben* Colles P.C. 299. *Toder v. Gansam* 7 Brown P.C. 244. *Blundell v. McCartney* 2 Ridg. P.C. 559. 591. 2 Vesey 488 *Wall v. Bushly*. 1 Brown 484, and many other cases, but if such decree was by fraud and covert, the party may be relieved against it, but not by rehearing or appeal, but by original bill." Citing *Richmond v. Tallicor* 1 Dick 38. 1 Peers W. 734. 2 Eq. C. Ab. 516. to the same effect is 5 John Ch. R. 555. 569. affirmed by the Court of Errors 567. (668.) *Lansing v. Albany Ins. Co.* Hopkins Ch. 102. The fraud or collusion must be between the Counsel who consented to the decree. *Hoffmire v. Hoffmire* 3<sup>rd</sup> Edw. Ch. 173 - none is pretended on the part of the Attorney General or the District Attorney.

"There cannot be a rehearing after a

consent &c" *Coster v. Clarke*

decree by consent &c" *Coster v. Clarke*  
3 Ed. Ch. 405.

*White v. U. S. Bank & Hammond*  
Ohio 528 *Daniels Ch P. Vol 3 (1802) 1658.*  
1 *Bland*, 512. *Ringgold's Case* 1 *Page*  
544.

Bill of Review will not be set aside  
decree entered by consent - (*Daniels Chy. Proc.*  
(1726))

We say further that tho' this court should  
be satisfied the Grant was a forgery and  
the decree of the Land Commission and  
of this Court was obtained by fraud the  
same is final and conclusive, and can only  
be set aside by Original Bill.

*Burch v. Scott* 1. *Bland* 112  
*Edmondson v Mosely* 4 *J. J. Marsh* 497  
1 *Sandford Chy.* 103 *Wright v. Miller*  
*Daniels Chy. P.* 1788 (1727). Citing Lord  
Bacon's Ordinances.

The proceedings (Survey) to locate the  
Land in pursuance of the Decree, is like  
a bill (giving the most favorable view  
to the United States) to obtain satisfaction  
of an original decree,

"On a bill to obtain satisfaction of a decree the defendant cannot set up fraud in obtaining the decree, as a defence, he can avoid himself of this only by original bill."

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2 Hill Chy 548 (S. Carolina)  
Caldwell v. Giles. The decree of this Court was that the Grant was genuine, not a forgery. That was the question directly in issue. Mott v. Smith 16. Cal. 535.

That the claimant had title to the Lands described in the Grant and deseno.

We request the Court to read 16<sup>th</sup> Cal. 547-8. We quote from 550. 551.

"Assuming then as a matter of fact the Grant was issued + + without authority, the answer + + + is perfect, it has been decided otherwise by the Tribunals established by the U. S. for the express purpose of ascertaining and determining the validity of Grants claimed to have been issued to individuals <sup>by</sup> authority of the Mexican Government. This particular Grant those tribunals have

passed upon and pronounced valid &c  
 + + + . The United States have  
 their Officers to take charge of their  
interests, and to conduct legal proceedings  
 in their behalf before the tribunals of  
 the Country: &c + + . Both of  
 these Officers (U. S. Atty Genl & U. Atty)  
 have consented that the appeal + + +  
 be dismissed &c + + + "The validity  
 of the Grant is therefore the law of  
that case. It can never be questioned  
 again by the Government + + + either  
collaterally in an action of Ejectment,  
 or directly in any other form of pro-  
 ceeding, It is a closed question for  
all time."

Now no difference can be made  
 in the application of this rule, between  
 a Grant purporting to be issued by  
 one who had no authority, and a  
 Grant purporting to be issued by author-  
 ity, but not genuine.

We again refer the Court to  
 Caldwell v. Giles & Riley Chy. R. 120  
 as decisive of the view that upon  
 the question of Survey the U. S.  
 cannot assert that the Grant was  
a forgery. because it is attacking the

decree collaterally. Gregory v. McPherson  
13 Cal. 574.

Again, we say that 5 years  
having elapsed from the rendition of  
the decision and decree of this Court  
confirming the claim. An original  
bill to set aside that decree will not  
be sustained.

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The decree of this Court was made  
and entered Nov. 10. 1856 5 years years  
expired Nov. 10/11 1861. -

Thomas v. Harvie 10 Wheaton 146.  
7 Blackford 52. 3 McLane 41. 1  
Barbours Ch. 273.

Scarbrick v. Lord Skelmersdale 4  
Young & Coll. 79-106.

Again this decree having by consent  
of the parties made final, and entered  
Bill of review to set it aside or  
reverse it will not lie.

"If a decree has been taken  
by consent; a bill of review will  
not lie against it, for consensus tollis  
errorem".

Webb v. Webb 3 Swanst.

Lansing v. Albany Ins. Co. Hopkins  
Daniel Chy. Prac. (1726) 1787.

But a Bill of Review cannot be maintained and the decree set aside as against Rops (intervenor) a bona-fide purchaser without notice for a valuable consideration.

1 Because Rops was informed in the most solemn manner by the decree And by the Attorney General's Dismissal of appeal after examination of the case (Vol 10. U. S. Sat large 1.99. \$12, that the Grant was valid and the Claimant had a title. He had a right to assume the decrees of the L. C. and of this Court to be correct but without assuming the fact the U. S. thought her highest Law Officer told him so. and that Law Officer put it in the power of Rico- to sell the Land as a confirmed and valid claim, as between individuals such conduct would estop, the one from asserting as against the other, that the title was fraudulent.

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U. S. District Court

The United States  
— vs. —  
Francisco Rico.

Brief for  
Intervenor James Ross

4  
5.

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1. & dist filed

McDougal & Sharp

*[Faint, illegible handwritten text, likely bleed-through from the reverse side of the page.]*



U. S.

R

Francisco Rico & José A. Castro

Julia Torre for U. S

1. The grant is fraudulent.
2. If the original claim acts were before the Court it would be bound to ~~re~~ vacate its decree as against them
3. That it must do so as against innocent bona fide purchasers for value — purchasing subsequently to the dismissal of the ~~the~~ appeal

1. As to just point the effect of the proofs is not controverted —

2. The decree is reversible as against original parties

3. Purchasers pendente lite have no higher rights

1 Story Eq. Jur. §405

2<sup>d</sup> Story Eq. Jur. 928

11 Decey p. 197 #  
1 Johns Ch. R. 566.77

Patterson

The parties in interest are  
bonâ fide purchasers for value.

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1. The same rules apply to the  
U.S. as proprietors, as to other  
parties —

2. The decree of this Court estab-  
lished the validity of the  
title —

3. It found the claimants  
and the survey —

4. To show assent of the grant to be  
a forgery is to attack the  
decree collaterally —

Caldwell vs Gels 1 Niles Ch. 120 —  
1 Bland. Ch 112  
4 J. J. Marsh. 497  
1 Sandf. 103.  
2 Wells Ch. 548

A decree obtained by fraud  
can only be set aside by original  
bill - but not on a  
bill filed to enforce original  
decree

see authorities just cited -

5 This is a consent decree

The Atty Gen<sup>l</sup> gave notice  
that no further appeal will  
be prosecuted - and the  
Dist. Atty stipulates that the  
party may act under the de-  
cree already rendered as un-  
der final decree -

more especially as 3<sup>d</sup> party  
have purchased on the faith  
of it -

Stipulation by <sup>Dist Atty</sup> Atty Gen<sup>l</sup> of  
April 1. 1857 - order entered -  
July 10 1858 Pop purchases

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U. S. Dist. Court,

U. S.

- vs -

Fran<sup>co</sup> Rico, et al.

Notes Arguments.

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Francisco Rico et al

IN LAND CASES.

Dist. Court No. 413

Land Com. No.

To

H. S. Lowe  
Patterson & Storr

R. C. Hopkins

You are hereby notified that the testimony of

in the above entitled cause in behalf of *the United States*  
will be taken before me, the undersigned, a Commissioner duly appointed by the  
Circuit Court of the United States for the Districts of California to take acknowledg-  
ments of bail and affidavits, and also to take depositions of witnesses, in civil causes  
depending in the Courts of the United States, pursuant to the Acts of Congress  
in that behalf, commencing on *Saturday* the *3<sup>d</sup>* day of *Aug*  
A. D. 1867, at *one* o'clock, *P.*M., and continuing from day to day until finished, at  
my office, No. *6* U. S. Court Rooms; and you are hereby further notified to then  
and there appear and propound such questions to the said witness as you may deem fit.

Dated at San Francisco, in the District aforesaid, this *29* day of *July*  
A. D. 1867.

*Curtis McAllister*

U. S. COMMISSIONER.



Copy of Service of the within notice this day  
acknowledged July 29th 1861.

W. W. Stone  
Atty for Intervenor  
James P. Ref

I admit service of a copy of the  
within this 29<sup>th</sup> day of July 1861  
H. S. Lowe  
Atty.

Original  
No. 413

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Francisco Pico et al

NOTICE.

To

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C. M. Wallister

U. S. COMMISSIONER.

413 ND

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

United States vs Case No. 413  
Pico et al vs Rancho of  
Rancheria de Sta. Ines

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To the Honorable Ogden Hoffman  
Judge of the District Court of the United  
States for the Northern District of California  
The petition of James C. Stebbins  
Salisbury, Halsey & Albert Packard  
respectfully shows that they are interested  
in the survey of the land finally con-  
firmed in the above entitled case  
that they are owners in fee or tenants  
in common of the Rancho known by the  
name of Rancho de Sta. Ines, that  
the said Rancho Rancho de Sta. Ines  
was originally granted to Francisco Pico  
& Francisco Castro, & through various  
mesne conveyances from the said Pico  
& Castro title in your petitioners, that  
the claim for said Rancho Rancho de  
Sta. Ines was confirmed to the  
said Pico & Castro by the Board of United  
States Land Commissioners for the  
State of California, and this Honorable  
Court, & that the said Pico & Castro  
have conveyed a part of said Rancho to  
your petitioners

And your petitioners further show  
that the said Rancho Rancho de Sta. Ines  
has been surveyed by the United States  
Surveyor General for California

which said Survey has been Approved  
by said Surveyor General, and that  
the land embraced within the said  
Survey was granted as aforesaid  
that by virtue of orders of this Honorable  
Court said Survey has been returned  
into Court, is now pending for  
examination & adjudication

Wherefore your petitioners pray  
that they may be permitted to intervene  
in the matter of the examination &  
adjudication of the survey of said  
Ranch Ranchario de Stanislaus for the  
protection of their rights in the  
premises

Salisbury Haley  
James C. Stephens

State of California )  
City & County of San Francisco ) SS —

~~James C. Stephens~~ & Salisbury Haley being  
sworn say that <sup>he is one of</sup> they are the two persons  
named in the foregoing petition  
that <sup>he has</sup> they have read said petition &  
know the contents thereof & that the same  
is true of <sup>his</sup> their own knowledge except  
as to the matters which are therein stated  
as information & belief & that as to  
those matters they <sup>he</sup> believe it to be true

~~James C. Stephens~~  
Salisbury Haley



U.S. Dist Court

413

The United States

vs

Rico et al

Petition for Detention

by L. C. Stebbins

Salisbury Haley &

Albert Packard

Copy

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H. S. Love

atly for

Petitioners

United States District Court  
Northern District of California

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Francisco Rico et al, claimants  
of  
The United States,

No 413.

The Decree of Confirmation was entered  
in Land Commission

This Court affirmed that decree

The District Attorney & city of  
claimants stipulated that no fur-  
ther appeal would be prosecuted

April 1. 1857.

This Court on such stipulation  
entered decree that claimants might  
proceed as under final decree.

April 1. 1867

The Survey Gen of the U.S. under  
said final decree, made a final  
Survey.

James Ross, the intervenor made  
a bona fide purchase of the  
premises.

July 10th 1858

The Gen Gen. approved said

Survey.

The approved Plat of Survey  
was by the Gen. S. forwarded  
to Washington - before the  
Passage of the Act of June 1860.

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An Order was made under  
the Statute of 1860. for a      October 1860  
Return of the Survey into Court

The approved Plat of Survey &c  
was filed in this Court      October 1860

No testimony in relation to the  
Survey has been taken.

The claimants, Geo James & Co  
Intervenors, Successors to the  
claimants

are satisfied with the Survey.

The Survey corresponds to the  
calls of the Grants, and the  
decrees. (Q) is in a compact  
form. following S lines &c.

The W. J. cannot under pre-  
tence of Correcting the Survey  
attack the Grant or decree.

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- 1 Because the decree establishes *Doll v Meader*  
the Validity of the Grant. *Mull v Smith* 16 Cal 534
- 2 Because the W. J. is a party  
to and bound by it -
3. Because this would be attacking  
the decree Collaterally. *Millsbaugh v All Pride & Saigo*  
79, 509 & Saigo 176. *Graham*  
*v Elmer* *Hanning* Ch 265.
- 4 Because by the Decree, and  
the dismissal of Appeal. The  
W. J. induced Rose to purchase  
and pay his money. And it  
would be a fraud on him  
to go behind the decree -  
Collaterally  
*Estep v Watkins* 1 Blund Chy  
486.  
"And a decree obtained by fraud  
can be set aside only by original bill,  
and the fraud cannot be set up  
by answer to a bill to enforce the  
decree. *Callin v Giler* 1 Riley  
Ch 120. *Burch v Scott* 1 Blund  
112. 4 J Marsh 497. *Wright*  
*v Miller* 1 Sandford Ch 103.  
2 Mills Chy 548.
- 4 Because in that view it  
becomes a question, whether a  
party who has placed in the  
hands of another, to defraud a  
third, shall be allowed to  
assert that which would depriv-  
e the third of rights acquired  
on the good faith of the first  
party. i.e. the W. J. by dismissing  
the appeal, asserted the validity  
of his Grant. Claimant, was  
thus enabled to sell it as a

*Bona fide Purchaser*  
*Story*, Eq 64.

No 413.

W. D. South

Francisco Ben et al

of

The United States.

Mem or Ag to make

Survey final

M. W. Stern  
Sally for James

Does Antecedent

Valid and confirmed Grants. and  
thus get Money from Pasa  
or some other bona fide  
purchaser.

Hanks

The United States  
vs  
Francisco Pico

This claim in this case  
was confirmed by the Board  
of Commissioners -

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We have examined the testimony  
contained in the <sup>tray</sup> crypt and  
tho' there is <sup>room for doubt</sup> ~~much~~ to suggest  
~~suspicion~~ as to <sup>the</sup> genuineness <sup>of the grant</sup>,  
we have found nothing to jus-  
tify in reversing the decision  
of the ground that <sup>it</sup> ~~the~~ ~~grant~~  
is evidently a forgery.

It is true that a fatality  
not usual seems to have at-  
tended this grant. For not  
only <sup>see do</sup> ~~to~~ the signatures of James  
no & Michel Torrey of some  
who present as <sup>some what</sup> ~~un~~ ~~fortu~~ ~~ately~~  
suspicious appearance but  
the expedite which might  
have confirmed or dispelled  
doubt as to the authenticity  
of the grant has been lost  
while in the custody of  
an officer to whom such

documents were not ordinarily  
 entrusted — But whatever  
 doubts may be suggested  
 by these and other circumstances  
 we are met by the positive  
 testimony of witnesses who  
 saw the grant executed as  
 they swear and one of  
 whom actually drew it up.  
 The Board who heard the  
 witnesses testify and who  
 had the means of judging  
 of their credibility then this  
 Court possesses confirmed  
 the claim, and the case  
 has been submitted to this  
 Court without argument or  
 observation of any kind on  
 the part of the U. S. and  
 no additional testimony has  
 been taken since the decision  
 of the Commissioners — and  
 we are left to confirm or  
 reverse the decision of the  
 Board with only such light  
 as to the merits of the case  
 as is afforded by a perusal  
 of the transcript —

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To pronounce this claim  
 grant a forgery ~~something~~  
~~more~~ should app we  
 should retain something  
 more than a suspicion as  
 to its genuineness - and as  
 the Board who saw the  
 witnesses and examined the  
 original grant (which has  
 not been submitted by either  
 side for our inspection) con-  
 firmed the claim we do  
 not feel authorized to reverse  
 their decision -  
 A decree of Confirmation must  
 therefore be entered



40

No 413,

The N. S.

H

Francisco Nico

Simon

Proved up to  
no 39 - This corner  
next I think

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*See map...*

*...of the ...*

*...of the ...*

*...of the ...*

*...of the ...*

*...*

*...*

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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, July 11<sup>th</sup> 1856

Sir;

I am directed by this Board to 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 the said Board, of the Documentary Evidence and of the Testimony of the witnesses upon which the same is founded, in Case No. 767 on the Docket of this Board, wherein Francisco Rico, et al, are the Claimants, for the place known by the name of "Rancheria del Rio Estanislau" Which Transcript I have the honor to accompany herewith, and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

Geo. Fisher  
Sey

To the Hon. J. A. Monroe Esq.

Attorney General of the United States,

Washington, D. C.

Clerk of the U. S. Dist. Court for the  
Northern Dist. of California.