CASE NO.

6

NORTHERN DISTRICT

MISSION OF DOLORES GRANT

JOSE DE JESUS NOE

CLAIMANT

LAND CASE 6 ND pgs. 229

FEB 6 1963

CASE NO. 6 ND
PAGE NO. 1

Transcript of the Proceedings

in Case No. 17.

Mission of Solors.

Ibll de Jesus Noé

vs

United States

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CASE NO. 6 ND
PAGE NO. 2

Office of the Board of Commissioners to ascertain and settle the private Land Claims of California

Be it remembered that on this Monday the second day of February Anno Domini, one thousand eight hundred and fifty two, before the Commissioners to ascertain and settle the private Land claims in the State of California, sitting as a Board, in the City of San Francisco in the State aforesaid, in the United States of America, the following proceedings were had, to wit;

The Petition of José de Jesus Noé for a tract of Land adjoining the Mission of Dolores, was presented and ordered to be filed and docketed No 17. And is as follows to wit;

No 17.

José de Jesus Noé, Claimant
vs
The United States, Defendant

Petition of Don José de Jesus Noé

To the Honorable, The Commissioners for settling private Land Claims in California.

The petition of Don José de Jesus Noé a resident of County of San Francisco, and State of California

respectfully showeth—

That being a Mexican by birth and residing in San Francisco de Assis in the present county of San Francisco and being possessed of a considerable number of Cattle or stock, he presented a petition in writing to Don Pio Pico Governor ad interim of California on the 28th day of May 1845, soliciting for himself the tract of Land, immediately adjoining the Ex mission "Dolores" a description of the boundaries of which will be given hereafter—

That said solicitation having been referred to the Judge of the second constitutional court or tribunal at San Francisco and the same having reported favorably thereon, the said Pio Pico, in virtue of the authority vested in him, as said provisional Governor by the constitutional law of Mexico, by a decree, dated December 23d 1845 the said Jose de Jesus Noé to be the owner of the said tract of land and directed the proper document constituting title to be delivered to the said Noé—

That on the 23d day of December A.D. 1845 the said Pio Pico by virtue of the authority aforesaid made in due form of Law and delivered to said Jose de Jesus Noé, a grant of said Land petitioned for—

That thereafter, to wit on the eighth day of May 1846 the Espediente of said title was duly presented to the Asemblo of the department, then setting at Angeles and referred by the same to the committee on Commons and waste lands that said committee after due investigation reported favorably thereon and declared that the deed or grant delivered to the said Jose de Jesus Noé under date of December 23d

A.D. 1845, was in complete accordance with the laws of August 18th 1824 and the fifth article of the regulations of Nov 20th 1828—

Whereupon the Most Excellent assembly of Department on the 17th day of June 1846 accepted the report and approved of the opinion of said committee and confirmed said grant—

That the said solicitation and decree and the official copy of said grant, together with the map accompanying said Solicitation and the record of the said action of the said assembly and said committee are now on file among the archives of the Department of Upper California, now in the custody of the Surveyor General of the United States for the State of California and that copies of said documents duly authenticated and certified by said Surveyor General, together with the translations of the same are herewith submitted and prayed to be made a part of this petition.

That said original grant is now in possession of Petitioner and ready to be offered in evidence—

That said tract of land is situate in the Northerly part of said County of San Francisco, and west South west of the Mission of Dolores and that the boundaries thereof are as follows—

1st Commencing at a point where a small brook cross the road leading from the Church of the Mission de Dolores to San José about fourteen chains southerly from said Church, running, thence North 69° 10' W about 101 chains to a point due North

from the centre of the Laguna Sica at the distance of fifteen chains from said centre –

2nd thence South 70° W. to the Ocean.

3d commencing at the first station running southerly along the said road and keeping the most Easterly track thereof known October 18th 1850 as the Camino Real, to the point where the said Road crosses the Gap or hollow known as the Paso Suela situated at a distance of about three hundred chains from the first station –

4th from said point at the Paso Suela N. 39° 30' West, to the line of low water mark of the shore of the Ocean –

5th from the termination of said line Northerly along and following the sinuosities of said line of low water mark to the end of the second line –

And your petitioner further says that said boundaries comprise between one and two square leagues of territory and that on obtaining said grant he built a house thereon and fenced in a part of said land according to the conditions specified in said document as will more fully appear by the map herewith submitted and continued to reside thereon up to this date, occupying said tract for grazing and other purposes, and exercising complete and undisputed ownership over the whole thereof and has not been interfered with in the occupancy and ownership of said lands by any person claiming title adverse and paramount to

That of your Petitioner

Your Petitioner further shows that on the 18th day of October 1850 in accordance with the order of General Riley dated he caused an official survey to be made by the Deputy Surveyor of San Francisco of one Square league of said land, a map of which said survey duly certified, your petitioner is ready to offer in evidence

Your Petitioner therefore asks after due proofs in the premises, that your Honors would establish and confirm his claim and title to said Land, as above set forth and described.

Clarke Taylor & Beckh
Attorneys for Petitioner

State of Presentation

Filed in Office 2nd day Feby 1852
Geo Fisher
Secy

Upon which petition the following subsequent proceedings were had in their chronological order, to wit;

Friday April 23d 1852

In case No 17, Jose de Jesus Noé the deposition of José Cruz de Sanchez a witness in behalf of the Claimant taken before Commr Harry I. Thornton was filed and is in the words and figures as follows, to wit; viz —

— 56. 57. & 58 —

pages of this Transcript —

In case No 17 Jose de Jesus Noé, John B. Polley filed his protest against the confirmation of the claim of said Noé; which protest is ordered to be filed among the papers in the said case and is follows to wit; Vide 21. 22. 23. 24. 25. pages of this Transcript.

Thursday April 29th 1852

On motion of the counsel for the Claimants, the following cases were set for hearing to wit;

No 17. Jose de Jesus Noé, "Mission of Dolores"
No 21. William Johnson, "Johnson's Rancho"

Thursday May 6th 1852.

Case No 17. Jose de Jesus Noé on motion of the counsel for the Claimant set for hearing on Tuesday the 18th Instant.

Monday May 10. 1852

In case No 17. Jose de Jesus Noé, the Deposition of David Spence a witness in behalf of Claimant, taken before Commissioner Harry I. Thornton was filed, and is in the words and figures as follows to wit; Vide—

54. 55. 56.

pages of this Transcript.

In the same case annexed to the deposition of David Spence, a copy of the original grant in Spanish and a translation thereof in English was filed which Translation is in the words and figures as follows to wit: Vide— 33 & 34

pages of this Transcript—

Tuesday June 1st 1852

The following Cases were set in their order for hearing to wit;

7 No 28. Pearson B. Reading
" 17. Jose de Jesus Noé et al

Wednesday June 23d 1852

Case No 17 Jose de Jesus Noé was set for hearing to morrow at 11 O'clock A.M.

Thursday June 24th 1852.

Case No 17. Jose de Jesus Noé "Mission of Dolores", called, Argument opened by Mr Clarke, one of the counsel for the Claimant, answered by the United States Law Agt, and case taken under advisement by the Board.—

Wednesday July 21st 1852

In case No 17 Jose de Jesus Noé Mission of Dolores, the U.S. Law Agent filed an agreement between the parties litigant, relative to the admission of Evidence which is in the words following to wit:

Agreement

Claim of Jose de Jesus Noé to one Square league of Land, adjoining the Mission of Dolores } Before the U.S. Land Commissioners for ascertaining and settling private land claims in California

It is hereby agreed between the above named claimant and the United States, that all laws regulations orders and decrees applicable to the questions arising in said claim, are to be considered as in evidence and taken as proved in the investigation and adjudication of said claim, by board and by the courts, in all its subsequent stages up to a final decision including particularly the law of the Mexican

Congress of August 18th 1824, relating to the Colonization of Lands, and the Regulations of the Mexican Executive, of the 21st of Novr 1828

San Francisco
July 19th 1852

Geo W. Cooley
U. S. Law agent
Clarke Taylor & Beck
Attys for Claimant

In Case No 17. José de Jesus Noé, for one square league at the Mission of Dolores, the U. S. Law agent filed an agreement between the parties litigant, relative to the admission of evidence which is as follows, to wit;

Before the Board of Land Commissioners for ascertaining and settling private Land claims in California –

{José de Jesus Noé claiming one square league of land adjoining the Mission of Dolores. No 17.–

In the matter of the above claim it is agreed between the United States and the Claimants that copies of the Memorial of Manuel Jimeno in relation to Lands situated within the twenty frontier and ten littoral leagues, and to Lands occupied by the Missions, of the report of the Committee on Agriculture of the Departmental Assembly thereon and of the proceedings of the Departmental Assembly relative to said memorial, and report of thier Committee, all filed in the case of Cruz Cervantes, together with a copy of the communication of the Political Chief of California relative to these subjects made to the Minister of the Interior of the Republic of Mexico and circular of said Minister addressed to the Governor of the Department

of the Californias, under date of September 15th 1840. Copies of which two last named documents are filed in the case of Carmen S. de Bernal, et als, being case No 30. on the Docket of Land Commissioners shall all be considered as in Evidence and taken as proved in this case and may be referred to and considered by the Board and by the United States District and Supreme Courts, in the investigation and adjudication of this claim, throughout all its stages, up to the final decision thereof — The Originals of said documents being in the Archives, in the possession of the U.S. Surveyor General of California

Geo. W. Cooley
U.S. Law Agent

San Francisco
July 21st 1852

J. Clark
Atty for Claimant

In case No 17. José de Jesus Noé, the secretary filed the documents with their Translations as enumerated in the agreement between the U.S. Law agent and the counsel for the claimant, filed on the 22d. inst which documents and Translations, marked Exhibits **EFGHIJKL**, are as follows to wit; (Vide of this Transcript, page 35. 36. 37. 38 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50

Saturday August 7th 1852

In case No 17 José de Jesus Noé, for one square league of Land, near the Mission of Solano, the counsel for the Claimant filed an Authenticated copy of the Extract from the Journal of the Departmental Assembly, as Evidence in behalf of the

Claimants, with the consent of the U. S. Law agent and the sanction of the Board, which was ordered to be filed and spread on the Records, marked III and is as follows, to wit; Vide of this Transcript page 50 & 51

In case No 17. José de Jesus Noé for one square league of Land near the Mission of Solano, the Secretary filed the Translation of the Extract from the Journal of the Departmental Assembly, marked III. filed on the 7th inst; which Translation being marked IV. is as follows, to wit; Vide of this Transcript page 51

Saturday August 14th 1852

In case No 17. José de Jesus Noé; for one square league of Land, near the Mission of Solano — Commissioner Harry I. Thornton, delivered the opinion of the Board, declaring the claim valid; The entering of the Decree of final Confirmation being reserved for a future day —

In case No 17. José de Jesus Noé for one square league of Land, near the Mission of Solano, on motion of the Counsel for the claimant the following order was granted, to wit;

Order of Survey

For the purpose of determining with precision and certainty the limits and boundaries of the Land claimed by the petitioner in his petition No 17. and which was decided by the Commissioners on this day to be a good and valid claim, the final confirmation being postponed to a future day

It is on motion of Counsel for Claimant ordered, that an Initiatory Survey, under the superintendence of the United States Surveyor General of California, be made, of the Land known by the name of San Miguelito, in extent one Square league, locating the same, according to the description given in the grant and accompanying Map or plan and as proved by the testimony filed in the case viz: Beginning at a point on a dry creek or branch at the distance of about 14 chains, Southerly from the old Mission Church; where the main Road from the Mission of Solona crosses the same; and following this Road southerly to the Portezuela, or pass in the Mountains; thence North 39° 30', West 15.07 chains, thence North 4° 30', West 279 10/100 chains, thence North 70° East 107 50/100 chains thence Easterly to the place of beginning— But this order is not in any manner to determine as against the United States either the question of title, the construction of the grant, the location, boundaries or extent of the land to which the Claimant may be entitled—

Saturday December 18th 1852

Case No 17. José de Jesus Noé, for one square league of land, near the Mission of Solonese Commissioner Wieland Hall delivered his opinion in this case.

In the same case, Commissioner Harry I. Thornton, delivered the decree of final confirmation of this Board—

Order for Recording of Opinions &c.

Ordered that the opinion of this Board delivered by Commissioner Harry I. Thornton on the 14th of August 1852; the

Opinion of Commissioner Hiland Hall delivered this day, and the decree of Final Confirmation of this Board, also delivered this day, in this case, be recorded on the Journal, Which opinions and decree are in the words and figures as follows to wit;

Opinion delivered by Commissioner Harry I Thornton August 14th, 1852.

This claim is founded upon a grant made and delivered to the Claimant by Pio Pico on the 23d of December 1845. It appears by the duly authenticated transcript of the archives, from the office of the Surveyor General of California, that Pio Pico was the Governor of the Department of the Californias at the date of the grant duly authorized to grant the vacant lands of Upper California. The genuineness of this grant is also fully established, by the proof in the case The grant was made as it recites in conformity with the decree of the Mexican Congress of the 18th of August 1824, and the Ordinance of the Federal Executive of the Republic of Mexico of the 21st of November 1828; both of which duly authenticated from the archives, are in evidence in the case. It appears also from the same character of proof, that after the signing and delivery of the said grant, the Espediente of the proceedings had by the Governor, was submitted to the Departmental Assembly of California who, by their resolution of the date, of the 30 of June 1846 fully approved of the grant, made and delivered to the Claimant.

The objections made to the confirmation of this Claim are First, that

the Land claimed, lies within ten leagues of the Sea Coast. This objection is founded upon the 4th section of the Decree of the 18th of August 1824, above refered to, by virtue of which the grant was made.

That section of the Decree provides that, "The Lands comprehended within twenty leagues, bordering upon any foreign nation, or within ten leagues of the Sea Coast, shall not be colonized without the previous consent of the Supreme General Executive Power." This ground of objection is common to this with most of the grants of land in California.

The subject has been by this Board fully considered; and for the reasons set forth in an opinion delivered in the case of Cruz Cervantes, and of file in that case No 55, we have decided that this objection is not valid.

The second objection to the confirmation of the claim is that the Land was not subject to grant, on account of its relation to the Ex Mission of Dolores.

The 17th Article of the Ordinance above mentioned, of the 21st of November 1828, relates expressly to this subject, and provides that, "In those Territories in which there are Missions, the Lands which they occupy shall not be colonized at present, and not until it be resolved" &c. The prohibition it will be seen, applies expressly to such Lands as are in the occupation of the Missions. The proof is full, that this Land was not so occupied, and of course was such vacant Land of the Republic, as could be colonized.

The Decrees of the Republic and the Regulations of the Several Governors,

and Departmental Assemblies, from the Decree of the Mexican Government of the 17th of August 1833, known as the Decree for the secularization of the Missions (which itself was suspended on the 17th of Novr 1835) and whatever else, was done afterwards, on this subject, down to the last act prior to this grant, by Governor Micheltorena, on the 29th of March 1843, never repealed the provision of the Ordinance of 1828, above cited; but in the last proclamation referred to, and in its 5th Article, after declaring that what was done, in the way of such grants, was irrevocable, merely promises not to make any new grants, without the information, of the Authorities of the Revd Padres, notorious want of occupancy or of cultivation or necessity. The absence or want of occupancy or cultivation by the Mission was fully established in this case –

The third objection to the confirmation of this claim, is the want of segregation of the land granted, from the Public domain of Mexico. The question which we are called upon to decide in every case, is whether the grant is so vague and uncertain in itself; or so incapable of being made certain, by the aid of those extrinsic facts and circumstances which may be legitimately invoked to its aid, as to be void for want of an identification of the land granted.

The view which I have taken of this case in the light of the

decisions of the Supreme Court of the United States, satisfies my mind, that the grant and the matters referred to in it; all of which are in the Expediente, and of record in the case, and which are presumed to be in existance, do separate the land from the public domain; and enable the Surveyor General to cause it to be surveyed and platted without any difficulty or doubt, identically as it was granted to the party, and no more needs any measurement "according to the ordinance" than if it were an Island in the sea.

The Government of Mexico has not, as I think, made an abortive effort, in this case, to grant a specific portion of her public land, Nor do I think, that the decisions of our Supreme Court, or the principles of Equity, by which we are governed would authorize us to declare the claim invalid for that defect. The possession under the grant and co-extension with it, is proved to have been had, and taken by the party as early as the date of the grant. It must be borne in mind, that according to the scheme or plan of granting her public domain, as adopted by the Mexican Republic in California, as will fully appear by her decree of the 18th of August 1824, and the Ordinance made in pursuance of that Decree, on the 21st of Novr 1828, there was no survey required to be made, before the complete and per-

-fect title, was to be executed and delivered to the petitioner-

The Espediente in this case, illustrates the Law and practice invariably pursued almost in Executing the Decree and Ordinance-

The diseño or map required to accompany the petition, supplied the place of a survey and went into the grant as the survey did, in Florida and Louisiana, and in most of the States or Countries, with whose mode of disposing of their public lands, we are familiar. The identification of the land, was by that Map and grant; and in most instances, at least in this, as I think, they fully accomplished that end. The recent decisions of the Supreme Court of the United States, reaffirm the doctrines of the earlier cases on this subject- And although they seem more strenuous, do not depart from the principles, that if the instruments relied on, contain such descriptive calls or bounds, as that the land can be severed thereby, from the public domain, or refer to what may render the location practicable; in accordance with the maxim "id certum est, quod certum reddi potest," they will not reject the claim. The extraneous facts of possession, and of notorious and long recognized ownership, may well be invoked as aids against the rejection of a claim for uncertainty, which is often resorted to, by ingenious knavery, as a pretext to

annul the obligations of common honesty.

In support of the principles, which ought to be applied to test the sufficiency of this severance, I refer to the following cases 5th Wheat. 359. 4th Cond 682. 1st Howard 24. Acostas case, 16th Peters 139 Meraudas case, 5th Howard 10 Lantons case 15th Peters 283 O-Hanras case, 2d 215 Byniers case, 3d Peters 92 11 Howard 565 Leonpts case, 2d page 127.

The fourth objection urged against the confirmation of this claim, arises out of the conditions annexed to the grant, which are numerically four, tho' in fact there are but two which can be strictly so called; the other matters contained in the clauses, being either mere recital or directory instructions to the Officer, on whom the grantee is required to call, for the delivery of Possession. With regard to the obstruction of high ways, and crossings there is no complaint on that head; It is true that it does not appear from the record, or prod proof that the Claimant ever did solicit any Officer to put him into possession, and that there does not appear to have been, any measurement of the Land granted - The grant in this case was a complete grant, according to the Mexican Law, 8th Howard 314 - The views which we took in regard to the effect of the failure of those acts of delivery of possession, and measurement, we would refer to, as contained in the Opinion which we have already above cited -

We have regarded them, as not furnishing

a ground, upon the principles of Equity for a forfeiture, to be now asserted by this Government, being conditions subsequent in their nature, and in fact; and also of a character, rather directory to another, than intended to be destructive, in case of Non-Compliance, of the vested right, of the grantee. In addition to those reasons, why we cannot feel at liberty, to refuse a confirmation, for those alleged deficiencies, I will suggest that the only purposes, which those requirements were intended to accomplish, are satisfactorily effected, without them. The object of the grant, as is apparant from the decree and Ordinance under which it was made, was the settlement, or occupation, and cultivation of the Land. Now we have seen that the Claimant performed, that consideration of the grant, just as completely, as if there had been an official intervention- Nor was that done, in violation of any Laws. He was no trespasser in the act of possession. By the 8th article of the Ordinance he was directed, or at least authorized upon the receipt of his grant, "to proceed to the profession" According to the Mexican Law, occupation or taking possession of anything, may be by the delivery of the instruments of writing, which convey it. And also by the use and enjoyment of it with the knowledge, and without the opposition of the Grantor. Escriche title profession. 341. Partida 3a Title 30 Law 8- There needed in this case no official interference, further than the grant to locate the land. It was specifically defined, as the Expediente will

thew – Equity regards not the circumstance, but the substance of the act; and will relieve against the omission of formalities where the end is achieved –

Livery of Seizin, a legal requirement in all conveyances of a freehold at Common Law, will be relieved against in Chancery. 2nd Ely Rep. 215 – On this principle defects of circumstances in conveyances are frequently supplied in Equity – Francis Equity Maxims 64 – The members of this board concur unanimously in the conclusion of the validity of the Claim –

(Signed) Harry I. Thornton
Comr.

Opinion of Comr. Wiland Hall –

I agree that the opinion of Commissioner Thornton heretofore given furnishes sufficient reasons, for the confirmation of this claim; though I do not concur in a portion of them –

(Signed) Wiland Hall
Comr.

Decree of final Confirmation

This Board upon full consideration of the various grounds affecting the validity of the said claim, of Joe Jesus Noe, which was presented to this Board, setting under the act of Congress of the third of March 1851, having come to the conclusion that the said claim is valid; therefore now proceeds to make, and does hereby make and enter of record the following Decree or report of final confirmation – Viz –

It is Agreed and reported, that the said Claim be confirmed, to the extent and quantity of one square League, or sitio de ganado mayor and for no more; being the same land described in the grant, and Expediente referred to therein and of which the said Claimant was proved to have been in possession from the date of the said grant. Provided that the said quantity to him granted, and now here to him confirmed, be contained within the boundaries called for in the said grant and map to which the grant refers; and if there be less than one Square League within the said bounds, then we confirm to him, that less quantity; it being apparent that the said quantity exceeds the minimum prescribed in the Ordinance, of two hundred varas.

(Signed) Niland Hall
" Harry I. Thornton } Com'ns

Protest of John B. Polley against the confirmation of his Claim

To the Honorable Board of Commissioners for the settlement of Private Land claims in the State of California ~

The undersigned John B. Polley, a citizen of the United States and residing at the Mission of Dolores in said State of California would respectfully represent, that he claims a certain small tract of Land, being part of the Lands formerly attached to said Mission Dolores, and more particularly described and ascertained by reference to the Diagram or Map thereof hereto annexed ~ That he is in actual possession thereof and engaged in the cultivation and improvement of the same for his own benefit ~ That as your petitioner is informed, one José Jesus Noé has included the said tract in his petition heretofore presented to your Honorable Board for the confirmation of his title to a large tract of Land claimed by him, by virtue of a grant from the Mexican Government, and the undersigned therefore begs respectfully to Protest against the confirmation of said Noé's title to that portion of the tract of Land claimed by him, which lies north of a certain ditch forming the southern boundary of the agricultural lands of the Mission and which was dug under the direction of the Priests for the protection of said agricultural lands from injury by the herds of cattle roaming on the adjacent grazing lands ~ The position of the said ditch being correctly set forth on the accompanying map your petitioner would respectfully refer to the same for the information of your Hon-

orable Board—

And the undersigned begs leave, respectfully to offer to your consideration, the following reasons in support of his said protest, as well as in behalf of his own title to the parcel thereof designated on said map as claimed by him—

First— The said ditch above mentioned has always been regarded as the Southern boundary of the Mission Lands properly so called, and which were not intended to be included in any of the large Mexican Grants made for grazing purposes.

Second— If one league of land has been granted to the said Nol, as he claims it was for grazing purposes only, as it is well known that the Mexicans at the time said grant is claimed to have been made, did not cultivate the soil to any extent, and therefore large grants were not made to such persons, for that purpose, and furthermore the character of the larger portion of the claim of said Nol, which renders it unfit for cultivation, clearly indicates the purpose for which the said grant was obtained—

Third. The said ditch not being required for grazing purposes, and being well known to be the work of the Priests of the Mission, it must be regarded as a part of the improvements made upon Lands previously granted by the government to the Mision, and the same not having been abandoned to the Government before the making of the grant to the said Nol, it cannot reasonably be supposed to be included in the grant to him, to the prejudice of those claiming under a prior grant or appropriation by Government—

Fourth— The Land granted to the said Nol

Not Surveyed—

not having been surveyed and the boundaries designated in the grant, and the intention of the Government expressed only by the use of the term one league, to indicate the extent of land granted and the indefinite and uncertain description contained in the grant to indicate its locations. The most liberal constructions we can give to the grant is that the Mexican Government intended to give to the said Noé a tract of land lying next to the Mission Dolores and about one League in extent without infringing upon lands previously appropriated and having definite boundaries like the said ditch.

Fifth - If the said Noé's title be good to that portion South of the said ditch (and your petitioner does not here question it) it does not follow that in subsequently designating his boundaries and enclosing or improving his lands, he can of his own pleasure overstep or disregard the established boundary of an adjoining tract - even though lying unoccupied at present, because the terms of his grant are indefinite in designating his boundaries or limits in that direction - If then the lands North of the ditch are occupied by others any acts of ownership on the part of said Noé of those lands, must be regarded as a trespass upon the rights of the individuals in possession -

Lastly - The large grants of land in this State made by the Mexican Government to individuals are incompatible with the spirit of our Republican institutions and deeply injurious to the growth and prosperity of the State and especially so when such grants

are located within or near the limits of of a large commercial City like San Francisco although by the treaty of peace with Mexico our Government is bound to recognise all such grants properly made, the undersigned would respectfully suggest that a just regard to the interests of those of your citizens who have settled upon and improved the Mission lands as a part of the Public domain belonging to the United States Government, requires a strict compliance on the part of the holders of Mexican grants, with the terms and conditions they are required to execute according to the Laws and customs of the Mexican government concerning such grants. The loose manner in which the proceedings of the Mexican authorities, as well as those of the Grantees in carrying out the provisions of the grants were generally conducted, leaves many of those titles very imperfect and doubtful, and your petitioner believes that to confirm any such titles, which are not imperatively required to be confirmed in consequence of a strict compliance with the conditions of the grant, would create many large land monopolies and and thereby greatly injure the progress and welfare of our country. And your petitioner believes, that a patriotic and liberal policy ought to be pursued towards actual settlers in possession and improving the unsold public lands whenever their rights acquired under the Pre-emption Laws of the United States and by virtue of such possession, come in conflict with such large and indefinite grants of land as are not perfected according to a rigid construction of the laws

regulating them, and which cannot for that reason be avoided.

Further more I join the Memorandum of John Frederick Schulters and seventeen others presented your Honorable Board on the 7 day of April 1852 to forty seven fifty vara's lots at the Mission Dolores (No 172 as filed)

I beg ~~that~~ of Your Honorable Board to file this protest, and to settle this matter in a just and equitable way not allowing, the Land Monopolies to swallow up the few improved acres of the labouring and hard working settlers.

This at San Francisco California April 23d 1853.

1852

I remain with profound Respect
To the Honorable Board of Land Commissioners
Your Obt Servant
John B. Polley

State of California
County of San Francisco } ss.

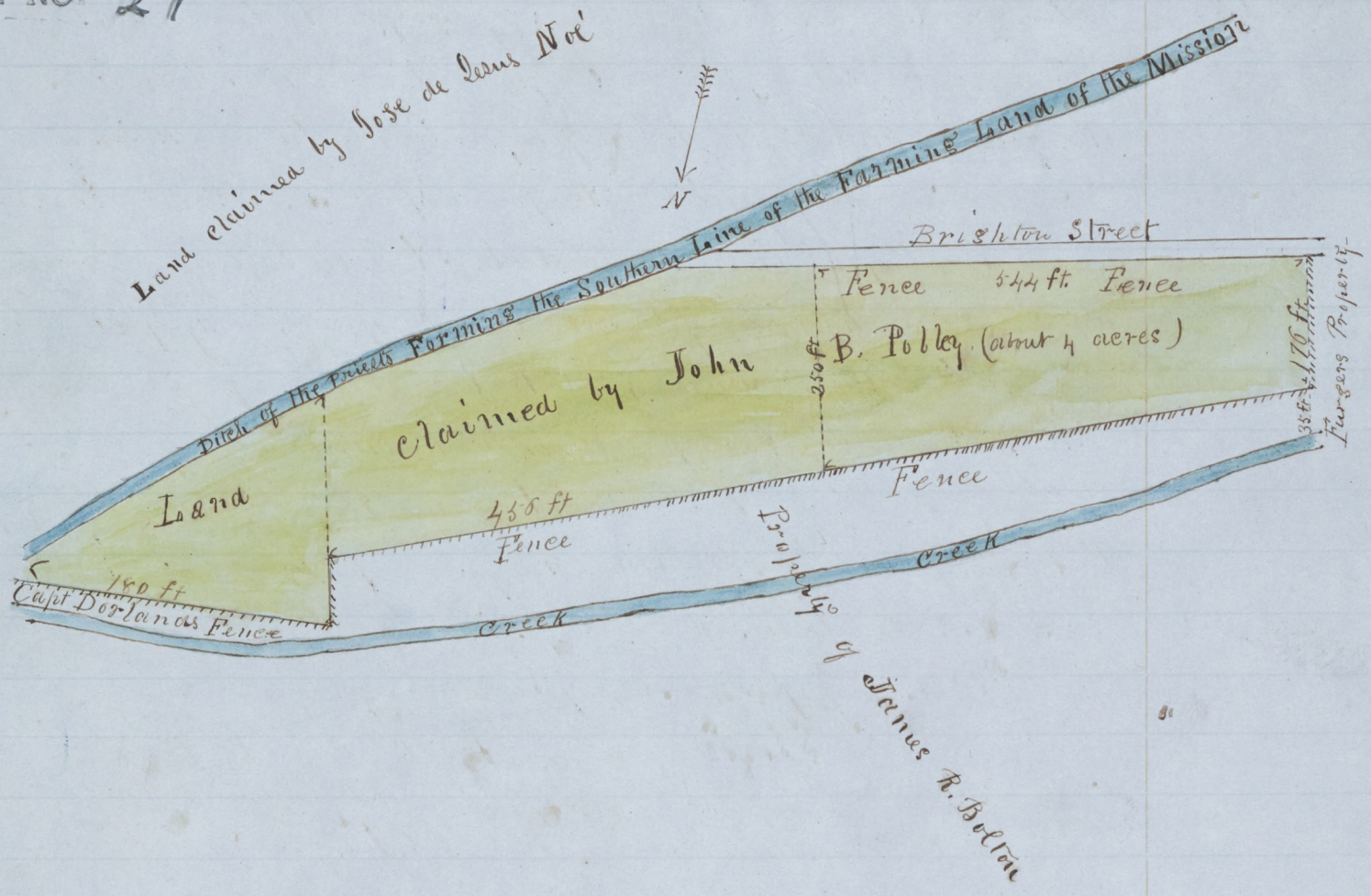
On this third day of April 1852, before me Henry S. Fitch a Notary public in & for said County personally appeared John B. Polley to me known to be the person who signed the foregoing instrument of Petition and Claim and protest and acknowledged that he signed the same as above freely & voluntarily for the uses and purposes therein expressed.

In testimony whereof I have hereunto set my hand and affixed my official seal the day and year last above written.

(Signed) Henry S. Fitch
Notary Public

L S

Filed in Office April 23d 1852.
(Signed) Geo Fisher
Sec'y



LAND CLAIMED BY JOHN B. POLLEY.
Survey
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—
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"MISSION Dolores Grant"
Jose de Jesus Noe, Claimt.

SAN FRANCISCO Co 8-R

Note: continued from the preceding page

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Juzgado 2º Constituc.l de Yerbabuena

En vista del Sup.r Decreto que antesede y en cumplim.to de lo que en el se previene: debo decir: que habiendose echo saber a los colindantes del terreno que solicita, la parte interesada; y confrontados sus respectivos diseños; resulta que no les perjudica; dho terreno es de los que reconoce por de su propiedad; la es-mision de S. Francisco; esta valdio a la presente; mas estando contiguo con el que tiene solicitado el Ciudadano Benito Dias; segun ha echo presente a este Juzg.do y que su solicitud está tramites; al haber sido confrontadas las solicitudes de ambos, quedaron convenidos en que no se perjudica. La parte contenida en este posee los requisitos de la ley para ser atendido; lo que se pone en el superior conocimiento de S. E. cumpliendo con lo dispuesto por dho. Decreto; y para fines que convengan.

Yerbabuena Agosto 28 de 1845.

(Signed) José de la C. Sanchez

Angeles Diciembre 23 de 1845.

Vista la peticion con que dá principio este espediente, el informe del Alcalde 2.do de S.n Francisco, con todo lo demas que se tubo presente y ver convino; de conformidad con la ley de 18 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828, declaro á D.n José de Jesus Noé dueño de un sitio de ganado mayor en un terreno inmediato á la ex Mision de Dolores, colindando con tierras de D.n Francisco de Haro, Roberto Ridle y José Cornelio Bernal. Libresele el titulo correspondiente para someterlo á la aprobacion de la Exma Asamblea departamental. Pio Pico Gobernador provisional de las Californias así lo mandé decreté y firmé de que doy fé.

(Signed) Pio Pico

(") José M.a Covarrubias

Srio

27.

"B"

CASE NO. 6 ND
PAGE NO. 29

1845.

(V.D.K.)

Espediente promovido por Dn. José de Jesus Noé, en pretension de un terreno inmediato á la ex Mision de Dolores.

494

Exmo Sor. Gobernador int.o del Departamento de California

Ang.s Junio 14 de 1845.

Pase a informe del Juez de S. Fran.co quien al hacerlo, hará conocer a los colindantes esta solicitud p.a q.e no perjudique a la propiedad q.e obtienen así como tendrá presente dho. Juez cualquiera otra solicitud q.e esté en tramites, y tenga relacion con este mismo parage q.e se pretende, y concluido vuelva al Gob.o

(Signed) Pico.

José de Jesus Noé, mejicano por nacim.to y abesidado en San Francisco de Asis ante V.E. hace presente de que siendo dueño de un numero de ganado y caballada, y como estos bienes han acresentando, y no tener adonde ponerlos solicita de V.E. de que en uso de sus facultades le concede un sitio de ganado mayor en el terreno que se halla baldio al O. y N.O. del Establecim.to de dolores, colindando con los ranchos de los Ciud.s Francisco de Haro, Roberto Ridle y José Cornelio Bernal segun el diseño q.e acompaña en su solicitud, y margen del mar O.

A V.E. suplica rendidamente el esponente le conceda esta gracia por tener bastante familia le que recibire este beneficio de V.E. No siendo en papel sellado la presente por no haverle, jurando lo necesario Vra.

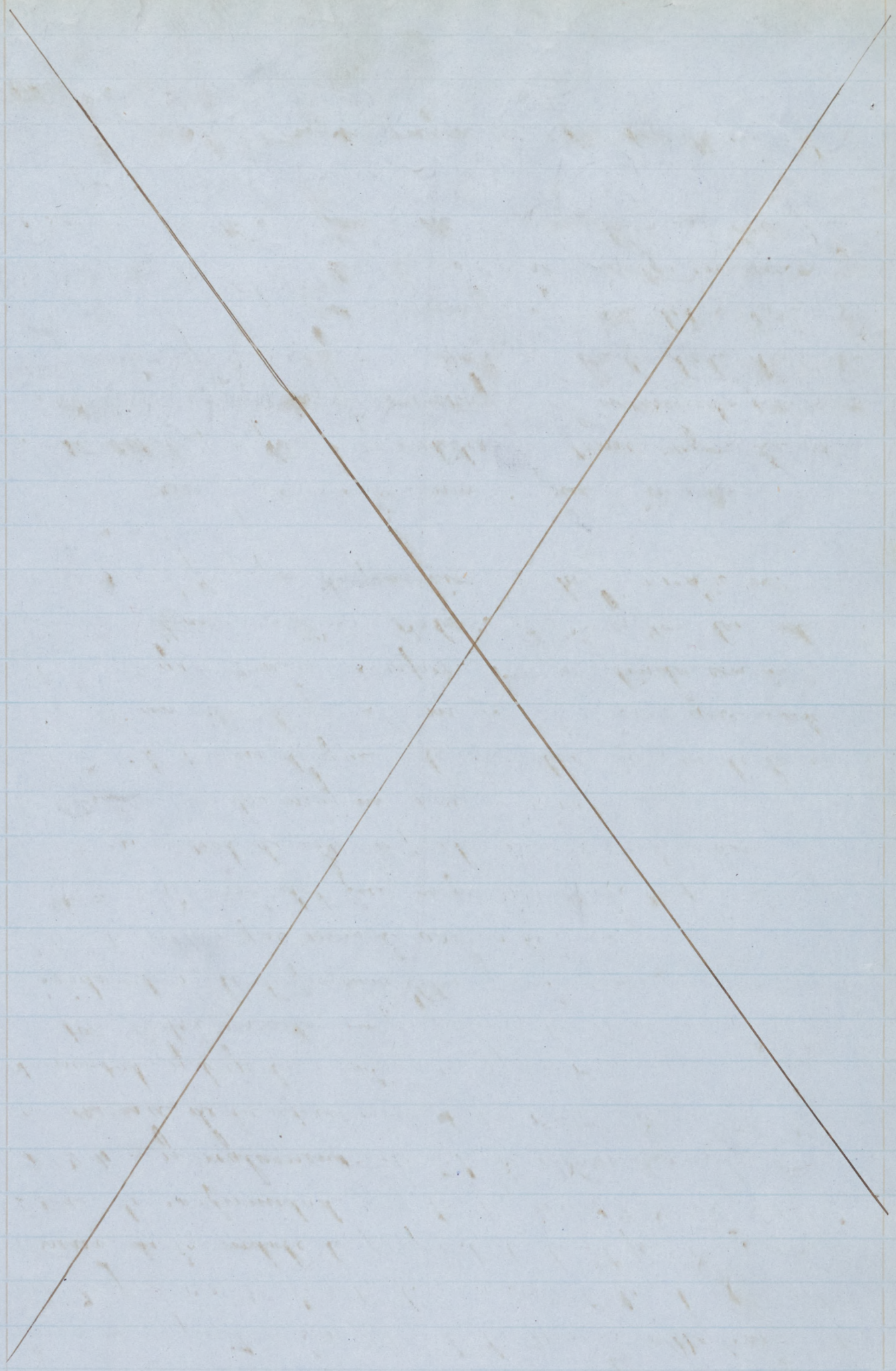
S. Fran.co Mayo 28 de 1845.

(Signed) J. de Jesus Noé

Note: This leaf having been bound wrong for the continuation of the subject see the reverse of this leaf.

28.

N 17 -
2



Pio Pico, Vocal decano de la Asamblea Departamental y Gobernador provisional de las Californias. —

Por cuanto Dn José de Jesus Noé, ha pretendido para su beneficio personal y el de su familia, un terreno inmediato á la ex-Mision de Dolores y de la estension de un sitio de ganado mayor; practicadas previamente las averiguaciones concernientes, usando de las facultades que me son conferidas á nombre de la Nacion Mejicana, he venido por decreto de este dia en concederle el espresado terreno, declarandole la propiedad de él por las presentes letras, de conformidad con la ley de 18 de Agosto de 1824 — y reglamento de 21. de Noviembre de 1828. á reserva de la aprobacion de la Exma Asamblea Departamental, y bajo las condiciones siguientes. —

1a Podrá cercarlo sin perjudicar las travesias, caminos y sirvidumbres; lo disfrutará libre y esclusivamente destinandolo al cultivo que mas le acomode. —

2a Solicitará del Juez respectivo le dé la posesion judicial en virtud de este despacho, por el cual se demarcarán los linderos con las majoneras necesarias. —

3a El terreno de que se le hace donacion es de la estension de un sitio de ganado mayor, el mismo que esplica el diseño que obra en el espediente, y colinda con tierras de Dn Francisco Haro, Roberto Ridle y José Cornelio Bernal. El Juez que lo posesione lo hará medir con arreglo á ordenanza. —

En consecuencia mando que teniendose el presente titulo por firme y validero, se tome razon de el en el libro respectivo y si entregue al interesado para su resguardo y demas fines. Dado en la Ciudad de los Angeles, en este papel comun por falta del sellado, á veintetres de Diciembre de mil ochocientos cuarenta y cinco. = Pio Pico = José Ma Covarrubias — Srio —

Queda tomada razon de este titulo en el libro respectivo —

Angeles Mayo 8 de 1845

Dada cuenta en sesion de hoy con este expediente á la E. Asamblea Departamental, se mandó pasar á la comision de terrenos baldios —

(Signed) Pio Pico —
(") Agustin Olvera

E. S.

La comision de terrenos baldios se há impuesto detenidamente del espediente relativo a un terreno inmediato á la Ex-mision de Dolores, promovido p.r el C. José de Jesus Noe q. le fue concedido p.r el Sup.r Gobno: Departam.l con arreglo a las leyes de la materia en este concepto pone a la deliberacion de V. E. la proposicion sig.te

Se aprueba la concesion hecha al C. José de Jesus Noé del parage inmediato a la ex Mision de Dolores en estencion de un sitio de ganado mayor segun titulo librado con fha 23 de Diz.re del año p.o p.do de entera conformidad con la ley de 18. de Agosto de 1824 y el art.o 5.o del reglamento de 20 de 9bre de 1828 —

Sala de Comisiones en la Ciudad de los Ang.s Mayo 22 de 1845 —

(Signed) S. Argüello

Angeles Junio 3 de 1845
La Esma Asamblea Departamental en sesion de hoy (22 de Mayo) aprueba el antecedente dictamen —

Note: this portion is not written in the original

Angeles Junio 17 de 1845

En sesion de este dia aprobó la Esma Asamblea Departamental la proposicion del dictamen anterior

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Office of the Surveyor General of the United States

for

31.

California —

I, Samuel D. King, Surveyor General of the United States for the State of California, and as such, now having in my office, and under my charge and custody, a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, do hereby certify that the nine preceding and hereunto annexed pages of tracing paper, numbered from one to nine inclusive, and each of which is verified by my initials (S. D. K.) exhibit true and accurate copies of certain documents now on file, and forming part of the said Archives, in my Office —

In testimony whereof I have hereunto signed my name officially, and affixed my private seal (not having a seal of office) at the City of San Francisco this 24th day of October A.D. 1851

(Signed) Saml. D. King
Surl. Genl. Cal.

C

Angeles June 14th 1845 —

(41)

Let this petition be transmitted to the Judge of San Francisco for his report and the same to the bordering land owners in order that thier interest may not suffer. In the same way said Judge will attend to whatever petitions may be under advisement

To the Governor ad interim of the Department of the Californias —

José de Jesus Noé a Mexican by birth residing in S. Francco de Asis to Y. Excly. represents that being the owner of a quantity of cattle and horses and this stock is increasing but having no place whereon to keep them, he solicits Y. Excl. that in the exercise of your powers you may grant him one square league (sitio) for ganado mayor of the land which is vacant lying West and North West of the Mission of Dolores, bordering on the Rancho of the Citizen Francisco de Haro, Robert Peddle & José Cornelio Bernal agreeably to the plat which accompanies his memorial, and bounded by the Ocean on the west. The Petitioner humbly requests Y.E. to grant him this because he has a numerous family who will

bearing any relation to the same land which is herein claimed. This being done let the document be returned to the Government,— (Signed) Pico

thus receive this benefit from Your Ecly.—

This document not being written on stamped paper because there is none and he makes the usual oath &c

May 28th 1845

Signed J. de Jesus Noé.—

2nd Constitutional Court Yerba Buena.

In accordance with the preceding Supr. Decree and in fulfilment of its provisions, I have to say that having made known to the bordering land owners the petition made by the party concerned and after due examination of the respective plats, it appears that no detriment can result to them therefrom, Said land is part of that which the Ex Mission of San Francisco holds as its property at present it is vacant, but as it is contiguous to that claimed by the Citizen Benito Diaz, who represented it so before this Court and whose petition is under advisement comparing both claims was found that they did not interfere with each other.

The Party in question possesses the requisite conditions of the Law to have his petition considered, which I communicate to the Superior knowledge of E.E. thus complying with the instructions of said Decree & further ends.

Yerba Buena August the 28th 1845

(Signed) J. de la C. Sanchez—

Angeles the 23d Decr 1845

After having seen the petition which heads this Expediente as also the official report of

the 2nd Alcalde of San Francisco together with all that was represented and agreed in conformity with the law of August the 18th 1824 and the regulations of Novr the 21st 1828. declare Dn José de Jesus Noé owner of one (sitio de ganado mayor) square league in a tract of land next to the Ex Mission of Dolores bordering on lands of Don Francisco de Haro, Robert Riddle, and José Cornelio Bernal, let the proper Patent be issued to him & let the Expediente be kept to be the approval of the Most Excellent Departmental Assembly — I Pio Pico provisional Governor of the Californias thus did order decree and sign, which attest

(Signed) Pio Pico
(") José Mª Covarrubia
Secy —

Pio Pico Senior Member of the Departmental Assembly and provisional Governor of the Californias —

Whereas Dn José de Jesus Noé has solicited for his personal benefit and that of his family for a tract of land next to the Ex Mission of Dolores of the extent of one (sitio de ganado mayor) square league having previously complied with the requirements in the matter I in exercise of the powers in me vested in the name of the Mexican Nation have thought proper in a decree of this day to grant to him said land declaring it to be his property by these letters in conformity with the Law of August the 18th 1824 and the regulations of Novr 21st 1828 subject to the approval of the most Excellent Departmental Assembly, under the following conditions —

1st He may fence it without obstructing the crossings, roads and servitudes; he shall enjoy it freely and exclusively, putting it to such culture as may best suit him —

2nd He shall solicit the proper Judge to give him judicial possession by virtue of this patent, by whom the boundaries shall be marked out with the necessary land marks ~

3d The Land granted to him is of one (Sitio de ganado Mayor) Square league the same shewn by the plat accompanying the Espediente, bordering on lands of Jos B. Hard, Roberto Riddle & Jose Cornelio Bernal; The Judge who shall give possession will have it measured agreeably to the Ordinance ~

Consequently I command that holding the present title as firm and valid the same be entered in the proper book & be delivered to the party interested for his security and further ends ~

Given in the City of Los Angeles on this common paper for want of stamped paper on the 23d December 1845 ~

(Signed) Pio Pico
(") J. M. Covarrubia
Secretary ~

This patent has been entered in the proper Book

Angeles May 8th 1846 ~

This Expediente having been reported to the Ex Departmental Assembly in their session of this day it was ordered that it should be referred to the Committee on vacant lands

(Signed) Pio Pico ~ President.
(") Ax. Alvera ~ Secretary ~

Sesion del dia 9 de Abril

Leida y aprobada la acta de la sesion anterior, se dió cuenta con una proposicion del Sr. Jimeno p.a que se solicite la Suprema aprobacion de los terrenos que se han concedido en las diez leguas litorales, y los que se reconocian por de las Misiones, y se acordó que pase á la Comision de Agricultura, con lo que se levantó la sesion publica para entrar en secreta de reglam.to no asistiendo los Sres. Carrillo y Requena por enfermidad.—

Manl. Jimeno Presid.te
José L. Fernandez—

Sesion del dia 28 de Abril

x x x x

Se dió primera lectura al dictamen de la Comision de Agricultura sobre la solicitud de la Suprema aprobacion de terenos litorales y de Misiones, que se han concedido á varios particulares.—

x x x x

Manl. Jimeno Presid.te
José L. Fernandez

Sesion del dia 1. de Mayo

Leida y aprobada la acta anterior se puso á discusion y fue aprobado, asi en su totalidad, como en lo particular cada uno de los dos articulos de que consta el dictamen de la comision de Agricultura, relativa á que se solicite del Supremo Gobierno la aprobacion de los terrenos litorales y conocidos por de Misiones, que ha dado el Departamental á varios particulares.— + +

+ + + + +

Manl. Jimeno
Presid.te
José L. Fernandez

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

I Samuel D. King, Surveyor General of the United States for the State of California, and as such now having in my office and under my control a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, do hereby certify that the three preceding and hereunto annexed pages of tracing paper numbered 1, 2, + 3 and each of which is verified by my initials (S. D. K.) exhibit true and accurate extracts from the Journal of the Public Sessions of the Departmental Council or Junta for the year 1840. which is on file and forms part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially and affixed my private seal (not having a seal of office) at the City of San Francisco Cal. the 7th day of June 1852.

seal

(Signed) Saml. D. King
Surr. Genl. Cal.

I certify the foregoing to be a true and correct copy from the original on file in this Office in Case No. 56 and annexed to the preceding Spanish Documents.

Office of the U. S. Land Commission in California San Francisco July 24th 1852.

(Signed) Geo: Fisher
Secy.

"F"

Sesion of the 9th day of April

Having read and approved the Act of the preceding

Sesion, a report of the same was made with a proposition introduced by Sor Jimeno in regard to soliciting the Supreme approval of the lands granted within the ten littoral leagues, and of those acknowledged as pertaining to the Misions; which was ordered to be referred to the Committee on Agriculture; after which the public Sesion was closed in order to enter into a secret Sesion according to regulations — Señores Carrillo and Requena were not present on account of illness

(Signed) Manl. Jimeno
President
(") Jose L. Fernandez

Sesion of the 28th day of April

The opinion of the Committee on Agriculture, relative to soliciting the Supreme approval of the littoral and Mision lands, granted to several individuals was read for the first time —

(Signed) Manl. Jimeno
President
(") José L. Fernandez

Sesion of the 1st day of May

The reading of the preceding Act having been approved, it was then submitted for discussion, and each of the two articles contained in the opinion of the Committee on Agriculture, relative to the solicitation of the Supreme Government for its approval of the litteral and Mision lands donated by the Departmental Government to several individuals were approved, in their general as well as in their particular bearing —

(Signed) Manl. Jimeno
President
(") José L. Fernandez

Office of the Board of the Commissioners
of California Land claims

I certify the foregoing to be a true translation from the Spanish original filed in this Office in case No. 56

San Francisco June 15th 1852

(Signed) Geo: Fisher
Sec.y

"G"

E. S.

La comision de Agricultura encargada de examinar la proposicion presentada por el Sor Jimeno contraida á pedir la Suprema aprobacion de los terrenos que se an concedido y se hallan comprendidos en las diez leguas litorales y los terrenos que se reconocian por de las Misiones; encuentra la comision que la proposicion referida está fundada en razon y justicia, pues quien puede negar que se tome una providencia tan necesaria como la propuesta y tan conforme á la ley de 18. de Agosto de 1824 nada mas beneficio puede hacerse á favor de la agricultura que proporcionarles á los propietarios de terrenos su pacifica y segura posesion y por lo tanto la comision uniendose al sentido del Sor Jimeno, propone á la deliberacion de Exma Junta las siguientes proposiciones.

1.o Se aprueva la proposicion con sus articulos que presentó el Sor Jimeno en fecha 8 del corriente.

2.o Que en consecuencia se haga la esposicion que se indica al Supremo Gob.no para el fin que se á propuesto.

Sala de Comisiones de la Junta en Monterrey á 28 de Abril de 1840.

José F. Castro — José Rafael Gonzales

En este dia se le dio 1.a lectura
Aprobado en 1.o de Mayo.
(Scrawl)

39.

En 13 de Julio del mismo año se remitió testimonio al E. S. Gob.no (Scrawl)

E. S.

La ley de colonizacion de 18 de Agosto de 1824 previene en su articulo 4.to que no podran colonizarse los terrenos comprendidos en las 20 leguas limitrofes con cualesquiera Nacion estrangera, ni 10 litorales, sin la previa aprovacion del Supremo Poder ejecutivo de la Nacion y en el reglamento concordante espedido en 21 de Nov.re de 1828, prohibe en su art.o 17. colonizar los terrenos que ocupen las Misiones, hasta que se resuelva si deven considerarse como propiedad de las reducciones de los Neofitos, catecumenos y pobladores Mejicanos.—

Ningun terreno valdio de este Departam.to se podrá colonizar conforme á dicha ley y reglam.to porque todo es litoral y la mayor parte de la estencion de dichos terrenos se reconocian por de las Misiones. Desde la fha de la indicada ley y reglamento no se pudo conceder á ningun particular terreno alguno por no haberlo permitido las atenciones del Gob.no hasta el año de 1834. que apurados en medio de sus necesidades los habitantes de este pais para conseguir unos terrenos incultos que amenizados les produjera su subsistencia y la de sus familias, dirijieron sus repetidas instancias al Gob.no Departamental y esta autoridad mando se formasen los espedientes respectivos para que en conformidad á las leyes y reglam.tos de la materia se les fuese dando á los particulares los sitios que se encontraban en estado de colonizar; y hallandose multitud de agraciados poseedores de terrenos que el Gob.no les ha concedido espediendoles un titulo en donde se les hace una definitiva concesion, recayendo sobre esta, la correspond.te aprobacion de la estinguida Diputacion, y al presente por la Junta Departamental, ya es llegado el caso que V.E. pida al Supremo Gob.no en conformidad á la susodicha ley, y reglam.to la deseada aprovacion de todos los terrenos que se han concedido

en este Departamento por el Gobno del mismo, ya sea de los que se hayan en las 10 leguas litorales, ya de los terrenos que se reconocian por de las Misiones para que los posedores gozen de una pacifica y segura posesion de sus terrenos y en cuya virtud pido á la E. Junta tome en consideracion mis proposiciones sigtes —

1er Que se diriga al Supmo Gobno de la Nacion por esta Junta, una esposicion contraida á lo que hubo manifestado para pedir la aprobacion de los terenos concedidos á los particulares por el Gobno de este Departamto y aprovados por la Diputacion y Junta Departamental. —

2do El Exmo S. Gobdor dirijirá al Supmo Gobno una noticia circunstanciada de los terenos concedidos a particulares para su Supmo conocimiento. —

Monterey 8 de Abril de 1840 —

Manl Jimeno

Tres Castro y Gonzales —

Dada cuenta á la Exma Junta, acordó en sesion del dia 9 del corrte que pase á la comision de Agricultura —

José D. Fernandez
Srio.

En 15 de Julio del mismo año se remitio testimonio al E. S. Gobernador —

(Scrawl)

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

I, Samuel D. King, Surveyor General of the United States for the State of California, and as such, now having in my office and under my charge and control a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, do hereby certify that the five preceding and hereunto annexed pages of tracing

41.

CASE NO. 6 ND
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paper numbered from one to five inclusive and each of which is verified by my initials (S. D. K.) exhibit true and accurate copies of certain documents on file and forming part of the said archives in this office —

In testimony whereof I have hereunto signed my name officially, and affixed my private seal (not having a seal of office) at the city of San Francisco. Cal. this 13th day of March A. D. 1852 —

Seal

(Signed) Saml. D King
Surv. Genl. Cal. —

I certify the foregoing to be a true and correct copy from the original on file in this office in Case No. 56. and annexed to the preceding Spanish documents —

Office of U. S. Land Commission for California. San Francisco July 24" 1852
(Signed) Geo: Fisher
Secy

Excellent Sir —

41. The Committee on Agriculture having in charge to examine the proposition presented by Senor Jimeno, asking for the Supreme Approval of the lands which have been granted, and are contained within the ten littoral leagues; and the Lands acknowledged as belonging to the Missions, believe that said proposition is grounded on right and justice; because who can refuse the taking of so necessary a measure as the one proposed, and so conformably to the Law of 18th of August 1824? Nothing more beneficent can be done in favour of Agriculture, than to procure to the Owners of Land, a peaceful and secure possession

thereof; And therefore this Committee, being of Señor Jimeno's Opinion propose to the deliberation of the Excellent Junta, the following proposition —

1st They approve of the proposition and its articles presented by Señor Jimeno on the 8th Instant —

2nd — Consequently that the aforesaid exposition be made to the Supreme Government to the intended effect —

Committee Hall of the Junta in Monterey on the 28th of April 1848 —

(Signed) Jose F. Castro. (Signed) Jose Rafael Gonzalez

On this day it was read for the first time
Approved on the 1st of May —
On the 13 of July of the same year, a testimony thereof, was transmitted to His Exc'y the Governor —

Excellent Sir —

The Law of Colonization of 18th August 1824, reads in its Art. 4th that the Land contained within the twenty bordering leagues, with any foreign nation, or within the ten littoral leagues, cannot be colonized without the previous approval of the Supreme Executive Department of the nation. The respective regulation issued on the 21st of November 1828, prohibits by its Art 17th to colonize the Lands occupied by the Missions, until it may be decided whether, they are to be considered as property, pertaining to the reserves of the Neophytes, Catechumens or Mexican settlers —

According to the said Law & Regulations, no vacant Land of this department could have been colonized because it is all littoral, and the Gila

all littoral, and the greatest part thereof is acknowledged as belonging to the Misions. since the date of the mentioned Law and Regulations, no land was granted to any private Individual; because the attentions of the Government did not permit of it until 1834, When the Inhabitants of this Country urged by their necessities, in order to obtain some untilled Lands, Which being cultivated would produce for their support, and that of their Families, addressed their several applications to the Departmental Government, This Authority directed the respective Expediente should be formed, that, in conformity with the laws and regulations on the subject, the lands considered proper for colonization should be donated to private Individuals; and whereas many Grantees are now possessors of the Land the Government has granted them, by issuing a patent in virtue thereof, a definitive concession has been made into them, with the corresponding approval of the Ex Delegation, and now of the Departmental Junta – The time is already come, that Your Excellency may ask for, from the Supreme Government, in conformity with the said Law and Regulations, the proper approval of the Lands granted, in this department by the Government of the same, both as to those Lands situated within the ten littoral leagues, and those recognized as belonging to the Misions; in order that their possessors may enjoy said lands peaceable and with security, in virtue thereof I beg of His Excellency, The Junta, to take into consider-

-ation my following propositions-

1st That this Junta remit to the Supreme Government of the Nation an exposition of what I have manifested, in order to ask for the approval of the Lands granted to private Individuals, by the Government of this Department & approved of by the Deputation and Departmental Junta.

2nd His Excellency the Governor will remit to the Supreme Government, a detailed Statement of the Lands granted to private individuals for its Superior Knowledge ~~

Monterey the 18th of April 1846.

(Signed) Manuel Jimino

Mess. Castro
& Gonzalez.

This Opinion having been presented to the Most Excellent The Junta, in the Sessions of the 9th Inst, it was ordered to be referred to the Committee on Agriculture ~

Signed Jose Z. Fernandez
Secretary ~

On the 13th July of the same year, a testimony thereof was transmitted to his Excellency The Governor. ~

I certify the foregoing to be a true and correct translation from the Spanish on file in this Office

San Francisco March 22nd 1853.

(Signed) Geo Fisher
Sec'y

45.

II

Julio 20

N.º 14

E. S. La Excma Junta de este Departamento, en nota de 13 de Julio ultimo me dice lo siguiente. =

= Exmo Sor = Elevo a V. E. testimonio del acuerdo de esta Excma Junta relativa á que el Supremo Gobno en uso de sus facultades, se digne aprobar los terrenos, q.e se han concedido á varios particulares, asi de los que pertenecian á las Misiones como de los comprendidos en las 10 leguas Litorales por las razones en que se funda aquel. = Y. pareciendo fundadas las razones en que se apoyó la Corporacion para solicitar la aprovacion de los terrenos comprendidos en las 10 leguas litorales y lo que se reconociese por de las Misiones que se han concedido, y confirmado por la misma Corporacion, no puede menos de acompañar á V. E. el citado testimonio y relacion respectiva, uniendo mi voto al acuerdo de la Junta á fin de que el Supremo Gobierno lo tome en consideracion aprovando el acuerdo referido. =

Dignese V. E. admitir las protestas de mi muy alta consideracion y respeto

Dios Gr.

Al Excmo Sor Ministro de lo Interior

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

J. Samuel

D. King, Surveyor General of the United States for the State of California and as such now having in my office and under my custody a portion of the archives of the former Spanish and Mexicans Territory or Department of upper California, do hereby certify that the two preceding and hereunto annexed pages of tracing paper numbered one and two and each of which is verified by my initials (P. D. K.) exhibit a true and accurate extract from an unbound book designated as being "— Correspondiente "a las Comunicaciones que se dirijen por "el Gobierno de este Departamento al Supremo de la Nacion No. 1. año.

47.

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PAGE NO. 48

de 1840" - which forms a part of the said Archives in this office -

In testimony whereof I have hereunto signed my name officially and affixed my private seal (not having a seal of office) at the City of San Francisco, Cal. this 23rd day of June 1852 -

Seal

(Signed) Saml. D. King
Surv. Genl. Cal. -

I certify the foregoing to be a true and correct copy from the original on file in this office in case No. 30, and annexed to the preceding Spanish Document.

Office of the U. S. Land Commission in California -
San Francisco July 24th 1852
(Signed) Geo. Fisher
Secy.

"II."

No. 14

July 20th

Exct. Sir = The Most Excellt. Junta of this Department in a note of July ultimo 13th tells me what follows = Exct. Sir I transmit to Your Excy a testimony of an act passed by the Most Exct. Junta with a view that, the Supreme Government, by virtue of its powers, may deign to approve the titles of lands which have been granted to several individuals, of those lands pertaining to the Missions as well of those within the 10 littoral leagues, for the reasons upon which said act is grounded - And considering as well grounded, the reasons on which said corporation relies for soliciting the approval of the grants of lands within the 10 littoral leagues, and also those acknowledge as belonging to the Missions, which have been granted & confirmed by the same Corporation, I can not but transmit to Your Excy said testimony, with the

respective report, adding my vote to the decision of the Junta, to the end that, the Supreme Government may take them in consideration, and approve the aforesaid act —

Your Excy will deign accept the proffers of my high consideration and respect — God &c —

To His Excellency the Minister of the Interior —

I certify the foregoing to be a true and correct translation of an authenticated Copy of the original on file in the Office of the U. S. Surveyor General for California, which authenticated Copy is on file in this office —

San Francisco July 24th 1852 —

(Signed) Geo: Fisher Secy

"K"

Ministerio de lo Interior

Circular

E. P.

El E. P. Presidente ha tenido á bien disponer, que en lo sucesivo se eviten los traslados en la correspondencia con este ministerio, reduciendo a estracto todo aquello que se le comunique y que deba saber el Supremo Gobierno, con escepcion de los asuntos que por su gravedad requieran el total conocimiento de ellos lo que tengo el honor de comunicar á V. E. p.a su inteligencia y cumplimiento —

Dios y Libertad Mejico Set.e 15 de 1840

Nain

E. S. Gobernador del Depart.o de California } Puerto de Monterey —

I certify the foregoing to be a true & correct Copy from an authenticated Copy of the original on file in the U. S. Surveyor General's office for California, which authenticated Copy is on file in this office in Case No. 30 —

San Francisco

49.

CASE NO. 6 ND
PAGE NO. 50

June 30th 1852 - Office of the U. S. Land Commission in California.

(Signed) Geo. Fisher
Secy.

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

I Samuel D. King, Surveyor General of the United States for the State of California and as such now having in my office and under my charge & control a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, do hereby certify that the preceeding and hereunto annexed page of tracing paper which is verified by my initials (S. D. K.) exhibits a true and accurate copy of a document which is on file & forms part of the said Archives in this office.

In testimony whereof I have hereunto signed my name officially & affixed my private Seal (not having a Seal of Office) at the City of San Francisco Cal. the 29th day of June 1852.

Seal

(Signed) Saml. D. King
Surv. Genl. Cal.

I certify the foregoing to be a true and correct copy from the original on file in this office in case No. 30 annexed to the preceding Spanish document.

San Francisco June 30th 1852.
Office of the U. S. Land Commission in California.
(Signed) Geo. Fisher Secy.

"A."

Department of the Interior
Circular.

Exct Sir.

His Excellency the President has thought proper to provide that in future, copies of documents shall be dispensed with in the correspondence of this Department; and that

of all which is to be referred to the Supreme Government for its Cognizance, an Abstract shall be made, excepting from this rule, the cases which on account of their importance, may require a full Knowledge of the Same — Which Order I have the honor to communicate to Your Excellency for Knowledge and fulfilment —

God & Liberty Mexico September 15th 1846.

(Signed) Marin —

To The Noble Exce Lie Governor of The Departament of California } Port of Monterey

I certify the foregoing to be a true, and correct Translation from an Authenticated Copy of the Original on file in the U.S. Surveyor General's Office for California, which Authenticated Copy is on file in this Office, in Case No 30.

San Francisco June 30th 1852.

U.S. Land Commission in California

(Signed) Geo Fisher
Secy

"M." Sesion del dia 3 de junio de 1845

+ + + + + + +

En el de Don Jesus Noe, Se aprueba la concesion hecha al Ciudadano Jose de de Jesus Noe del parage inmediato ala ex Mision de Dolores en estension de un sitio de ganado mayor segun titulo librado con fha 23 de Diciembre del año p.o p.o de entera conformidad con la ley de 18 de Agosto de 1824 y el articulo 5.o del reglamento de 21 de Noviembre de 1828 —

+ + + + +

Pio Pico — Presidente

Agustin Olvera D.S.

47

51.

CASE NO. 6 ND
PAGE NO. 52

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

I, Samuel D. King, Surveyor General of the United States for the State of California, and as such now having in my office and under my custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California do hereby certify that the above and foregoing are true extracts or copies from the writing on certain loose pages of paper, which, with others, are included in a sheet of paper designed as "1846 - Cuaderno de Sesiones de la Exma Asamblea" on file & forming a part of the said Archives in this Office.

In testimony whereof I have hereunto signed my name, officially, and affixed my private Seal (not having a Seal of office) at the City of San Francisco Cal. this 7th day of August 1852.

Seal

(Signed) Saml D King
Survr Genl Cal.

"N."

Sesion of the 3d day of June 1845.
XXXXXXXXXXXXXXX

In that of (the Expediente) Don Jesus Noé, they approved the grant made to citizen Jose de Jesus Noé of the place adjacent to the Ex Mision of Dolores to the extent of one Square Leagues (Sitio de ganado Mayor) according to the title issued on the 23d December ultimo, in conformity with the Law of 18th of August 1824 and the Article 5th of the regulations of 21st of November 1828. XX XXXXXX

(Signed) Pio Pico
President.

Signed Agustin Olvera
Deputy Secy

Office of the Board of
Commissioners of California
Land Claims —

I certify the foregoing to be a true translation from the Spanish original filed in this Office in Case No 17 —

San Francisco August 9th 1852

(Signed) Geo Fisher
Sec'y —

53.

CASE NO. 6 ND
PAGE NO. 54

Most Excellent Sir —

The Committee on vacant lands have duly considered this Expediente relative to a piece of land next to the Ex Mision of Dolores solicited by citizen José de Jesus Noé which land was granted to him by the Supreme Departmental Government in accordance to the Law on the subject and in consequence they submit to Your Excellency's deliberation the following proposition —

The Grant made in favour of citizen José de Jesus Noé of the place next to the Ex Mision of Dolores to the extent of one sitio de ganado Mayor (Square League) according to the Patent issued under date of December the 23d of last year in entire conformity with the law of August the the 18th 1824, and the 5th Article of the regulations of Novr the 20th 1828 is approved.

Comitee Hall in the City of Los Angeles of May 22nd 1846

(Signed) J. Arguello

Angeles June 3d 1846 —

In sesion of this day the Most Excellent Departmental Asembly approved the proposition of the preceding Opinion.

54.

Deposition of David Spence (53)

CASE NO. 6 ND
PAGE NO. 55

Office of the Board of Commissioners of Land Titles in California—

On this day before me Harry I. Thornton One of the Commissioners for ascertaining ~~and settling~~ Private Land Claims in California, came David Spence, a witness produced in behalf of the Claimant José de Jesus Nol whose petition is No 17. on the Docket of said Commissioners, and after being duly sworn testified as follows.

The Law Agent of the United States was duly notified and attended—

Questions by Claimants Counsel—

Quest 1st What is your name, age, and place of residence?

Ans— My name is David Spence, My age is fifty three years, and my residence is Monterey, State of California.

Quest 2d Look upon the original grant now presented to you, written in Spanish, State if you have compared it, with an Exhibit marked (D.) and here attached as a part of this deposition, purporting to be a copy of said Grant and a translation thereof, State if the same is an exact copy of said Grant and a correct translation of the same. A copy of which said grant certified by the Surveyor General is also found in the Expediente filed in this case and marked (B) and a translation of which is also filed in this case, marked (C)?

(The Law Agent objects to the introduction of copies, and to any testimony relating thereto, the Originals being in existance)—

Ans. I have examined the originals documents now in my hand, and compared it with exhibit (D.) now filed in this case a copy of which is also found upon pages 5.&7. of the Expediente filed in this case, marked (B) said copies are exact and litteral copies of the original grant now before me, and the said translation is a correct translation of the same.

Quest. 3.d Are you acquainted with the hand writing of Pio Pico and of Jose Maria Covarrubias; State whether the signatures at the end of said original grant are the genuine signatures of said Pico, and Covarrubias, respectively?

Ans. I am acquainted with their handwriting the signatures at the end of said grant are the genuine signatures of Pio Pico, and Jose Maria Covarrubias, respectively, to the best of my knowledge and belief.—

Quest 4th. State what means you have had of becoming acquainted with the hand writing of Pio Pico & Jose Maria Covarrubias?

Ans.- I have often seen them write and I have correspondad with them officially.—

Questions by the Law Agent.

Quest. 1st Have you examined the translation with care to see if it is accurately made?

Ans- To the best of my knowledge of the language, it contains the substance of the original.

Quest. 2.d Did you know anything about the steps taken to procure this grant at the

the time it was taken?

Ans. I did not.

Quest. 24 Had you any knowledge of the grant at the time it was issued?

Ans. I had not.

(Signed) L. Spence.

The Law Agent being present. Sworn to & subscribed before me this 11th of May 1852.

(Signed) Harry I. Thornton
Comr &c.

San Francisco April 23d 1852.
Office of the Commissioners of Land Claims in California.

Deposition of José de la Cruz Sanchez.

On this day before me Harry I. Thornton One of the Commissioners for ascertaining and settling private land claims in California came José de la Cruz Sanchez a witness produced in behalf of the Claimant José de Jesus Noé, and whose petition is filed No 17 on the docket of said Commissioners.

The Law Agent of the United States was notified and attended by Mr Greenhow.

The witness being duly sworn testified as follows.

Questions by Claimants Counsel

Quest. 1. What is your name, age and residence? and birth place.

Ans. My name José de la Cruz Sanchez, my age is fifty six years. My residence is the County of San Francisco. My birthplace is Santa Clara in California.

Quest. 2. Look upon the document now shown you, marked (B) purporting to be a certified copy of the Espediente of Claimants title. State if that part of said document purporting to be a copy of an "Informe" signed by you August 28th 1845 is a true copy; Whether the preceding page presents a true copy of the petition of Claimant, and the decree of Governor Pico, and whether said petition and decree were before you at the time of your signing said "Informe" Whether you were Justice of the Peace of San Francisco at said time?

Ans. I recognise the document now before me, and described in the foregoing interrogatory, in all its parts as described, to be genuine. I also recollect that the said original document was before me at the time when I signed my "Informe," I was Justice of the Peace of San Francisco, at said time, and acted in that capacity in the matter.

Quest. 3. State if you know the land in question, and where it is situated, State what is its extent, What improvements have been made upon it by Claimant and at what time, State whether Claimant is in possession of said land, and if so, how long he has been in possession; and whether during the time of said possession he has been the reputed owner of said Land?

Ans. I do know the land in question, the house on it is situated about one

Mile

58.

Mile South west from the Mission of Dolores, the extent of it I do not know, but I believe he petitioned for one league. He built a house on it and a corral, but at what time I do not know. I know the claimants to be in possession of it, and to reside on it. The claimant was the reputed owner of said land during the time of his possession of it He still resides there in a adobe house which he built. The first house of the same material which he built, having fallen down. The first house he built about six or seven years ago and the last about three or four years ago.

(Signed) J.e de la C. Sanchez

The Law Agent of the United States being notified & present, declines any cross interrogatories.
Sworn to & Subscribed before me this 23d of April 1852.
(Signed) Harry I. Thornton
Comr

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 58. pages, numbered from 1 to 58. both inclusive to contain a true, correct and full Transcript from the Journal of Proceedings of said Board, of the Original Depositions of witnesses, and of the Documentary Evidence on file in this Office in Case No 17. José de Jesus Noé Claimant against the United States, for a place adjoining the Mission of Dolores.

In testimony whereof I hereunto set my hand and affix my private Seal, not having a seal of Office at San Francisco California this 16th day of November A.D. 1853. and of the Independence of the United States of America the Seventy Seventh.

Geo: Fisher

Sec'y

6-ND
Inc - v Us
" San Miguel

CASE NO. 6 ND

PAGE NO. 62

Attorney General's Office,
13th January 1854.

José de Jesus Noe, Claimant,

vs.

The United States.

You will please take notice that an appeal in the above case, from the decision of the Commissioners to ascertain and settle the private land claims in the State of California, to the District Court of the United States for the Northern District of California, will be prosecuted by the United States.

Clifford
Attorney General.

To
John A Monroe Esq
Clerk of the Dist. Court
of the United States
North. Dist of Calif.

1

U. S. Dist Court

The United States

CASE NO. 6 ND

PAGE NO. 63

vs

Jose de Jesus Pros

Notice of Appeal.

Filed March 14, 1854
John A. Munroe, clerk
J. Schell Deputy Clerk
Alex, La.

CASE NO. 6. ND.

CASE NO. 6 ND
PAGE NO. 64

In the District Court of the United States — in and for the Northern Dist. of California.

Jose de Jesus Noe
vs.
The United States.
} Consent Rule

Upon Motion it is ordered that leave be given to both parties to take further evidence in this cause upon reasonable notice, before the U.S. Commissioner of said Court.—

U.S. Dist. Court

CASE NO. 6 ND

PAGE NO. 65

Jose De Jesus Noe

ads.

The United States

Consent Rule

to take testimony

Filed May 11, 1854

G. Schlecht

CASE NO. 6 ND.

19

Place of a stamp in the original

~~325~~ 316

En 23 de Abril de 1845. se le libro titulo á D José de Jesus Noe, de un terreno inmediato á la Mision de Dolores en estencion de un Sitio de ganado mayor.

Nota

~~326~~ 317

CASE NO. 6 ND
PAGE NO. 67

Office of Surveyor General of the United States for California.

I, John C. Hays, Surveyor General of the United States for the State of California, and as such, having in my Office and in my charge and custody a part of the **Archives** of the former **Spanish** and **Mexican** Territory or Department of **Upper California**, by virtue of the power vested in me by law, **Do Hereby Certify**, that the preceding, and hereunto annexed page of tracing paper, numbered ~~from~~ one ~~to~~ ~~inclusive~~ exhibits a true and accurate copy of an extract from a half bound book in which there appear to be entries made of several grants issued from January 1844 to December 1845 — now on file and forming part of the said archives in this office —

In Testimony Whereof, I have hereunto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this fifteenth day of May 1854

John C Hays U. S. Surveyor General for California.

Extract from the 2nd Section of the Act of Congress "providing for the Survey of Public Lands in California, and for other purposes" Approved, March 3d, 1853.

"The Secretary of the Interior is hereby authorized to cause an Official Seal to be prepared for the Office of the said Surveyor General, (California) and a copy or extract from the plats, field notes, and other records and documents on file in his Office, when attested as such by the said Seal and the signature of the Surveyor General, shall, in all judicial matters, have the same force and effect as the original."

41

José de Jesus Noé
ads } No 17

The United States

Extract from
Book of Titles

Filed May 19. 1854
G Schlee Clk

CASE NO. 6 ND
PAGE NO. 68

Thos H McWilliams

U S Commissioners Office
San Francisco May 18th 1854

Jose de Jesus Ave
Ads
United States

Testimony by Consent

Ramon De Zaldo being duly sworn says

To the First Interrogatory: Are you acquainted with the hand writing of Pio Pico and of Jose Maria Covarrubias. If you look upon the document now shown you marked "J.P." and state if the signatures of the said Pio & Covarrubias when they occur in or upon said document are their true and genuine signatures & also your means of knowledge

Answer. I am acquainted with both parties and their signatures. They are genuine I have seen both of them write and have corresponded with Pio Pico and seen him sign frequently, having lived in his house in 1852 during the stay of the Land Commission at Los Angeles.

2 Q: State whether or not this is the same

Original grant (marked "JP" & now annexed to this deposition) which was given in evidence in this case before the United States Land Commission and referred to in the deposition of David Spence, taken & filed in this case and now forming a part of this transcript

A "This is the original document that was presented to the Commission by Messrs Clark Taylor & Beck who having requested Mr Doe to hand them the original grant for that purpose, requested me to indorse the demand upon Doe for the paper, as his agent & attorney in fact, which paper Doe gave them under a receipt. Said paper title being the same I saw in the possession of Doe and subsequently in the hands of the said Clark Taylor & Beck for presentation to the Board I was not present at the time of the filing of this paper nor at the taking the deposition of David Spence. Nor have I had any knowledge of said deposition or any part thereof until this moment

Cross Examination

Pio Pico, Vocal decano de la Asamblea Departamental y Gobernador provisional de las California.

Por cuanto D.n Jose de Jesus Noé, ha pretendido para su beneficio personal y el de su familia, un terreno inmediato a la ex-Mision de Dolores y de la extencion de un sitio de ganado mayor; previsadas previamente las averiguaciones concernientes, usando de las facultades que me son conferidas a nombre de la Nacion Mexicana, he venido por decreto de este dia en conceder el espresado terreno, declarandole la propiedad de él por las presentes letras, de conformidad con la ley de 18. de Agosto de 1824. y reglamento de 21. de Noviembre de 1828., a reserva de la aprobacion de la Excma. Asamblea Departamental, y bajo las condiciones siguientes.

1.a Pasa el cercado sin perjudicar las trave

sias, caminos y servidumbres; lo disfrutará libre y exclusivamente destinando al cultivo que mas le acomode.

2.ª Solicitará del Juez respectivo le de la posesion judicial en virtud de este despacho por el cual se demarcarán los linderos con las mojoneras necesarias.

3.ª El terreno de que se le hace donacion es de la extencion de un sitio de ganado mayor, el mismo que esplica el diseño que obra en el espediente y colinda con tierras de D.n Francisco Haro, Rodolfo Pide y José Cornelio Bernal. El Juez que lo posesione lo hará medir con arreglo á ordenanza.

En consecuencia mando que teniendose el presente titulo por firme y valedero, se tome razon de él en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en la Ciudad de los Angeles, en este papel comun por faltar del sellado, á veinte y tres de Di

Diembre de mil ochocientos cuarenta y cinco.

Pío Pico

CASE NO. 6 ND
PAGE NO. 73

José Mª Covarrubias
Srio.

Copiada tomada razon de este titulo en el libro respectivo.

Covarrubias

J. L. P.

annexed to the
Deposition of
Ramon de Zaldo.

J. S. Pike
U. S. Commr

CASE NO. 6 ND

PAGE NO. 74

Q Have you any interest in the success of this suit or claim

A None whatever

Q What other means have you of knowing the identity of this paper marked "J P" ~~and~~ as the one which was ~~given in evidence as the one referred to~~ referred to in evidence by David Spence

A The recognition of the ~~of~~ identity of the paper itself, handwriting, signatures & rubricks; the positive knowledge of the nonexistence of any other document purporting to be the title of said Ranch; 3d the natural confidence to be placed in Counsel who asserting the Clients rights would not that any document; 4th the very fact of Messrs Clarke Taylor & Beck requesting it; 5th the fact of Mr Roe's handing it over at my request for presentation to the board as Evidence of title

Q Were you present at the taking of Spence's deposition

A No

Sworn to & subscribed before me this 18th May 1854

J C Pelty US Clerk

Ramon de Soldo

Perry Jones being duly sworn says

CASE NO. 6 ND

PAGE NO. 76

Q Do you know the land claimed by Jose de Jesus Ave near the Rio Mission Dolores, If you look upon the map contained in the transcript filed in this case and describe its boundaries with reference thereto

A I know the land, Its boundary line commences at the point marked portezuelo running down the San Jose road to a point near the Mission Dolores thence nearly due west, running a little north of Laguna Seca, thence to a point just beyond the Presidio road (old) in the sand hills. thence running by laguna "Honda" to the portezuelo. the point of beginning

Q In looking upon this map do you recognize the natural objects there laid down as at present existing on this land

A I do

Cross Examination

Q Have you any interest in this claim or its result

A No

Perry Jones

Sworn to & subscribed before me this 18th day May 1854 J. Pat Wilson

Tebucio Pasques being duly sworn says

CASE NO. 6 ND

PAGE NO. 77

Q Do you know the tract of land near the Miguel Delores which was granted to Jose de Jesus Ros & claimed in this case. If you state what you know as to its occupation by the said Ros

A I know the tract of land. I know that in the early part of 1846 Ros was in possession of said tract, and erected thereon a small house, corals. Kept his horses Cattle, sheep there. He had two or three working men one named Theodocio Flores & an Indian called Antonio Abad He has, to my knowledge, lived there since that time

Cross Examination

Q How much of said land had Ros cultivated if any

A There was some land cultivated. I cannot say how much. perhaps about 150 varas in width and some two or three hundred yards in length I ~~say~~ saw no fences until since the occupation by the americans

I have no interest in this claim or its result

Sworn to & subscribed before me this 18th May 1854

Tebucio X Pasques

J D Poe

U S Com

United States of America, }
Northern District of California. } ss.

I, Caspar S Papy a commissioner duly appointed by the District Court of the United States, for the Northern District of California, under and by virtue of the Acts of Congress, entitled "An Act for the more convenient taking of Affidavits and bail in civil causes, depending in the Courts of the United States," passed February 20th, 1812, and the Act of Congress, entitled "An Act, in addition to an Act, entitled 'An Act for the more convenient taking of affidavits and bail in civil causes, depending in the Courts of the United States," passed March 1st, 1817, and the Act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, **Do hereby Certify,** That the reason for taking the foregoing *deposition* is, and the fact is, the witness ~~is~~ were material and necessary in the cause in the caption of the said deposition named, and that ~~they~~ were

Examined by Consent of parties

CASE NO. 6 ND

PAGE NO. 78

I further Certify, That ~~notification of the time and place of taking the said *deposition* signed by me, was made out and served on the~~

~~to be present at the taking of the *deposition* and to put interrogatories, if he or they might think fit~~

I further Certify, That on the Eighteenth day of May in the year of our Lord one thousand eight hundred and fifty four I was attended by Counsel for Claimant & US District Attorney

and by the *witness* who of sound mind and lawful age, and the *witness* ~~is~~ were by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the *deposition* was by me reduced to writing, in the presence of the *witness* and from ~~their~~ their statement and after carefully reading the same to the *witness* subscribed the same in my presence. I have retained the said *deposition* in my possession for the purpose of handing

the same with my own hand to the Court for which the same were taken.

And I do further Certify, That I am not of Counsel nor Attorney for either of the parties in the said *deposition* and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof, I have hereunto set my hand and seal, this 18 day of May in the year of our Lord one thousand eight hundred and fifty four and of the Independence of the United States the *seventy* Eighth

C S Papy

United States Commissioner, duly appointed by the District Court of the United States, for the Northern District of California.

3

Vol. No.

United States Court,

For the District

of

United States

vs.

Jose de Jesus Sos

Deposition on the part of the

taken before

J. S. Papy

United States Commissioner, on the 18th

day of May 1854

Filed the 19th day of May 1854

G. Scheel Clk

CASE NO. 6 ND

PAGE NO. 79

CASE NO. 6 ND

CASE NO. 6 ND
PAGE NO. 80

U. S. Commissioners Office
San Francisco May 20th
1854.

José de Jesus Noé
ads.
United States

Testimony by consent.

George Fisher being duly sworn says:

Q. What connection have you with the United States Land Commission for California?

A. I am Secretary of said Board.

Q. In the early proceedings of the said United States Land Commission (say in the month of May, 1852,) what was the custom of the Board in regard to the proof and filing of original grants in said Commission?

A. It was the custom of the Board to require the claimant to establish the genuineness of any paper alleged to be an original Title paper of the land claimed before the Board, by the Deposition of one or more witnesses, the witness deposing upon oath that the paper exhibited before him is a genuine paper, and that the signatures thereon are also the genuine signatures of the parties whose names are affixed thereto. Also that the copy of the said paper so exhibited to the said witness and filed in the Office of the Secretary of the Board is a true and correct copy of the said original paper. The Commissioner, before whom the Deposition of the witness was taken, would in most instances

identify the said original paper with his initials, but not invariably, and then return the same to the claimant, and the proved copy of the said original was filed among the papers in the case. This practice was pursued several months after the organization of the Board, which took place on the 21st Jany, 1852, perhaps, say for six months, more or less, after which period it was abandoned, and the original paper, when proved up by the deposition of a witness, was annexed to the said deposition, as a part thereof, and filed with it in the office of the Secretary of the Board, having been verified with the initials of the Commissioner who took the said deposition. The claimants, fearful of the safety of the Archives of the Board, were reluctant to file the original title papers, but would file copies and translations thereof, both of which they proved up by witnesses and filed with the claim, retaining, however, the originals, as already above stated, until the practice was discontinued by the Board. In all cases the claimants were required to reproduce the original papers and submit them to the Board on the hearing of the case, as they would not adjudicate a a case upon copy evidence, unless the loss of the originals was previously established by the Testimony of witnesses, or the affidavit of the claimant.

Sworn to before me
J. P. Apy
U. S. Com.

Geo. Fisher

CASE NO. 6 ND
PAGE NO. 82

United States of America, } ss.
Northern District of California.

I, Jasper S. Papy a commissioner duly appointed by the District Court of the United States, for the Northern District of California, under and by virtue of the Acts of Congress, entitled "An Act for the more convenient taking of Affidavits and bail in civil causes, depending in the Courts of the United States," passed February 20th, 1812, and the Act of Congress, entitled "An Act, in addition to an Act, entitled 'An Act for the more convenient taking of affidavits and bail in civil causes, depending in the Courts of the United States," passed March 1st, 1817, and the Act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, **Do hereby Certify,** That the reason for taking the foregoing *deposition* is, and the fact is, the witness material and necessary in the cause in the caption of the said deposition named, and that *he* was

Examined by Consent of Parties

~~**I further Certify,** That notification of the time and place of taking the said *deposition* signed by me, was made out and served on the~~

~~to be present at the taking of the *deposition* and to put interrogatories, if he or they might think fit~~

I further Certify, That on the Twentieth day of May in the year of our Lord one thousand eight hundred and fifty four I was attended by Counsel for Claimant & District Attorney and by the *witness* who is of sound mind and lawful age, and the *witness* was by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the *deposition* by me reduced to writing, in the presence of the *witness* and from statement and after carefully reading the same to the *witness* subscribed the same in my presence. I have retained the said *deposition* in my possession for the purpose of handing

the same with my own hand to the Court for which the same was taken.

And I do further Certify, That I am not of Counsel nor Attorney for either of the parties in the said *deposition* and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof, I have hereunto set my hand and seal, this 22nd day of May in the year of our Lord one thousand eight hundred and fifty four and of the Independence of the United States the *seventy* Eighth

J. S. Papy

United States Commissioner, duly appointed by the District Court of the United States, for the Northern District of California.

Vol. No. 5

United States Court,

For the District

of

Jose de Jesus Noe

vs.

The United States

Deposition *on the part of the*

taken before J. S. Papy

United States Commissioner, on the 20

day of May 1854

Filed the 22 *day of* May 1854

J. Scheller

CASE NO. 6 ND

PAGE NO. 83

Attorney General's Office.
12th January 1854.

Sir:

I have received, by the last mail, a transcript of the Record in the Case of José de Jesus Noe, Claimant of Mission of Dolores vs. The United States (No. 17); with the accompanying certificates.

I have the honor to be
Your Obedient Servt
C. Cushing

George Fisher Esqr

Office of the U. S. Land Commission
San Francisco, July 3, 1854.

I hereby certify the foregoing to be a true and correct copy of the original on file in this Office, and registered with No. 145.

Geo: Fisher
Sy.

6

U. S. Dist Court
No. 6

The United States

— v —

José de Jesus Ave

Certified Copy of Letter from the Atty General

Filed July 3d 1854
by Schell Deputy Clerk

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CASE NO. 6. ND.

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UNITED STATES DISTRICT COURT,
Northern District of California.

San Francisco, January 11th 1855

ON this day, before N. H. Chevers a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came John Evans a witness produced on behalf of the Claimants in Case No. 6, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 17 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — ~~his evidence being interpreted by a sworn interpreter~~

PRESENT: John J. Williams, for claimants and the U. S. Dist. Attorney by Andrew Glassell.

QUESTION BY Claimant.

Question 1st.

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

Answer.

My name is John Evans, am thirty eight years of age, and reside in San Francisco County, California.

Question 2d

Are you acquainted with the land claimed in this case, which was granted to Jose Lewis Moe, If yea, State whether or not he said Moe erected a house thereon, and all that you may know in regard to his building a house.

Answer.

I am acquainted with said tract

Said Moé did erect a house thereon, in the month of June, or July, A.D. 1846. I hauled the lumber with which the house was built. The size of said house was thirty feet by twenty. It was a frame house.

Question 3d

Did he ever afterwards build any other house on this land, If yes, describe it.

Answer.

In the year 1848, he built a very large adobe house thereon. I cannot give the dimensions of the house, but it was a very large one. At that time it was very expensive to build a house, as carpenters wages were about $16 per day. Moé told me it cost him about $30.000, and I think it very probable it did.

Cross examined by U. S. Dist. Atty.

Question 1st.

Are you in any way interested in the event of this Claim.

Answer.

I am not.

Question 2d

Under what contract did you haul that lumber.

Answer.

Said Moé, and self purchased a launch between us, and our agreement was, that I would haul off the timber which he had at San Francisquito Creek, one load for him, and then one

for myself, and he placed one man on board the launch to balance my labor, so that we had equal use of the launch.

John Evans

Sworn to, and subscribed before me this 11th day of January, A.D. 1875.

W. H. Chevers
U. S. Com'r.

U. S. Dist. Court.

No 6

The United States,

vs

José de Jesus Moré,

Deposition of
Wm Evans.

Filed. Jany 11th 1855.

Wm. A. Morrison,
Clerk

José de Jesus Noé
adv
The United States

Answer

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

This Respondent for answer to the Petition filed in this case, answers and says, that his title to the Lands mentioned in said Petition and in said Transcript of the proceedings before the said Board of Commissioners is valid, and prays that the decision of said Board be affirmed and his title be decreed to be valid.

Thornton H. Williams
for Claimant

U. S. District Court

No: 6 —

José de Jesus Roé
ads } Answer
The United States

Answer, of
Claimant

Filed June 14, 1858,
W. H. Chevers
Deputy

CASE NO. 6 ND
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Thornton & Williams
for Claimant

CASE NO. 6 ND

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

The United States
Appellants
vs.
Jose de Jesus Noe
Appellee

The Petition of the United States by their Attorney represents that this is a petition for the review of the decision of the Board of Commissioners confirming the claim of the said Appellee as appears by reference to the records. that a transcript of the said Record was filed in this Court on the 1st day of Dec. AD 1853: that a notice of Appeal was filed on the 14th day of March 1854: and that the land claimed lies in this District—

That the said claim is invalid. Wherefore ~~the~~ Appellants pray that the decision of the Board be reversed & that this Court decree the said alleged title to be invalid—

Respectfully &c.
A. Glassell
Asst. U.S. Dist Atty. &c

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U. S. District Court

No 6

The United States
vs
José de Jesus Roé

Petition for Review

Filed June 14. 1855,
W. H. Chevers
Clk
By Deputy

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Stapell

CASE NO. 6. ND.

United States of America
Northern District of California

Alfred A. Green

of lawful age being duly sworn deposes and says that he resides in the County of San Francisco in said District, that he is acquainted with Jose de Jesus Ave. of said County, the claimant for a tract of land near the Mission Dolores, of one square league sometimes called the San Miguel Rancho and with the land claimed by the said Ave. as set forth in the record now on file in the District Court of the United States for said District on appeal from the United States land Commissioner, that he is informed and believes that ~~that~~ the title papers on which said claim is founded, are spurious, and antedated, that they were in fact prepared and executed in the year 1847 and not at the time they bear date respectively, and that there are witnesses, in said County whose attendance can be procured within a few days by whom these facts can be proved and whose atten

tance will be proceeded on the part of the United States, if the Court shall so order.

Sworn to before me
this 26th day of June
A.D. 1855
Jno A. Monroe

A. Alsreen

No 6 — 10

U. S. Dist Court

The United States
vs
Jose de Jesus Noe

Affidavit of
of A. J. Grow

Filed June 26th
A. D. 1855
Wm. A. Moore
Clk.

CASE NO. 6 ND
PAGE NO. 97

In the U.S. District Court
N. D. California —

The United States
v
Jose de Jesus Noe

It is hereby stipulated that all of the affidavits and depositions used before the Court or judge on the trial of the above entitled cause in this Court be filed Nunc pro tunc and that the same be considered and constitute a part of the Record and judgment roll in the said cause —

A. Wasell
Asst. Counsel of U.S.

Leo Parsons of Counsel
for Claimants

No. 6

N. D. Dist. Court,

The United States.

— vs —

José de Jesus Roe.

Stipulation to file affdvts & depositions,

Filed Nov. 16, 1855

J. A. Monroe,
Clerk

by W. H. Chevers
Deputy

CASE NO. 6 ND

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CASE NO. 6. ND.

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

CASE NO. 6 ND
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United States
vs
Jose de Jesus Noe

Northern District of California ss:

Paula Valencia of San Francisco County being duly sworn says that she was born at the Presidio of San Francisco and has lived in San Francisco County all of her life – that she is now forty three years of age – that some time in the year 1847, and about a year after the Americans took possession of the country, this deponent and her son Eustaquio Valencia came into the Presidio from the Mission Dolores where they were then living to see Major Hardy who was then the only authority in this country, for the purpose of arranging with him in regard to some difficulties existing between her and her brothers concerning the Sanchez Rancho, which was the property of her father deceased – that she and her son found Major Hardy was in the town of San Francisco, and would not return to the Presidio until 3 o'clock P.M. of that day – that they stopped in the house of Joaquin Pina adjoining that of Major Hardy at said Presidio until the return of said Major Hardy – that as they entered said house they saw said Pina writing at a small table on certain documents which he covered up as soon as deponent entered the house – After some conversation said Pina asked this

deponent whether the "Bolsas" were included in the Rancho of her brother in Law, Francisco de Haro – that it was a delicate question to ask, but that Jose de Jesus Noe wanted he should include it in a petition and decree, and expediente which he was then drawing up for said Noe; which said "Bolsas" are adjoining the lands of the Mission Known as the "Noe Rancho" – that he told deponent he had a very high respect for DeHaro, on account of his being a Corporal in DeHaro's Company – and that he did not want to include it in the petition and papers if it belonged to DeHaro – that Deponent then informed said Pina that it did belong to her brother-in-Law as she believed, and then said Pina told this deponent that he would not include the "Bolsas" in said papers, until after he should see said Noe again –

This Deponent further says that said Pina then showed to this deponent and her Son the little papers which he was making out for said Jose de Jesus Noe; and also the Map of the same, which was then only partly finished, and which was for the Rancho near the Mission Dolores now Known as the Noe Rancho – the location of which said Pina fully explained to this deponent and her Son – said Pina then cautioned this deponent to keep secret about all that she had heard and seen in regard to said papers –

Sworn and subscribed before me this
6th day of July A.D. 1855
Orrin Beasley J.P.
2 Township

Paula Valencia

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I hereby Certify that the aforegoing is a true Copy of the Original affidavit on file in the District Court for the Northern District of California

Jos. J. Hanna J.P.
5th Township

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U. S. District Court

The U. S.

~ vs ~

No 6

Jose de Jesus Noe

Deft —

Paula Valenzuela

Filed Nov: 16. 1855.

J Chevers

Deputy.

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CASE NO. 6. ND.

United States District Court
Northern District of California

San Francisco July 31st A.D. 1855

Testimony taken before Geo Pen Johnston a Commissioner of the United States for the Circuit Court of the U.S. for the District of California duly authorized to administer oaths &c &c in Case of The United States vs Jose de Jesus Noe being an appeal from the Board of Commissioners to ascertain and settle Private Land Claims in the State of California

Testimony taken in presence of Hon M. Hall McAllister Judge of Cir Court U.S. for Dist of Cal.

E. A. Laurence Esq Counsellor & Attorney of this Court appeared on behalf of the United States for U.S. Atty and Mess Thornton & Williams Esqs for Appellees

Alfred A. Green witness called by U. S. being duly sworn deposes and says; "my name is Alfred A. Green, my age is twenty seven years my residence is in the County of San Francisco about eight miles from the City at a place called Green's Ranch — I have lived in San Francisco County since December 1848 — was in the county about a month in March and April 1847 — I am well acquainted with Jose de Jesus Noe the claimant in this

case and with the lands in controversy
I have seen the original title papers
of Noe and will know them if shown
to me - I recognize this as one of the
papers Noe showed me in the spring
of 1850 - being very intimate and friend
ly with him at that time he wanted
my advice as to his papers he brought
them to me in the presence of my
wife on one occasion I examined them
and found they had no approval of
the Departmental Assembly he was him=
self the first to make the observation
he told me that he had sent them
down to Los Angeles in a vessel be=
longing to W. D. M. Howard and I
think in his charge - on account of
the Americans having entered the country
and it being in a state of revolution
the Departmental Assembly did not
convene and his papers were brought
back without the approval of the
Departmental Assembly - he appeared
timid and intimated that he was
afraid the American government would
not recognize his title - I asked him
had his own government continued in
existence up to that time if it would

have recognized his title – he said it would – I told him he need have no apprehension for that the American Government must be bound by the treaty of Guadalupe Hidalgo – after that he frequently talked with me about this matter and deplored exceedingly that his papers had not received the approval of the Departmental Assembly:– At the time the title papers were shown to me by Noe – my wife, his daughter and son were within a yard or two of us:– at the time he showed me the title papers of which I speak a petition with the report of a local officer indorsed on it and a "designio" these are all the papers I remember now.– " Question by E. A. Lawrence Esq. for U.S.

What was the general reputation of Pio Pico, up to the year 1850, in regard to making and antedating grants of land, purporting to have been made by him as Governor of California, previous to the arrival of the Americans?–

Objected to by Counsel for Appellees both as to form and substance, and ruled out by the Judge, – answer taken, subject to the ruling –

"From 1848 to 1850. I became acquainted with the general opinion as to Pio Pico making titles or grants subsequent to the arrival of the Americans in California."

Questions by Appellees

Cross Examination — "It strikes me, now mentioned 1847, — as the time when he sent his papers to Los Angeles, — he sent them, (he told me) while the country was in a State of war, and the Departmental Assembly could not convene — I think Pio Pico first went to Mexico in 1847, and think he was not gone over a year, therefore returned some time in 1848 —

Sworn to & subscribed before me July 31st A.D. 1855.
Geo Pen Johnston
U.S. Commissioner

Dolores Green witness called by U.S. being duly sworn, deposes and says; "I am twenty five years of age, I reside in the County of San Francisco, with my husband A. A. Green, who has just been sworn."

Here Edwin C. Palmer was sworn as an Interpreter — generally in this case. —

I arrived in California from Mexico in the Year 1848, — I was married the

same year I arrived here, — I knew the claimant Jose de Jesus Noe in the the Year 1849, first became acquainted with him then, — I knew the Rancho, Noe claims, or calls his, — I saw Noe show my husband some paper in a large room, I did not know what they were, I was at a distance from them, about ten yards off, — I did not hear any conversation between them, — I was entertaining company, in another part of the room, — I had a conversation with Noe about his papers in the Year 1852; — talking of squatters, — he said, "he used to be afraid of his papers, but was not now, — that Senor Ramon de Zaldo had fixed them for him, — that he was a bright man" — Noe said he was afraid of them, because they were not very good, — he said in a general conversation about all grants, — that all his papers were disarranged; — was never present at any time, when a conversation occurred between Noe and my husband on the subject of the title, — except in 1852 as before stated." —

Question by E. A. Laurence Esqr, on behalf of U. S. Attorney. —

Were you present at any conversation, when Noe stated to your husband A. A. Green, that he had, or had not the approval of the Departmental assembly to his papers?

Objected to, – and ruled out by the Judge, – answer taken, subject to the ruling –

"No. –"

Questions by Appellees. –

Cross Examination. – "I do not remember the month or season of the Year 1852 – when I had the conversation with Noe about his papers: – I do not remember what year it was, when I saw Noe show my husband the papers in the large room."

Sworn to & subscribed before me July 31st A.D. 1855

Dolores Green

Geo Pen Johnstone
U. S. Commissioner

Francisco Sanchez, witness called by U. S. being duly sworn deposes and says; "my name is Francisco Sanchez, I am fifty years old and reside in the County of San Francisco, I am a native of the country – born at the Mission of San Jose, and have lived in San Francisco County, ever since I was a small boy, eighteen miles from San Francisco near the ocean, on the coast – I know Jose

de Jesus Noe, have known him ever since 1833 or 1834, — I know the Rancho which Noe claims, — have known the Rancho all my life, — have known it since 1847, as being claimed by Noe, — never knew it was his Rancho, before 1847 or 1848; I became acquainted with the claim of Noe, by seeing him take possession of the Rancho, and put up a house and corral in 1847 or 1848, — then for the first time saw him about it, — never saw any improvements of any kind on the Rancho before then, — I have passed over the Rancho a great many times, — used to enclose my cattle in the corral on the Rancho, — do not know who built the corral, was called Noe's corral; — my horses and cattle are on my own ranch, but whenever I chanced by there at night with cattle, I corralled them there, — I would have known if Noe owned the Rancho before 1847 or 1848, — for it was generally known when any person asked for a Ranch about there, — I did not know that he had petitioned or asked for the Rancho, until I saw the house there in 1847 or 1848 —

Noe was Alcalde in San Francisco in 1846, same jurisdiction as the County has now,

he lived several years previous, say in 1842 or 1843, where the "Nightingale" now stands, on the Old Mission Road, on a place near by called "Las Camaritas" – then moved to a little house near where the Recorder's Office now is. – In the Year 1837, I was appointed Military Commander and acted so until 1841, – in 1842 and 1843, I was Alcalde in the jurisdiction of San Francisco; in the years 1845 and 1846, I was again Military Commander of San Francisco, and remained so, until the arrival of the Americans, – I knew in the years 1844, 5, & 6 the Rancho, now known as the "Ridley Rancho," – I think it was then known as the Visitacion Rancho, or Rancho Canada de Guadalupe, am not certain which, – I am not certain what time it was first called "Ridley's Rancho," – think I have heard it called so, as early as 1841 or 1842, – the Rancho belonged to Leese, – some exchange took place about the year 1841 or 1842, – Leese giving the Rancho to Ridley for a Rancho, somewhere up in Sonoma." –

Questions by Appellees

Cross Examination – "It might have been about the Year 1847 or 1848, when I first put my cattle in the corral on

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the Rancho claimed now by Noe."

Sworn to & subscribed
before me July 31st A.D. 1855
Geo Pen Johnston
U.S. Commissioner

Fran. E. Sanchez

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Paula Valencia (witness called, by U.S.) being duly sworn deposes and says: I am forty-four years of age and live at the Mission Dolores in the County of San Francisco - I have lived at the Mission seventeen years - I know Jose de Jesus Noe the claimant - have known him ~~about~~ about ten or twelve years - I have known ever since two or three years after the Americans entered the country, the Rancho of Jose de Jesus Noe - I would have known if had a Rancho there before that time when the Americans came here Noe lived in San Francisco had probably lived in San Francisco a year:- Noe took possession of the Rancho before he got his papers - on one occasion when I went to the Presidio I saw Joaquin Peña making out the map and papers and he showed them over when I went in, - Peña showed me ~~the~~ papers, they were a map and petition for the land of Noe's Rancho, the petition was written on white paper about half way down the page

the map or "designio" was there,- they were on separate sheets of paper,- the map was not complete, Pena was making it,- the petition was in the name of Jose de Jesus Noe,- (Joaquin Pena is now dead,-) Noe not present,- I do not know that Pena was acting in any capacity for Noe,- never knew whether he was employed by him, or not."

Question by E.A. Laurence Esqr, on behalf of U.S. atty,-

"What was the conversation between you and Pena, with regard to the papers on which you saw him working?"

Objected to,- and ruled out,- objection sustained,- question answered subject to the ruling,-

"Pena asked me, whether the "Bolsas" belonged to the family of Haro or not, I told him that I knew the "Bolsas" belonged to the Haros, as the mother had asked for it for the family,- he then showed me the map, and told me, that Jose de Jesus Noe had told him to include the "Bolsas" in the map,- he then stated to me, that he would not finish the map, until he could see, and have a conversation with Noe,- Pena said at the time, that after he had a conversation with Noe, if he still

insisted on having the "Bolsas" put in the map he would not make the map for that he respected the claims of the Haros;- I do not remember exactly at what time Noe went to live on the Rancho, but think it was about two years after the Americans came here; - he let loose his cattle on the "Rancho" to run in common with his neighbor's cattle, - in four or five years he built a house, - I thought it was the Mission Land as there was no other Rancho about there except that of Carmel Bernal, - they were government lands, - lands for all the neighbors, - when I first knew the Rancho called the "Ridley Rancho" it belonged to Leese; it is within the last three or four years that I have known the "Ridley Rancho" by that name, soon after the death of Ridley, that I first heard of it by such name, - can not tell how long I have known it as Leese's Rancho. -"

Examination in chief closed except as to identification of "expediente" in Surveyor General's Office. -

Questions by Appellees

Cross Examination - "I do not remember

in what year, I saw Pena fixing the Papers, – but it was about two years after the Americans came to the country, – it was about nine or ten years ago since they came here, – I do not know what year this is, – I can neither read nor write, – the wife of Joaquin Pena and my son Ustachio Valencia, were present at the time I saw Pena with the papers map, petition &c – I can not tell without looking at the map, how much of it was done, – it was finished except that part about the "Bolsas", – I can not give a more particular description, I could have read it if printed, but can not read writing, can not remember the marks or lines on the maps, – did not see the map well, Pena did not show it to me much, – (a map was here shown the witness, being the map contained in the record of the U.S. vs Samuel Norris;) this is not the one, – I do not know, or rather can not tell whether this a copy of the map made by Pena or not, did not see it well, – ~~would~~ know the paper on which the map was first made, it was on Spanish paper, and I would know it, –

Questioned by the Judge, – answered, I did not read anything on the map or petition, that Pena had, because I can not read, – I did

not have the papers in my hand, - they were laid on the table - Pena died three or four or five years ago. - The only reason I knew that the papers were a map and petition, was because Pena told me so, and that is the only way I learned they were Noe's papers, because Pena told me - if Noe's name had been on the papers, I would not have been able to read it - I can read printing, - but cannot read writing." -

Sworn to & subscribed before me July 31st A.D. 1855
Geo Pm Johnston
U.S. Commissioner

~~Pedro Sanchez de~~ ~~for~~ Valencia
~~mark~~

Paula Valencia

Examination adjourned until to-morrow at 11 o'clock A. M. -

Examination resumed Wednesday Aug 1st 1855 at 11 o'clock AM
Present E.A. Laurence on behalf of District Atty of U.S. and Mess Shorton & Williams on behalf of Appellees

Paula Valencia - recalled by U.S. direct examination resumed - (the "expediente" from the Surveyor General's Office being shown to witness) "I recognize the paper and writing of page two, as that which Joaquin Peña had in his possession, the marginal note of the Governor or decree, I do not recognize, the writing on the second page is that I recognize, - I never saw the writing on the third page, - I never saw the map on the fifth page, the map I saw Peña have was smaller about half

the size, and on whiter paper, - not so well executed, - I never saw any part of the "Expediente", except pages two, three, four, and the blank page next after page four, comprising two leaves or one sheet of the "Expediente", - page two was the only one in which there was then, any writing, it did not have any marginal note, but had other writing on it, as I have before stated, - I saw pages three - four, and the next page to four, now blank, - no writing on any of them." (In answer to a question of the Judge) - "I was told what the writing on page two was, - I was told by Joaquin Pena. - (Counsel for appellees, object to the last answer.) - "I was told at "Presidio", about two years after the Americans, came into the country, - I was told this in the same conversation, about which I testified in yesterday having had with Pena." -

Question by E. A. Laurence Esqr, on behalf of U.S. atty - "What did Pena tell you, in reference to the paper, which you say you were told was the petition?

Objected to. ——— . (To the Judge) "Noe was not present at the conversation." -

Objection sustained, by the Court, - and answer received, subject to the ruling -

Pena told me he was making the papers for Ine de Jesus Noe, - he told me it was the petition of Ine de Jesus Noe, -"

(The statements made by Joaquin Pena, to the witness as testified to by her yesterday, were again offered to be given in evidence by Counsel for Appellants, and ruled out by the Court.)

Questions by Appellees.

Cross Examination. - "I first saw the paper about which I have testified, two years more or less, after the Americans came to the country, - I ~~next~~ saw it next this morning, in the archives - Martinez, a Mexican, an old American gentleman, and Mr A.A. Green were with me, - none of them read it to me, - nor did any of them tell me what it was, - they asked me if I had ever seen it, - they did not tell me anything about it, - I know the paper, I know it from the paper itself, the water marks on it, and its general appearance, - I have seen a great deal of such paper, - there was more of it than any other kind in the country;"

(A sheet of Mexican paper, was shown to witness,) I do not think it is the same kind of paper, the marks on it are different, — the paper which I saw in Pena's hands, I did not examine ~~it~~ closely, but I know the paper, — I can tell that kind of paper wherever I see it, for it is paper generally used at that time, — I did not notice the paper closely, did not observe any particular water-marks on it; but I know it from the general quality of the paper, — while I was with Pena he did not write anything, but he told me when he showed me this paper that he had written it, — I do not know whose handwriting is on the paper, — I have ~~told Mr Palmer~~ told Mr Palmer that I sometimes thought the handwriting was Francisco Guerrero's, — I do not now say that the handwriting is Guerrero's, but I have sometimes thought it was his, — I have seen some of Guerrero's handwriting, — but do not now remember what particular specimens of it I have seen, — no one ever told me that the handwriting was Guerrero's, — the only person who ever told me anything about the hands=

writing on this paper, was Pena, — I do not know Guerrero's writing, — I said some times I thought the hand writing was Guerrero's, because some of the letters look like his hand writing, — I can not point out any letter or letters on this paper, which I recognize as looking like the hand-writing of Guerrero: — no body has ever pointed out to me the water-mark on the paper, — my attention was attracted to the water-mark on the paper, because Mr Williams since this examination commenced to day, has exhibited to me another paper with a water-mark on it, — when I first looked at the paper this morning, I did not notice the water mark on it, nor until (as I state) my notice was attracted to it: — I was present when A. ~~Dixon~~ A. Green and another person, examined the paper this morning, holding it up to the light and otherwise, but I do not identify the paper by what I saw them do, or by the water marks, — but because I know the general appearance and quality of the paper." —

Direct examination resumed. —

"I did not see any water-marks on the

paper at the time Mr Green was examining it, this morning:- the water marks in this paper, are plainer and clearer when the paper is new, than after it grows old,- I can not distinguish the difference between water marks on paper when the paper lies on a table,- or could not formerly, now my notice is drawn to it, I could probably distinguish differences:- I can not tell whether paper with a particular water-mark on it, is the paper of a particular year, or whether it is, or was to be used in any year,- all the papers I saw Pena have, ~~was~~ were the single sheet of the "expediente", I have testified about,- and another piece on which there was a map."-

Sworn to & subscribed before me this 1st day of August A.D. 1855.-

Paula Valencia

Geo Pen Johnston U.S. Commissioner

A.A. Green recalled by U.S.,- direct examination resumed,- the "expediente" in this case was exhibited to witness,- "I have seen pages two, three, four and the one next to page four, (a blank)- com-

prising a sheet, — this sheet was shown to me by Jose de Jesus Noe at his residence, at the Mission Dolores in the year 1850, — at the time he showed me the document about which I testified yesterday, — the map in the "expediente" I never saw before this morning, it is not the map Noe showed me at the time I speak of; — that map was smaller, and different in several respects, — this sheet is the paper I meant in my deposition yesterday, as the petition with the reports of the officer or officers upon it, — the only papers shown to me by Noe, were the pages two, three, four and the next of "Expediente" No 494 — on page two is the petition, — ~~the original grant~~ the order to the prefect — the report of the local officer, and the provisional decree contained in the expediente, — and a map which is different from the one contained in the "Expediente." —"

Questions by Appellees. —

Cross Examination resumed, — "It was in the Spring of 1850, that Noe showed me the papers, — the documents contained in the first sheet of Expediente No 494, are the identical documents, — the same

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paper, which Noe showed me in 1850, — ~~yesterday~~ I examined the documents at leisure, in order to ascertain the manner of making similar documents, — this is the same paper I examined in the archives this morning, — I have seen much of Sanchez's hand-writing, and can identify it, in the documents but do know any of the other hand-writing, — I could not swear to Pio Pico's hand-writing from my knowledge of it, — I don't know who wrote the body of the petition, — I do not know who wrote the report signed by Sanchez, — I do not know the body of the writing in the document signed Pio Pico and Covarubias, designated by me as the provisional grant or decree, — I have not noticed any particular mark on the paper apart from the general appearance and handwriting of the documents, — I have seen the paper twice in the archives since Noe showed it to me, — I saw it about a week ago and again this morning, in the archives, — In 1850, I could read Spanish, — if Noe had shown me a copy of these documents, — unless precisely alike, I could have told the difference, — I never

examined a paper so closely in my life:- I examined it so closely, that I could have told the difference between it, and a duplicate in the hands of Noe, - I could have, and could now, detect trifling differences, - I was an hour examining the paper, did it entirely at my leisure; - it was a matter of particular interest for me to examine it, - I have an interest in sifting this claim to the bottom, - I have not originated the opposition to this claim that I know; - the object I have in view, is not to defeat the claim I want to have it to stand on its merits; if it is Noe's claim, I want him to have it, - the settlers on Noe's Ranch, after hearing statements that I made, which I had obtained from witnesses at the Mission, authorized me to employ counsel, - I did not employ Mr Laurence as counsel in this case, I may have occasioned his employment, - I do not know that I am responsible for any portion of the fee to be paid to Mr Laurence, - I told the settlers I would attend to the case, and do all I could honestly to get it settled on its merits, - I made an affidavit, which is the same now shown me as filed among the papers in this case, - I made the

~~the~~ affidavit of my own free will and accord, — the Justice of the Peace who took the affidavit of my wife, went to my house of his own accord, knowing her to be aware of the facts set forth in the affidavit, — he lives on the land in controversy, and takes a greater interest in defeating the claim than I do, — he received no fee from me, I told my wife the object of the visit of the Justice, he not speaking Spanish very well, — I met the counsel for the settlers, who told me it was necessary to have the affidavit of Paula Valencia, when I took her up into the counsel's office, and had it taken, — I informed the counsel of the facts that Valencia could prove, — I acted as interpreter in taking her affidavit, — I also interpreted for the officer in taking the affidavit of my wife, — the affidavit of my wife is in the handwriting of the Justice, — on the trial of this case, I have aided counsel in addressing interrogatories to the witnesses, or rather in directing to what points the examination should lead; One of my objects in acting in this case, is to clear up the reputation of Noe,

who is my neighbor, — for I do not want to live near a man whom I respect, — and hear the hard things said about him which are said about Noe, in reference to his land-titles, —"

Direct examination — resumed, — "I have no bias against the claimant Jose de Jesus Noe. —"

Sworn to & subscribed before me this 1st day of August A.D. 1855

A. Alsten

Geo Pen Johnston U.S. Commissioner

~~Vitalio~~ Eustaquio Valencia, called by U.S., being duly sworn, deposes and says; "I am named Eustaquio Valencia, — I am twenty seven years of age and upwards, — reside at the Mission Dolores, — I am the son of Paula Valencia; who testified in this case to day, — I was not present at the conversation which occurred between Peña and my mother, — I was in the corridor, — I think it was in 1847, at the "Presidio" in the house of Joaquin Peña, — I did not hear the conversation, — I saw nothing done which I can remember now, — Peña was seated at the table in the house, but I did not see him writing, — I did not

I did not see him show my mother any papers, — he had some papers before him on the table, — I did not pay much attention to what was done, my mother came in before me, — I paid no attention to what was done, — I have not been told by anybody not to testify in this case, — I do not recollect in what year Noe went to live on the Rancho San Miguel, — but he had some laborers, and a son living there, about the middle of the Year 1847."

~~Question by Appellee~~

~~Cross Examination~~ Eustaquio Valencia

Sworn to & subscribed
before me this 1st day
of August A.D. 1855

Geo Pen Johnston U.S. Commissioner

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Jose Lorato Martinez, called by U.S., being duly sworn, deposes and says; "I am named Jose Lorato Martinez, I am twenty eight years of age, I live at the Mission Dolores, — Noe lived at the Mission Dolores in the years 1849 & 1850, — he lived in a house at the Mission Dolores."

Question, — by E.A Lawrence Esqr, on behalf of U.S. Att'y. —

"Did Noe reside on the Rancho

San Miguel in the Years 1849 & 1850?-

Objected to by Counsel for Appellees.-
Objection sustained, and answer taken subject to the ruling.-

"He did not".-

Question by E. A. Laurence Esqr, on behalf of U. S. Atty.-

"Did Noe ever live upon the Rancho San Miguel, if so, when?

Objected to by Counsel for Appellees.-
Objection sustained,- and answer taken subject to the ruling.-

"Noe did live there, and built a house, but I do not know in what year."-

Expediente No 494, was shown to the Witness.-

Question by E. A. Laurence Esqr, on behalf of U. S. Atty.-

"Did you ever see these papers or any portion of them before?-

"The first time I ever saw these papers, was this morning."-

"What papers did you see in the possession of Noe in 1852, to which you have alluded?"

(The original grant being shown to witness-) "I think I am certain that this is the paper Noe had at that time."-

"I never saw the petition of Noe for the Rancho San Miguel"

Question by E. A. Laurence Esqr, on behalf of U. S. Atty.

"Have you ever seen the Map attached to the "expediente", in this case?

(The map is handed to the witness.)

"I have seen a map in the possession of Jne de Jesus Noe, but do not know whether it is the map attached to the "expediente", or an original."

"Was the map similar to the one attached to the "expediente"?"

"I recollect well the map, I saw, but this is entirely different – the paper is thinner in the map now shown me, and coarser in the one I formerly saw."

J Loreto Sparkman

Sworn to & subscribed before me this 1st day of August A.D. 1855

Geo Pen Johnston
U. S. Commissioner

witness called by U.S.

Candellario Valencia, being duly sworn, deposes and says; "I am forty eight years of age, and live at the Mission of Dolores, - I have lived in the County of San Francisco at the Mission Dolores, for the last sixteen or seventeen years." -

Question by E. A. Laurence Esqr. -
"Were you generally acquainted with the grants made in that vicinity?" -
"I have generally known about the ranchos, granted in that vicinity." -
"I do not recollect the time when I first heard of the Rancho being granted to Noe; it was since the Americans came, - I do not recollect when they came, - they came during the war; I do not know whether Noe had a grant or not." -

Question - by E. A. Laurence Esq.
"If Noe had had a grant before the Mexican war, would you have been likely to have known it? - I do not know." -

Question - by E. A. Laurence Esq
"If Jose de Jesus Noe had owned the Rancho San Miguel before the war, would you have been likely to have

Known it?" "I would not have known it."—

Sworn to & subscribed before me this 1st day of August A.D. 1855

Geo Pen Johnston U.S. Commissioner

Cornelario Valencia

Certified Copy of Deed from Jacob P. Leese to Robert Ridley dated December A.D. 1849 filed as evidence.—

✓

Thomas E. Evershed witness called by U.S. being duly sworn deposes and says; "I am keeper of the Archives in the office of the Surveyor General of the United States,— the "Expediente" (in this case) No 494,— heretofore testified about by the foregoing witnesses of today, is a part of the Archives in that office;— and the "certified copy of the original "Expediente" in the transcript from the Land Commission in this case, is a true copy."—

Sworn to & subscribed before me this 1st day of August A.D. 1855

Geo Pen Johnston U.S. Commissioner

Thos. E. Evershed

Examination adjourned until to-morrow at 11 o'clock A.M.

Examination resumed - Thursday August 2nd 1855 at 11 o'clock A. M. - E. A. Laurence of behalf of U. S. for Dist Atty Mr Thornton & Williams on behalf of Appellees, Present:-

Henry W. Hallock, witness on behalf of Appellees being duly sworn deposes, and says: "I was appointed Keeper of the archives of the former government in the summer of 1847, & continued in charge of them, until February 1850, - as Secretary of State until the end of December 1849, and from that time until February 1850, as Aid de camp to Gnl Riley. - I had no control of the papers, until the summer of 1847, - during the time that I was keeper of the archives a list was made out of the "expedientes", contained in the archives," - (a document is now handed to the witness, taken from the archives in the Surveyor General's office of the U. S.)

"this list was made in the latter part of 1847, and the beginning of 1848, by Mr Hartell and myself, - W. E. P. Hartnell now deceased, - and the "expedientes" were arranged in the archives according to this list, - Mr Hartnell wrote them down, as I called a

them off and arranged them, - this is the first list made, I, afterwards in 1849, made a more complete list for my own use, which was burned in 1851 accidentally, - the name of Jose de Jesus Noe as grantee of land at San Francisco, "expediente" No 494, is on this list, - there was such an "expediente" in the archives at the time I have mentioned, the latter part of 1847 or the beginning of 1848, - no entries were made in this list of "expedientes" except under my own supervision, - ("expediente" No 494 from the archives of the Office of the Surveyor General of U.S., being the same expediente produced yesterday in court, and referred to in the testimony of witness being shown to witness, he says,) "I have examined this "expediente", - I cannot say whether this is the identical "expediente" which I saw in 1847 and 1848, as I did not then examine it particularly, but there was then in the archives an "expediente", corresponding to this in number and general character, - in 1849 I remember seeing an "expediente" of this description, the "exped-

ainte" of a grant to Jesus Noe, in which the application of Bonita Dias for a tract of land adjacent, was mentioned, — I remember this particularly, as it was the first notice of Bonita Dias' application, which I had then seen in the archives, — I do not remember particularly anything more about the contents of that "expediente," — the number 494 on the first page of this "expediente," is in the handwriting of Mr Hartnell, — the handwriting of the petition on page two of the "expediente", is that of Francisco Guerrero, — I have seen him write and received letters from him, — he is now deceased, and I know his handwriting, — I think the signature J. de Jesus Noe is the handwriting of that person, but cannot say with much confidence, having never seen him write except two or three times, and then only in signing his name, — the marginal decree signed Pico on the same page, I think is the handwriting of Juan Bandini, — I think he was Secretary of State at that time in California, think so from general repute, — I have

seen him write, and received letters from him, but I cannot say positively, the decree is his handwriting, think so however, I know the signature of Pico, the one attached to the marginal decree is genuine, — I have seen him write and sign his name, — on third page of "expediente" the part signed Jose de la Cruz Sanchez, — is signed by said Sanchez, — I know his handwriting only from seeing it often in the archives, and from having seen him sign his name, — the remainder of third page and all of fourth page is written in the handwriting Jose M. Covarrubias, — he was Secretary of State in 1845, — Bandini was Secretary during the absence of Covarrubias "ad interim"; — I have often seen Covarrubias write, and received letters from him, — the signatures of Covarrubias and Pico on the fourth page, are genuine; — I remember nothing of the map, know nothing of the handwriting of it, — pages six and seven are in the handwriting of Covarrubias, — the signatures of Pio Pico and Augustine Olvera, — I think, are their genuine signatures — I have seen

Olvera sign his name several times, - never saw him write to any extent but once, - Olvera, I understand at that time, (in 1846) was a member of the Departmental Assembly, - the last Departmental Assembly, - I believe the Assembly met after that time, but it was the last Assembly, - the handwriting on the last half of page eight, and page nine, to the signature of J. Arguello, is in the hand writing of Santiago Arguello, - I have often seen him write, and since 1847 I have received numerous letters from him, the signature J. Arguello is his genuine signature - the remainder of the writing on page nine, I do not know, - the said Arguello was at that time, (in 1846, a member of the Departmental Assembly, and a member of the Committee on Vacant Lands, - I know this as a historical fact, and from Arguello's statements, - the endorsement on the first page of the "expediente" is in the hand-writing of Covarrubias, - when I had charge of the archives I kept them carefully locked up, no one ever had the key to them while I was the keeper except the

Governor and Wm Carey Jones, - when acting as the agent of the general government at Washington, - he had the key for a day or two, - it was given to him by the Governor, - on my protesting against it, the key was returned to me, and he was not allowed to take papers from the desk to examine them, except under my inspection and that of the Governor, - this is the only exception I ever knew to the general rule of exclusion, - no paper was allowed to be taken out of the archives while I had charge, and no paper was put in, unless it was first endorsed by me with the date of its deposite, and the name of the person who deposited it written on it," (the original record of the proceedings of the Departmental Assembly from the Surveyor General's Office of the U.S. shown to witness.) I recognize this, as a book of records of the Departmental Assembly, which was in the archives when I had charge of them, - I have looked at the records of the proceedings of the Departmental Assembly purporting to be the true records of the proceedings of the Departmental Assembly of the 3d of June 1846, and

Pio Pico, President and Augustin Olvera, Secretary, — the signatures are the genuine signatures of Pico and Olvera, — in that day's proceedings (the 3d of June) and on page 67 of this book, there is the approval by the Departmental Assembly of a title issued to Jose de Jesus Nye on the 23d of December 1845, of the place next to the ex-mission of Dolores, — in extent one square league, — this entry is identical with the one on page fifty of the transcript of the record from the Land Commission in this case, filed in this Court. —"

"Cross Examination — by Appellant's Counsel.

"I came to California in January 1847 — I received the appointment of keeper of the archives in the summer of 1847, — I took charge of the archives immediately after receiving my appointment in the summer of 1847, — I was in the office of Governor Mason as one of his staff prior to my appointment ~~as~~ Secretary of State, and as such officer had indirectly charge of all papers in his office, but not specially the archives of the former government, — previous to my appointment of Secretary of State, I did not have charge of the archives, or know their contents, — there was but one room

occupied as the office of Governor Mason, at that time, and I think no one could have touched the archives except in the presence of Governor Mason, Captain Sherman or myself, – I remember very well that the last one who left the office locked it, and took the key to Governor Mason's room, – that was the standing rule of the office; – Mr Hartnell, who was then employed as translator, and interpreter, and a sworn officer, was the only one, except the gentleman I have named, who had access to the archives, – I took charge of them officially as I there found them in the office, – I had previously seen portions of these archives in the hospital which was then in the Old Custom House Building at Monterey Calª, they were removed from that place to Governor Mason's Office, the remainder were brought from Los Angeles Calª by Col Fremont, and deposited in the Governor's Office, – the portion of the archives from the Custom House was put into the Governor's Office by General Kearney, I think, in February 1847, – the portion from Los Angeles was received in the office in May or June 1847, – I think in May 1847, – the por-

tion of the archives in the hospital at Monterey prior to their removal to the Governor's Office, was accessible to every-body in the hospital, and thrown loosely about, - these archives were then used as waste paper by the sick, in the hospital, - the entry on the list of "expedientes" of the particular one of Jose de Jesus Noe is in the hand-writing of Mr Hartnell, - I never have discovered any frauds in the archives since I have ceased to be the Keeper of them, I have had no greater facility of access than other persons, - I know that there were other "expedientes" in the archives than those in this list, "expedientes" which I found after making this list, in the papers of the archives, - I do not remember having examined the "expediente" of Noe, further than was necessary to make out the list, I remember nothing particularly about it, - I did not notice the number of pages contained in the "expediente", at least do not recollect the number now, - I recollect in 1849 finding a reference to Benita Dias' application for a grant of land adjacent to that of Noe, - I recollect this from the fact that I had previously reported to Gov-

ernor Mason, that I had found nothing in the archives relating to ~~[illegible]~~ Bonita Dias' grant, and this was the first reference I saw to that grant, — I made this report to Governor Mason under orders to report on the subject, because the Military Reserve near San Francisco was claimed under the Dias' grant, — All the parties whose official signatures appear in this "expediente" are now alive in my opinion, and living in this State, except Guerrero who died about four years ago, — and Bandini who lives part of the time in San Diego in Upper California, and part of the time in Lower California, — my opinion is, if that is asked, that every word written in this "expediente", was written by the persons, and at the time it purports to be, — I think the last Departmental Assembly met in July 1846, after the 7th of July 1846, I recollect that fact, — I think it was the same Assembly that met prior to the 7th of July, the same body of men, — there was an Assembly met later in the year, but I think not the same body.

A. P. Redman.

Sworn to & subscribed before me this 2d day of August A.D. 1855.

Geo Pen Johnston
U. S. Commissioner

CASE NO. 6 ND
PAGE NO. 141

Juan Manso witness called by Appellees being duly sworn deposes and says "I am forty two years of age, I live in Martinez Contra Costa County, California" (the original grant filed in this case is presented to the witness) "in December 1845 or November of that year Jose Antonio Aguirre presented himself to me to have me to speak to the Governor to get him to approve of the petition of Jose de Jesus Noe, - I spoke to the Governor and he told me that he had made or conceded the grant to Noe, I cannot remember whether I have seen the grant (this paper) or not, but I know the signatures of Pio Pico and Covarrubias on this paper to be genuine, I think I saw the final grant made to Noe in 1845 (the latter part) but cannot swear positively that I did, nor can I identify the paper, I first heard of the grant to Noe in December 1845, Aguirre was attending to Noe's grant and matters affecting it at that time and before, I know the hand writing of Aguirre I have seen him write and have had running accounts with him,

~~Again~~ In 1845, I was Mission Commissioner, I resided then, at the seat of government Los Angeles."—

Question by Counsel for Appellants— Cross Examination,— "Because I had finished my work as Mission Commissioner just at that time, I remember having had the conversation with Aguirre, and the Governor."—

Sworn to & subscribed before me this 2d day of August A.D. 1855

Juan Nunez

Geo Pen Johnstone
U.S. Commissioner

Witness called by Appellee

Juan B. Alvarado, being duly sworn, deposes and says;—

(Original Expediente No 494 being exhibited to the witness, he says)— "The endorsement on the "Expediente", page one, is in the handwriting of Covarrubias,— I have seen him write a great many times,— the body of the petition on page two, is in the handwriting of Francisco Guerrero,— I think the signature to it, is in the handwriting of Jose de Jesus Noe, although I am not very familiar with his handwriting,— the writing on the margin of the petition

is that of Juan Bandini,- the sig=
nature to it, is that of ~~the~~ Pico, his genuine
signature, I have often seen both of
them write,- the body of the writing on page
third, over the signature of Jose de la
C. Sanchez is that of Francisco Haro,-
the signature to it is the genuine sig=
nature of the said Sanchez,- I have often
seen them both write:- the writing at the
bottom of page three, and on page four,
over the signatures of Pio Pico, and Jose
M. Covarrubias, is that of the said Co=
varrubias, and both of said signatures are
genuine signatures,- pages six and seven,
except the last two lines on page seven, are
in the hand writing of Covarrubias,- I think
that the writing on page eight, over the signatures
of Pio Pico and Augustin Olvera, is that of
Olvera, but I am not certain,- Pio Pico's
signature is genuine, and I think Olvera's
is, although I am not well acquainted
with his signature; the writing over the sig=
nature of J. Arguello is that of Santiago
Arguello, and his signature thereto
is his genuine signature, I have often
seen him write:- the three lines fol=
lowing, I do not know,"- (the original
grant filed in this case is shown to witness)

the signatures to this grant of Pio Pico and Covarrubias are genuine — from 1837 to 1842 I was Governor and Political Chief of the Departments of the Californias —

Questions by Appellants Counsel

Cross Examination — I have seen Guerrero write and know that the writing in the "expediente" which I have testified to as being his is his. —

Sworn to and subscribed before me this 2 day of August A.D. 1855
Geo Pen Johnston U.S. Commissioner

Juan B. Alvarado

The signature to and handwriting of the body of petition, Appellant's Counsel to be permitted to introduce testimony to prove, also to prove the manner in which "Expediente" 494 was placed in the Archives. —

Examination adjourned to such period as both parties may be ready to resume.

Examination resumed Tuesday August 7th A.D. 1855 –

Edwin L. B. Brooks appears on behalf of U.S. Dist Atty Mess Thorton & Williams for Appellees –

Jose de la Cruz Sanchez, witness called by U.S. – being duly sworn, deposes and says; "I was born at the Mission of Santa Clara, – I have lived in California all my life, – I lived four years in Santa Clara, and the rest of my life I have lived in San Francisco County, – I was Alcalde at the Mission Dolores in 1845, under the Mexican Government, – during the year 1845, I acted as alcalde and commenced the Year 1846, – and left shortly after the first of that Year, having Jose de Jesus Noe Alcalde, and Guerrero, Prefect, – I acted as Alcalde one or two days in the Year 1846, – during the time I was Alcalde, I held no other office. –

Sworn to & subscribed before me
this 7th day of August AD. 1855
Geo Pen Johnston
U.S. Commissioner

J. de la C. Sanchez

On motion of Appellant's counsel and an affidavit filed examination adjourned until to-morrow at 11 o'clock A.M.

Examination resumed Wednesday August 8th A.D. 1855 at 11 o'clock A.M. Present E.A. Lawrence Esq. & Edwin L.B. Brooks Esq. on behalf of Dist Atty of the U.S and Mess. Thornton & Williams for Appellees.

Jacob P. Leese witness called by Appellees being duly sworn deposes and says; "I am forty six years of age and reside at Monterey California, I know the Rancho known as Cañada de Guadalupe, Visitacion & Rodejo Viejo, once owned by myself and afterwards by Ridley near the Mission Dolores, the northern boundary line is within two or three miles of the Mission I exchanged this Ranch with Robert Ridley in the Year 1844 for a Ranch which he owned on the north side of the Bay in Sonoma County, the Ranch after it came into the possession of Ridley was frequently called Ridley's Rancho and generally known as such. I gave Ridley possession of the Rancho immediately after our exchange, I executed the deed to Ridley in the winter of 1849 and 1850."

Cross Examination - by E.A. Lawrence Esq. on behalf of U.S. atty

"The Rancho called Canada Guadalupe te was

granted to me in the Year 1840, I think, the Rancho in Sonoma County, was called Llogolliomi Rancho, Mr Ritchie is claimant for this Rancho before the Land Commissioners, there was a verbal exchange of the Ranchos between Ridley and myself in 1844, which was ratified by exchange of title papers in the winter of 1849 and 1850, — in 1844 Ridley and I mutually took possession of the Rancho, exchanged according to the terms of the exchange, I am positive that this occurred in 1844, I moved away to the Sonoma Rancho, and do not know whether Mr Ridley took immediate possession of the Rancho, I exchanged with him, or not, it was rented to Gen Vallejo at the time of the exchange, and Ridley took it subject to such rent, he had control over it however, entirely, I heard the Rancho denominated the "Ridley Rancho" before the war, I know nothing positive about the Noe Rancho claimed in this case, the western Boundary line of the Visitation or Ridley Rancho, was the Camino Real, commencing at the Big Rock known as the Isla following the road up to the Puerto Suelo, & since I have been informed it is the boundary line of the Noe Rancho

I think I heard that this was the Boundary line about the Spring of 1846."

Sworn to & subscribed before me this 8th day of August A.D. 1855

L. P. Leese

Geo Pen Johnston
U.S. Commissioner

Jose Dennison (called by the U.S.) being duly sworn, deposes and says; "I live at the Mission Dolores, and am twenty nine years of age, — I knew nothing of the papers of Jose de Jesus Noe, — I have never seen the papers, — I know nothing of the "expediente" in this case."—

Question by E.A. Lawrance Esq, "Do you know anything about the "expediente" in this case, being deposited in the archives of the Surveyor General's Office, and if so how was it deposited?"

Objected to by Appellee's Counsel, — ruled out by the Judge, — but the answer taken subject to the ruling.—

"I know nothing about it." "I never was present at a conversation between De Zaldo and Noe with reference to Noe's papers. — I have never heard Mr Noe say anything about his papers."—

Cross Examination waived.—

Sworn to & subscribed before me this 8th day of August A.D. 1855.—

Jose Dennison

Geo Pen Johnston U.S. Commissioner

Examination closed except as far as the testimony of Sanchez is concerned — examination adjourned to such time as the attorneys on both sides may agree on taking the testimony of Sanchez. —

By written consent of E. A. Lawrence Esqr Counsel for Appellants appearing instead of U. S. Dist Attorney and of Mssrs Thornton & Williams Counsel for Appellees — the testimony of José de la Cruz Sanchez is to be taken before U. S. Commissioner Johnstone in the Office of the Surveyor General of California as to the "Informe" purporting to have been made by the said Sanchez and its genuineness. —

Jose de la Cruz Sanchez recalled on the part of the U. S. – Examination had before Geo Pen Johnston U. S. Commissioner in the office of the Surveyor General by consent of counsel for both parties – filed, in writing – (the third page of the original "Expediente" in the Surveyor General's Office being shown to witness) The signature to the "Informe" on page No 3, of the "expediente" is my genuine signature – I signed one but I do not know whether this is the "Informe" I signed or not – the one I signed was in the handwriting of Francisco de Haro – the "Informe" I signed was against Noe and in favor of the Mission or Pueblo – the lands belonged to the Mission or Pueblo and I ordered the secretary to make out the "Informe" accordingly – the "informe" was given at the Mission but the document purports that it was made at San Francisco:–

Question by E. A. Lawrence Esq – Are you certain that it is your signature appended to the "Informe"?

Objected to:– by Counsel for Appellees

I am certain it is my signature – it is the same "Informe" that I gave, but it is not written in the same terms I desired. – I know it is the same "informe" I gave by my signature but that which I ordered to be put in it, is not in it – I signed the "Informe" in the Year 1845 – I do not know whether the "Informe" now shown me is in the handwriting of De Haro or not, but I know the signature is mine – I think the handwriting of De Haro is in the body of the "Informe" but I am not certain –

Question by E. A. Laurence Esqr — "Did you or did you not have the petition of Bonita Dias mentioned in this "Informe" before you at the time you signed the "Informe"?

Objected to.—

I did not have it.—

Question by E. A. Laurence Esqr — How then did the petition of Bonita Dias come to be mentioned in your report?—

Objected to.—

I do not know how it appears for Bonita Dias did not make his appearance.— I did not have the map and petition of Bonita Dias — before me at the time I signed the "informe".— Whatever the Secretary wrote down I signed and it was sent to the Governor and I do not know what the contents of the statemet or writing of the Secretary were:—

Cross Examination — by Appellees Counsel — On more closely looking at it I know it to be the "informe" which I gave or ordered to be given:— I thought when I first looked at the "informe" that it related to the tract of land which was solicited by Bonita Dias but I see now that it is on the petition of Noe for land adjoing that asked for by Bonita Dias.—

J. de la C. Sanchez

Sworn to & subscribed before me this 8th day of August A.D. 1855.

Geo Pen Johnston
U. S. Commissioner

No. 6

U. S. Dist. Court.

The United States

vs

Jose de Jesus Noé.

Depositions *
taken before Geo:
Pen Johnston,
U. S. Com.r

Filed Nov: 16. 1855.
J. Chevers
Deputy.

CASE NO. 6 ND
PAGE NO. 152

CASE NO. 6. ND.

California Land Claims

Attorney General's Office

4 September 1856

CASE NO. 6 ND
PAGE NO. 153

Sir:

In the case of the claim of José de Jesus Noe, confirmed to the claimant by the Commissioners, case No. seventeen (17), and also confirmed on appeal by the District Court, appeal in the Supreme Court will not be prosecuted by the United States.

I am
Respectfully
C. Cushing

Wm. Blanding Esq
U. S. Attorney
San Francisco

The United States

v.

Jose de Jesus Noe

In the District Court.
Case No. 6.

In pursuance of instructions from the Attorney General of the United States, hereunto annexed, it is hereby stipulated and agreed that an Order be entered of record in this case vacating the order of Appeal heretofore granted, and that the claimant have leave to proceed under the Decree of this Court heretofore rendered in his favor, as on Final decree.

Oct 22. 1856.

Wm Blanding.
U. S. Dist. Atty.
Thornton Williams & Thornton
Attys. for Claimant

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United States
District Court.

The United States

v. } Case No. 6.

Jose de Jesus Noe

Stipulation

Filed Oct. 23. 1856.
John A. Monroe, Clerk
By W. A. Chaves, Deputy.

CASE NO. 6 ND
PAGE NO. 155

In the District Court of the United States, for the Northern District of California.
Oct. 22. 1856.

Present Hon. Ogden Hoffman Dist. Judge.

The United States Appellants
v.
Jose de Jesus Noe. Appellee
} Case No. 6.

The Attorney General of the United States having given instructions that no Appeal to the Supreme Court of the United States will be prosecuted in this Case, and a stipulation having been entered into by the District Attorney for vacating the Order granting an Appeal to the Supreme Court of the United States and for leave to the Claimant to proceed under the decree of this Court heretofore rendered in his favor.

On Motion of the United States District Attorney.

It is Adjudged Ordered and decreed that the Order granting an Appeal in this Case to the Supreme Court of the United States be and the same is hereby vacated, and the Claimant have leave to proceed under the decree of this Court heretofore rendered in his favor, as on Final decree.

Ogden Hoffman
U. S. Dist. Judge

3

In The District
Court of United States

The United States.

v. } Case No 6.

Jose de Jesus Noe

Order vacating Appeal.

Filed Oct. 23. 1856.
John A. Monroe. Clk
By W. H. Chevers. Deputy.

CASE NO. 6 ND
PAGE NO. 157

CASE NO 6 ND

The United States Appeltee vs José de Jesus Noe appt. } Dist. Court U. S. Northern District of California

On the 28th day of May 1845 the appellant petitioned for one square league of land which is vacant lying West and North West of the Mission of Dolores bordering on the Rancho of the Citizen Francisco de Haro, Robert Ridley & José Cornelio Bernal agreeably to the plat which accompanied his petition, and bounded by the ocean on the West; On this petition there is a marginal note by Governor Pico, directing the Petition to be transmitted to the Judge of San Francisco for his report, and also to the bordering land owners in order that their interest ~~may~~ might not suffer, and the Judge is further directed to attend to whatever petitions may be under advisement bearing any relation to the same land which is therein claimed. A report in response to this reference was made, and on 23 Dec 1845 Gov Pio Pico ~~made~~ made a formal concession to appellee of one (Sitio de ganado

marco) square leagues in the tract of land
next to the Ex Mission of Solares bordering
on lands of Don Francisco De Haro, Robert
Ridley and José Cornelio Bernal, and
on the same day a grant was issued by
the said Governor to appellee for said tract
of land subject to the approval of the
Departmental Assembly which ap-
proval was given on ~~22 May~~ 3 June 1846.
~~per~~

There are three conditions annexed to
the Grant

1. The grantee was not to fence the
land to obstruct the crosses, roads &c

2. Judicial possession was to be ob-
tained by him.

3. The land granted is a "sitio de
ganado mayor" square league as
shown by the plat accompanying
the expediente bordering on lands
of Don B. Haro Robert Riddle and
José Cornelio Bernal. The Juez to
have it measured according to Ordi-
nance.

The genuineness of the signatures of
Governor Pico and Cambrias is established here by the testimony of David

and the original Grant ~~[illegible]~~ produced
annexed to the deposition of Ramon
de Zaldo who also establishes by his
testimony the authenticity of the
grant. There is also in evidence an
extract from a Mexican Book of Letters
certified by the U. S. Surveyor of Califor-
nia exhibiting an entry made
therein of several grants issued from
January 1844 to Decr. 1845 and
among them one in relation to the
identical grant issued on 23 Decr.
1845 to the appellee for one (Sitio de
Mayo) near the Alumin bolines.
In addition to the foregoing is the testi-
mony of José de la Cruz Sanchez who
was Justice of the Peace of San Fran-
cisco and as such signed the "Impri-
mé" dated Aug. 28. 1845 upon which
the concession and grant in this
case were made. This witness, swears,
he signed that document as such
Functionary at the time it bears
date, and at that time the petition
and decree of Governor Pico were both be-
fore him.
Another witness John Fitzpatrick deposes,
that appellee was in possession of
the land and built a house on it

early in 1846, and another, ~~that~~ intruder
means to ~~his~~ appellant's being in possession of the
land at the same time.

Capt. Hallock states, he was appointed
keeper of the archives of the Mexican
Government in the summer of 1847 &
continued in charge of them until
July 1850, that a list was made out
while he was such custodian of
"the expedientes contained in the ar-
chives" and he identifies the expedien-
te in this ~~very~~ case as having been
~~made out~~ included in the list in the latter part of 1847
or beginning of 1848. This witness pro-
ceeds to prove the handwriting of
the petition to be that of Francis
Guerro, the signature to it to be the
handwriting of appellee, the body
of the Marginal decree to be in the
handwriting of Juan Bandini and
the signature to such decree to be that
of Governor Pico. He also proves the
handwriting of Conrad Cruzado and
Augustine Olvera the latter a
member of the Departmental Assem-
bly at the time of his signature &
lastly he proves the signature of J.
Arguello also a member of the Depart-
mental Assembly at the time and
a member of the Committee on Public

vacant lands. In a word, this witness
with the expedients from the archives in hand proves
the signatures of all the Mexican
officers and a great portion of the
body of the hand writing of the expe-
dients or titles of Mexican Mexican
~~officers~~ functionaries. On his cross examination
by the Government Capt Halleck swears
that "in his opinion ~~that~~ every word written
in this expedients was written by the
persons, and at the time it purports
to be" — And as to the correctness of this
opinion this Court entertains no
doubt.

But the testimony for Appellee does
not stop here. Juan Manso swears
he was Alcalde Commissioner in
1845, that in December or November of
that year he was applied to by one
José Antonio Aguirre in behalf of Appellee
to speak to the Governor in order to
get him to approve the petition of said
Appellee. Witness spoke to the Governor
who responded that he had made
the grant — This witness proves the
genuineness of the signatures to
the grant, and states he thinks

he saw the Juárez grant in dates prior of 1845, first heard of it (the grant to me) in December 1845.

Juan B. Alvarado and other witnesses following in the footsteps of Capt. Halleck testify the original of the document in his hand and proves every signature on it to be genuine and prove the handwriting of respective persons of the body of it to be in that of various Mexican subordinates.

No alteration is patent on the face of the document, none is pointed out or attempted to be designated.

In the view of the accumulated proof in this case the Court does not entertain a doubt but the validity of this claim so far as the genuineness of the document is concerned has been established as firmly as any similar fact can be established by human testimony.

Their genuineness has however been assailed

1. By the suggestion, that the grant dated in 1845 calls for the Rancho of Robert Ridley, whereas there was no rancho known as Ridley's rancho until a later period.

To sustain this position the Government have produced in the case,

a certified copy of a deed from Jacob P. Leese to Robert Ridley conveying the Ranch in question dated Dec. 1849.
This circumstance is explained by the testimony of Jacob Leese who was sworn as a witness, who states that he (the witness) knew the ranch, it was once owned by him, and that in 1844 he gave it to Ridley in exchange for one of Ridley's on the North side of the Bay of Sonoma, that after such Ranch came into possession of Ridley it was generally known as Ridley's Ranch, that he gave possession of the Ranch to Ridley immediately after the Exchange, but the title deed to Ridley was not executed until 1849.—
William S. M. Howard another witness testifies to the same knowledge of the exchange of Ranches between Leese and Ridley, that the same was made in 1843.—
This piece of prevarication given to the suggestion of fraud arising out of the date of the title deed from Leese to Ridley disposes of all suspicion on this point.
2. The next attempt to prove fraud was

by introduction as a witness of José de la Cruz Sanchez, the Mexican functionary who signed the "Informe" of 28 August 1845. This witness, on behalf of parties, carried by them to the office of the Surveyor Gen. U. S. for the State of California and his testimony taken before a Commissioner.

On his examination in chief, the witness under the impression that the "Informe" signed by him, handed to him, was in a different case deposed that while his signature was genuine, the document was made out by the Secretary of, in a manner different from what he the witness had ordered, but he concludes his testimony by stating that he was labouring under a misapprehension, and supposed the informe in relation to which he was testifying relative to the tract of land which was solicited for by one Benita Sing, that on inspection he perceives that the informe is on the petition of Mac'Donald adjoining that asked for by Benita Sing, and that he knows it (the informe on his petition) to be the one he gave and ordered to be given.

This second attempt to impugn the validity of the title papers of appellees is thus frustrated by the very

witness called to ~~[illegible]~~ sustain it.

The next attack made upon the ~~genuineness~~ validity of the claim rest upon the evidence of Alfred A Green a witness sworn by the Government. This individual represented the rights of absent third parties, superintended the examination of witnesses, and at may upon his official information that fraud could be proved in this case, that the Court continued in ~~this~~ it for some weeks to ~~double~~ afford opportunity for the proof of it. In his examination, this witness swears, "that one of his objects in acting in this case is to clear up the reputation of a man who is his neighbor, for he does not want to live near a man whom he respects and hear hard things said about him." "By such means" The objects of the witness, the Court considers it has been accomplished, as an investigation of seven days has elicited no testimony in the opinion of the Court to raise a doubt as to the genuineness of the bills deposited in a pedlar's box of [illegible]

Mr Green testifies, he in a interview with the appellee stated in the Spring of 1882, the latter expressed to witness, his troubles and asked his advice in relation to them. He states, he examined the documents ~~closely~~ carefully, never examined papers so closely in his life. The defect he found in the title was the want of the approval of the departmental assembly. The appellee in addition, he had sent his papers to Los Angeles by Mr. Mc Ananas and stated in consequence of the American having entered the country & being in a state of Revolution, the Departmental assembly did not convene, and his papers were brought back without the approval of the Departmental assembly. Stated the appellee appeared timid, was afraid the American Govt. would recognize his title. Witness, then asked appellee if his own Govt. had continued up to that time, yet w.d have recognized his "appellee's" title, "it would". Witness then told him, he need have no apprehension from the American Govt.

must recognize the treaty of Guadalupe Hidalgo.—

The testimony of this witness, of his recollection serves, him, might, establish the fact that after a close scrutiny the only defect he discovered in the title of the appellee and the only one in relation to which latter felt any apprehension was the want of the approval of the Departmental assembly.—

The whole testimony of this witness might be dismissed with the remark, that the want of the approval of the Assembly was indeed established from record proof per se the title of appellee. But there may have been some misapprehension on the mind of the witness, as to the conversation he had with, Mr. ~~and latter~~ ~~he did not exhibit all the~~ papers to witness. The latter states that all the papers, he recollects to have seen were the petition, a report of a local officer thereon and a decree.—

According to his recollection, Appellee informed him, that the papers had been sent by W. M. G. Stewart to Los

Angeles for to obtain for them the approval of the Assembly, but in consequence of the American having declared the country to be in a state of Revolution the Assembly did not concede. Mr McNamara shortly, however, recommended the people to hold an election a year or two after the change of flags between the U.S. & Mexico, which would make the new agreement date of the approval. The terms in the appointment were pretty the same as heretofore the government, & until of the ~~the legislature to be~~ is established by Gen Alvarado & Capt Halleck. The commissioners consider that the positive testimony on this point completely balances the recollection of the witness, Green & others, indicated.

The last attempt to establish a fraudulent claim rests entirely upon the testimony of Paula Valencia & others, invoked by the Grant witness, Case. Her testimony is,

that on one occasion ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ she went to the house, saw one ~~[illegible]~~ Joaquin Peña making out a map and papers which he covered over when she went in. Peña showed her the papers, they were a map & petition for the land of Noé's ranch. The petition was in the name of José de Jesus Noé. In a subsequent part of her examination she states "that she did not read anything on the map or petition because she could not read." The only reason she had for saying that the papers were a map and petition was because Peña told her so. She did not have the papers in her hands, they laid on the table, and lastly the only way she learned they were Noé's papers was, because Peña told her so. She states that if Noé's name had been in the papers she would not have been able to read it."

This paper which ~~[illegible]~~ she ~~[illegible]~~ saw
in the possession of Peña two
years after the American came
into this country, consequently some six years
before the time her testimony was
taken ~~[illegible]~~ and which she then
had in her hands, and which
she could not read, she identifies
as being in the handwriting of Peña, and
as being in the name of José de Jesus
Peña. The testimony that Peña
wrote her it was the petition & the
answer written by him (Peña) but ca-
tering that it was testimony in
a court of justice. This witness
detailed a conversation she had
with Peña about this paper
which is evidence of a nature equally
unsatisfactory to the complainant.
But the preparation of this peti-
tion according to this witness,
or rather according to the state-
ment of the witness Peña who is
now dead made to her, in a made
in 1847, now there is abundant
Record documentary and Parol
evidence to establish that the grant
to Appellee had existed for years
previous to the time when the al-
leged conversation between the wit-

-ness and the deceased ~~[illegible]~~ Pene had later
in relation to the boundary on the Grand.
place. The Court has adverted to all
the testimony which during a pro-
tracted investigation of a fortnight
has been invoked to prove forgery
pending in this case, with a view to
convince the parties that it has
looked and continued to look and
every portion of the testimony consid-
-ered in the remotest manner to
establish either the one or the other
Having done so, it only remains for it
to say that it enters upon the in-
-vestigation with a conviction that
all such allegations are utterly
groundless, and that the claim
of the appellees is established by
cunning proofs.
The remaining objections to be con-
-sidered are that the lands were situa-
-ted within the ten leagues, that
no judicial possession of the tract was
obtained by appellee, and that the
land was the property of a Mission.
~~The position of the lands within~~
~~the leagues of the coast~~ The Court
-der all these questions to have
been settled by decisions of the
Supreme Court U S and the

opinion of this Court delivered at its present term, and therefore to be deemed unavailable. In relation to the objection arising out of the suggestion that the land granted to the appellee in this case, if it should be found to be a mine, the Court adopt the view of the Board of Commissioners, as applicable to the case. Independently of the decisive ground made upon this point this Court consider, that the land claimed is established by the evidence in this case not to have been in the occupancy or cultivated by any Spanish and therefore not inhibited to be granted by the 17th article of the General Colonization Regulations of 1828 which applies only to lands in the actual occupancy of a Spaniard. The fact in this case established, that the land granted was a reconducta. This Court therefore decides in favor of the claim of appellee, and ~~of the~~ ~~decision~~ opposing the decision of

#6

Nuncupative

Opinion of the Court delivered by His Honor M. H. McAllister U. S. Circuit Judge.

CASE NO. 6 ND
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CASE NO. 6. ND.

The Court Bowen v. Cunningham

The United States vs. José de Jesus Noé

No 6. Decree

Stated Term September 10th 1858

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

CASE NO. 6 ND
PAGE NO. 175

This cause coming on to be heard at a stated term of said Court on appeal from the final decision of the Commissioners to ascertain and settle private land claims in the State of California under the act of Congress approved 3d March 1851 upon the transcript of the proceedings and decision and the papers and evidence on which said decision was founded and on additional testimony taken in this Court, and it appearing that said transcript has been filed according to law, & counsel for both parties having been heard. It is ordered, adjudged and decreed that the said decision of the said Commissioners be and the same is hereby confirmed and it is hereby further ordered, adjudged

and decreed that the claim of the said José de Jésus Noé be confirmed to the extent of one square league or sitio de ganado mayor, and for no more ~~and for no more~~, being the same land described in the grant and expediente referred to therein and of which the said Noé, ~~and which the said~~ was proved to have been in possession. Provided that the said quantity to him now confirmed, be contained within the boundaries called for in said grant and map to which the grant refers and if there be less than one square league within the said boundaries, then such less quantity is hereby confirmed unto the said José de Jésus Noé.

(Signed)
M. Hall McAllister
Judge Cir. Court U.S. Dist. Cala
Ogden Hoffman Jr
Dist. Judge

and decreed that the claim of the said José de Jesus Noé be confirmed to the extent of one square league or sitio de ganado mayor, and for no more ~~and for no more~~, being the same land described in the grant and expediente referred to therein and of which the said Noé, ~~and which the said~~ was proved to have been in possession. Provided that the said quantity to him now confirmed, be contained within the boundaries called for in said grant and map to which the grant refers and if there be less than one square league within the said boundaries, then such less quantity is hereby confirmed unto

I, SOUTHARD HOFFMAN, Clerk of the District Court of the United States for the District of California, do hereby certify the foregoing to be a full, true and correct copy of the Decree in the suit of The United States vs José de Jesus Noé on file in my office

Attest my hand and seal of said District Court, this 12 day of January A. D. 1876

Southard Hoffman Clerk.

By ..... Deputy Clerk.

CASE NO. 6. ND.

U.S. District Court
District of California

The United States
vs
José de Jesus Noé

Copy Decree

CASE NO. 6 ND
PAGE NO. 178

For Memorandum and papers relative in 9th Dist. Court —

To Geo. Fisher Esq—

CASE NO. 6 ND
PAGE NO. 179

In case No 17 José de Jesus Noé a portion of the Expediente marked B. has been omitted in the Transcript— The part so omitted is the Report of the Alcalde, José de la C. Sanchez— and I think also, the conclusion which follows said Report in said Exhibit B. — I call your attention to it in order that the same may be examined and rectified under the instructions of the Board, heretofore given in this respect— The record is in the hands of Judge McAllister — S. J. Williams

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

The United States
vs
Jose de Jesus Noe

CASE NO. 6 ND
PAGE NO.
180

Northern District of California ss.

Dolores Green being duly sworn deposes and says that she has known the above defendant since early in 1849 – that she remembers to have seen said defendant show his title papers in this case to her husband Alfred A. Green, – that early in 1852 said Jose de Jesus Noe in conversation with this deponent about squatters being on his Rancho, this deponent asked him if he was afraid his title would not be confirmed – he answered that at the first he was afraid, for that when he first got his papers they were incomplete – but that Ramon de Galdo who was a very smart man and worth all the rest had fixed them right for him

Subscribed & Sworn before me this 7th July AD 1855
Jas. L. Hamm
J. P.
5th Township

Dolores Green

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

The United States
— vs —
Jose de Jesus Noe

Northern District of California } ss.

Alfred A. Green of said District being duly sworn deposes and says — that he has lived in the State of California since March 184[illegible], and most of the time in San Francisco County — that he is well acquainted with the premises claimed by said defendant, and also with the several Rancho's mentioned in the title papers to said premises as colindantes — that the grant of said Noe purports to have been made in December 1845, and mentions as a boundary to the same amongst others, the Rancho of Robert T. Ridley — that said deponent has examined a certified copy of transfer from Jacob P. Leese to said Robert T. Ridley now on file in the office of the Secretary of the United States board of Land Commissioners for the settlement of private claims to lands in California, which shows that the said Robert T. Ridley did not own the said Rancho mentioned in said Noe's grant until December 1849 — that said deponent knows the said Jose de Jesus Noe the defendant and has known him since the year 184[illegible] — that in the latter part of 1849 or early in 1850, the said Noe showed this deponent his title papers in above case, and asked his the said deponent's opinion as to whether the said papers were worth anything without the approval of the Departmental Assembly, the said Noe stating he thought they were not, and stating likewise that he had

sent his papers to Los Angelos in a vessel belonging to Wm. A. Howard and others, but that in consequence of the country being in a ~~State of revolution~~ consequent upon the Americans being in the Country, he had not been able to procure the approval of the Departmental Assembly - that said deponent has examined the certified Copies of papers in this case on file in the office of the Secretary of the United States board of Land Commissioners, and finds a document attached to the grant dated 20th June 1846 purporting to be the approval of the Departmental Assembly - that in 1849 or 1850 at the time Noe showed him the title papers they had no such approval, and therefore said deponent has good and sufficient reason to believe the same to have been since fabricated and ante-dated -

And the said deponent further says that he knew Robert T. Ridley, who died in his this deponent's house near the Mission Dolores in 1851 - that said Ridley three or four days prior to his death informed said deponent that said Noe's title papers were fraudulent - that this deponent is not a settler on Noe's Rancho - that Mr. Whitman who had been employed as Counsel in this case to assist the District Attorney and whose intention it was to produce witnesses on behalf of the Government left for Benicia prior to the case being called on, and did not give notice to the witnesses to attend. -

A. Alsreen

Subscribed and Sworn
before me this 7th July 1855
Jos. L. Hamm J.P.
5th Township

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

United States
vs
José de Jesus Noe

Northern District of California } Si Paula Valencia of San Francisco County being duly sworn says that she was born at the Presidio of San Francisco, has lived in San Francisco County all of her life; that she is now forty three years of age. that some time in the year 1847, about one year after the Americans took possession of the Country - this deponent, her son Eustacio Valencia came into the ~~Mission~~ Presidio from the ~~Mission Dolores~~ where they were then living, to see Major Hardy who was then the only authority in this Country, for the purpose of arranging with him in regard to some difficulty existing between her & her brothers concerning the Sanchez Ranchos, which was the property of her father deceased - that she & her son found Major Hardy were in the Town of San Francisco & would not return to the Presidio until 3 o'clock P.M. of that day - that they stopped in the house of Joa=

quin Piña, adjoining that of Major Hardy at said Presidio until the return of said Major Hardy — that as they entered said house they saw said Piña writing at a small table on certain documents, which he coverdup as soon as deponent entered the house, after some conversation said Piña asked this deponent whether the "Bolsas" were included in the Rancho of her Brother in Law Francisco De Haro, that it was a delicate question to ask, but that José de Jesus Noe wanted he should include it in a petition & decino & Expidiente which he was then drawing up for said Noe, which said Bolsas are adjoining the Lands at the Presidio known as the Noe Rancho, that he told deponent he had a very high respect for De Haro on account of his being a Corporal in De Haro's Company, & that he did not want to include it in the petition & papers, if it belonged to De Haro, that deponent then informed said Piña that it did belong to her brother in law as she believed, & then said Piña told this deponent that he would not include the Bolsas in said papers, until after he should

to said Nor again — this de=
ponent further says that said
Piña then showed to this de=
ponent her son the title papers
which he was making out, for
said Jesus Nor, and also
the map of the same, which
was then only partly finished
and which was for the Rancho
near the Mission Dolores, now
known as the Nor Rancho, ~~which~~
the location of which said Piña
fully explained to this deponent
her son — said Piña then cau=
tioned this deponent to keep secret
about all that she had heard
and seen in regard to said papers.

Sworn & subscribed
before me this 6th day
of July A.D. 1855

Wm Carey
J.P.
Dr Township

Paula Valencia

U. S. Dist. Court

United States

vs

Josi de Jesus Nez

affdvt

CASE NO. 6 ND

PAGE NO. 186

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

The United States
vs
José de Jesus Noe

To Mr Thornton Williams & Thornton
Attys for Deft

Please take notice that a motion will be made, in this Court on the 16th day of July instant, at 11 o'clock A.M., or as soon thereafter as Counsel can be heard at the Court Room of said Court, in the City of San Francisco, to have the above cause restored to the Calendar of said Court for further testimony.

Said Motion will be founded on the affidavits copies of which are herewith served on you, & also on the files & papers in the cause, & also on such other affidavits as may be served on you previous to the hearing of this motion

San Francisco July 9. 1855

Yours &c

J W Gray

U S Dist Atty

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U. S. Dist Court

U S

vs

José de J. Ortiz

Affidavit
notice of motion

We hereby admit due
service of the within
notice & affidavits
this 10th day of July A.D. 1855.

CASE NO. 6 ND
PAGE NO. 188

J. W. Inge
U. S. Dist Atty

July 9.

Copies of the within served on us this
day - July 10th 1855 — Thomas Williams & Thomas

-5-1 & 1-5-

United States District Court
for the Northern District of California

The United States
vs
Jose de Jesus Noe

Northern District of California ss.

Francisco Sanchez of said district being sworn deposes and says, that he was born in the Mission of San Jose and has lived in the County of San Francisco since he was very young - has resided in said County about fifty years - has been military Commandante twice, in all covering a period of six years knows the different Ranchos in said County intimately - knows the defendant Jose de Jesus Noe - has known him since the year 1834. knows well the premises claimed by said Noe in above case - has known it nearly all his life time having had to pass over it very often - never heard of said Noe claiming or pretending to hold any title to said premises until 1847 or 1848. some time after the Americans came and took possession of the Country - does not think it possible Noe could have had a title to said premises without his knowing or hearing of it - that he knows said Noe had no house, corral or improvements of any kind on said

premises prior to 1848. Knows Joaquin Pina - he lived at the Presidio in 1847. I was an excellent Scribe - the defendant Noe was alcalde in San Francisco in 1846 when the Americans took possession of the country. and removed from there to the Mission Dolores about the year 1848! -

Fran. Sanchez

Subscribed & sworn before me this 10th day of July A.D. 1855

Joseph T. Merrow
Justice of the Peace
5th Township

CASE NO. 6 ND
PAGE NO. 190

To Mess Thornton Williams & Thornton

Take notice that the affidavit of which the above is a copy will be read at the hearing of the motion to reinstate the above entitled cause, on the Calendar of said Court which motion will be made on the 16th instant at 10 o'clock A.M., in said Court and of which motion you had written notice on the 10th instant.

San Francisco July 13. 1855.

S. W. Luce
U.S. Dist Atty

pr

U. S. District Court

United States

vs

José de Jesus Nor

Affdvt of Sanchez

Service of copy of the within this day is admitted. July 13. 1885.

CASE NO. 6 ND
PAGE NO. 192

July 10.

A copy of the within was handed to this day by Mr Stevens. J. P. Gordon Williams
July 13th 1885.

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CASE NO. 6. ND.

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

CASE NO. 6 ND
PAGE NO. 193

The United States

vs.

Jose de Jesus Noe

Northern District of California ss:-

Dolores Green being duly sworn deposes and says, that she has known the above defendant since early in 1849 - that she remembers to have seen said defendant show his title papers in this case to her husband Alfred A. Green - that early in 1852 said Jose de Jesus Noe in conversation with this deponent about squatters being on his Rancho, this deponent asked him if he was afraid his title would not be confirmed, he answered that at the first he was afraid - for that when he first got his papers they were incomplete, but that Ramon de Valdo who was a very smart man, and worth all the rest had fixed them right for him.

Dolores Green

Subscribed and sworn before me this 9th July A.D. 1855
Jos. L. Hamm J.P. 5th Township -

I hereby certify that the aforegoing is a true copy of the original affidavit on file in the District Court for the Northern District of California

Jos. L. Hamm J.P.
5th Township

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U. S. District Court

The U. S.

~ vs ~

Jose de Jesus Nos

Aff't

Dolores Green

CASE NO. 6 ND

PAGE NO. 194

July 7, 1855

CASE NO. 6 ND.

3)

Office of the Board of
Commissioners to ascertain
and settle the Private Land
claims in the State of
California
San Francisco
November 30 1852

John. N. Monroe. Esq
Clerk of the United States
District Court for the
Northern District of
California.

Sir

I herewith transmit you, pursuant to the requirements of the "Act of Congress approved August 31st. 1852 a Transcript of the Record of the Proceedings and of the Decision of this Board, of the Documentary Evidence and of the Testimony of the Witnesses upon which the same are founded, in Case. No. 17. on the Docket of the said Board, wherein, "Jose de Jesus Noe" is the Claimant against the United States for the place known by the name of "Mission of Dolores," and request your receipt for the same.

I am. Respectfully
Your. Obt. Servt.
Geo: Fisher.
Sey.

U. S. Dist Court

United States
vs Appellant
José de Jesus Ord
Claimant

The testimony taken before the Commissioners under objection of the Law Agent that the "original" were not introduced in Court and Exhibited to the Witnesses, must be Excluded as improper Evidence. Swearing to the Copies, not being Evidence.

The fact as to the time of Ord's going upon the Land in question must be found by the Court, it being a question of fact on which the Sup. Ct. probably will not pop.

The bearing of the testimony taken before this Court is left for the consideration of the Court.

The Report or Informe of Sanchez in Expediente 494, refers to the petition of Benito Diaz — as being before him. See his Evidence on this point. Also Examine the Report of Capt Halleck, (in "California Message & Correspondence 1850" Ex. Doc. No 17. Hse of Reps. 31st Cong. 1st Session" — at pages 131. & 132 & app. 30 & 31. pages 178. 179 & 180, as to the Evidence of forgery & antedating of said Benito Diaz Claim —

That Pico made grants after the 7th of July A.D. 1846. which purport to be recorded. See Halleck's Rept. p 122. 129. §15. also Letter page 668. (Confidential) also Depositions of Howard & Green —

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José de La C. Sandoy testifies in his last deposition, that the reported to the Governor of California adversely to the claim of Nos, because the land claimed ("San Miguel"), belonged to the Mission or Pueblo of San Francisco de Asis, and could not be granted. See also W.D.M. Howard's Deposition

Let us consider it 1st as Mission Land, & 2nd as Pueblo Land —

1. As Mission Land —

By Decree of Mexican Congress, Augt. 17, 1833. the President was authorized to secularize the Missions of Upper & Lower California. (See Appending No 13. to Halleck's Rept.)

Gov. Figueroa by Decree of Augt. 9. 1834. carried out said Law of Augt 17. 1833. by "partially converting into pueblos, the Missions of this Territory, commencing at first with 10. & then afterwards with the remainder of the Missions. §5. Only 400 varas square could be granted to one head of family.

(See App. to Halleck's Rept No 14.)

In conformity with the 2 foregoing Decrees, San Francisco de Asis, (the Mision Dolores) was secularized. (See Preamble & §2. of Decree of Nov 3. 1834. App. No 15.)

By Decree of Geo Alvarado, March 1. 1840. Arts 1 & 2. the ~~Situation~~ of Administrator was abolished, and a Major Domo was established for San Francisco de Asis. (See App. No 18.)

The affairs of the Misions of Upper California having become very complicated, the President of Mexico sent Micheltorena to California, ~~and~~ in the year 1843. & in his letter of instructions clothes him with extraordinary powers particularly in reference to the said Misions, & authorizes him to dispose of said Misions as he shall see fit. (See Letter of Instruction to Micheltorena in appendix to Cam Jones Argument in Leroy Cervantes vs U.S. in Sup. Court.)

By Decree of March 29. 1843. Micheltorena ordered the 12 Misions mentioned in §1. "to be delivered up
" to the Reverend padres whom the res-
" pective prelate may appoint to each
" of them, and said Misions shall

"in future, continue to be adminis=
"tered by the very reverend padres
"as Tutors to the Indians, in the
"same manner as they held them
"formerly."

§4. & §5. makes it evident
that this restoration to the padres re=
fers to all Mission, which had
an existence as such in Upper Cal=
ifornia, at the date of said Decree.
(See Appx. to Hallett's Rept No 19.)

Dolores. or San Francisco de
Asis was in the hands of Padre San
tillian at the time of the change of
Government. (See Deposition of W. D. M.
Howard & José de La C. Sanchez)

This Decree revoked the Seca=
larization of the Missions and (§5)
offers all the powers of the Government
"for the protection of the Missions, and
"as Commandant General, the force
"of arms, to escort defend and sustain
"them, as it will likewise do with res=
"pect to individual and particular
"property and guarantis, securing to
"the owners thereof, the possession and
"preservation of the lands which they
"this day hold, and promises not to
"make any new grants without the
"information of said authorities of the
"Reverend padres, notorious, unocu=
"pancy, want of cultivation or necess=
"ity."

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Thus Michiltorena guarantis to the Owners of said Mipions together with the Lands which they then held, the protection of their property, the same as that of private citizens. This according to the doctrine laid down by this Court in the Case of the General Title by Michiltorena. U.S. Appellants vs Samuel J. Hensley, would be regarded as an absolute Grant of the fee of the Land, to the Mipions, or rather the Padres.

§1. implies that all the Mipions not mentioned therein, were held in the manner in which they had been held heretofore, unlesp they had been granted previously; like "Suisun", A. A. Ritchie Claimant. And §2. implies that even those conveyances or grants might be set aside as illegal were it not that "policy makes irrevocable "what has hitherto been done."

No "new Grant" could be made of these Lands, unlesp by complying with the terms Expressed in the last clause of §5. which has not been done in this case.

Thus the title stood in the Padres of the Mipions until the change of Government.

All the Acts of Pio Pico in reference to the Granting Sale of said Mipions

in accordance with the Decrees of May 28. 1845 & October 28. 1845. set forth in App. to Halleck's Rept No 208 21. were disapproved of by the President of Mexico in the Decree of Nov 14. 1845, hereto attached and also denounced as illegal and "beyond his authority" by the Departmental Assembly October 20. or 31st. 1846. (See app. to H's Report No 23.

The Letter hereto attached from the President of Mexico to the Governor of California is in the language of rebuke, for interfering with what had been previously done by Micheltorena in putting the Mission into the hands of the Padres of the Mission. It shows a disapproval of the grants or sales made by him, and hence the grant would be void; the President being the last resort to approve the Grant under Section 6. of the Regulations of 1828. His disapproval would invalidate any grant of the Governor.

Even if the action of Pio Pico were legal, & binding upon the Mission, still he did not himself obey the Law.

May 28. 1845. & before the date of Noe's Grant, the Departmental Assembly authorized the renting of some of the

Mission of which this San Francisco de Asis was one, and the erection of others into Pueblos. (See App. to Hallett's Rept. No 20.

This did not authorize the granting of Noe's Ranch

October 28. 1845. Pico made published regulations for the sale of certain Mission, including "Dolores", & the lands belonging thereto (including Noe's Ranchos) on the 23 & 24th days of January A.D. 1846. (See App. to Hallett's Rept. No 21.) And yet the grant to Noe appears to be a portion of the same land, and granted December 8th or Dec 19th. A.D. 1845. about 2 or 3 weeks after the publication and about 4 weeks before the proposed sale.

This is a strong circumstance to my mind to show, that the chronological order of these proceedings did not correspond with the dates which they bear — and strongly corroborates the testimony of Madam Paula Valencia —

It must be borne in mind by the Court that although considerable testimony has been adduced to prove a want of genuineness of the Petition &c consequently of the Grant in

this Case, that still no testimony has been adduced to prove their genuineness except by merely proving the signatures to be genuine. And proof of genuineness of the signatures of Pico & his Clerks, would not remove the general suspicion which attaches to all his grants in the manner herein before mentioned.

The proof of a Deed must be made by the grantor himself or by the subscribing witness, & cannot be made by any other party except by laying foundation therefor. And although we do not urge the objection that the Grant in this case is not proved by Pico, or Covarrubias, although within the jurisdiction of this Court, still Can the Court recognize any other testimony than such as is in accordance with the strict rules of Evidence.

The decision of the Supreme Court, in the case of A. A. Ritchie vs W. S. for the Rancho "Saisun." decides the situation of the Mission in 1842, at the date of that Grant, and only refers to the Laws passed previous to that time, and so, that "the "Clergy who previously had charge & controll of them, was confined simply to

"the Ecclesiastical and Spiritual di-
"rection and government of the Mission"

After Micheltorena's Decree before referred to, no one would pretend that the missions were held by the clergy in any manner other than they had held them before the Secularization of 1834. The Supreme Court in Ritchie's case, did not intend to utter dicta in reference to the situation of all Missions, but merely intended to decide what was necessary for their purposes in the Ritchie Case.

But it may be objected that the Decree of Nov 14, 1845. hereto attached, rebukes merely the sale, & not the granting of the Mission Lands. To this we reply, That the President had merely heard that Pico was interfering with the Lands of the Missions which Micheltorena had put into the hands of the Padres - & he at once requires him to desist from such illegal proceedings. The President by this Decree disapproved of the sale of the Mission Land, (which at the time of the advertisement included Noe's Ranch) which was a source of revenue to the State, He certainly would disapprove for the same reason, of the grant of said Lands as a mere gratuity,

The Nos grant was within the 10 Coast Leagues. In the absence of all testimony in regard to the approval of the Nos grant by the President, his approval would be presumed. But ~~his~~ when he speaks for himself as he does by the Decree of Nov 14. 1824. S, all presumptions are at an end. By this Decree he rebukes the grant after it is made, Hence the Court cannot presume that he approved of it before it was made. And this approval was necessary in all grants within the 10 coast leagues; & before the Court can confirm any such claim, they must find the fact. Either by presumption or testimony, that the grant had obtained the approval of the Supreme Government.

The Land Commission have retained all the Mission Cases for decision until they have nearly closed their labors. They rendered no decision in any Mission grant bearing date since Micheltorena's Decree, of 1842, until the Decision in the Bolton & Harrow Case at this Same Session of Congress. The full board have never passed upon the question, as to the title to the Mission Lands since 1844. They are required by the Law of March 3. 1851, organizing the Board, to report to the President, as to the tenure of the Missions. Their labors being nearly closed, they will soon make their report, which may throw much light upon this question

Again:

This Court is bound to take notice of all facts which come to its Knowledge in reference to the Situation of the Mission Dolores & its title to the Mission Lands. The Decision of the Supreme Court in the Fremont case requires this — The Claim of the Arch Bishop for all the Mission Lands, including "Dolores:" the claim of James R. Bolton for the Mission Lands of "Dolores:" & the claim of the City of San Francisco for her Pueblo Lands, are all before the Land Commission, & will shortly be before this Court. They will all throw much light upon the history of the Mission Dolores — All of which this Court will notice judicially —

In order to give a decision in this case understandingly, this Court ought to have all the cases pertaining to the same subject Matter (Dolores) before them —

Two grants similar to the one now under consideration are before the Commission, one of which the Benito Diaz was rejected, & the other, the Portrero Nuevo of the De Haro's, is not yet acted upon —

2nd As Pueblo Lands.

It is a matter of History deducible from the Archives of the Land Commission, (copies of which are before this Court) & from the testimony of witnesses examined before the Commission in the City Case, & that of "Dolores", that the Mission Dolores was a Pueblo in 1835, & had an Ayuntamiento, who held their Sessions at the Mission, tit said Body (the Ayuntamiento) was abolished in 1839. See Whuler's Land Titles of San Francisco, page 12.

There all the Elections of Officers were held, for the Pueblo of San Francisco de Asis, & all the municipal offices, Except Hinckley & Jesus Noe, & including the sub-Prefect of the Department resided. Whulers Land Titles Report. page

The Missions under the Spanish dominion, were established to convert the wild indians & by collecting them around the Mission, to establish it into a Pueblo.

Thus when Dolores became secularized, it was sometimes called "Pueblo of San Francisco de Asis," & sometimes "Pueblo of the Mission of San Francisco Dolores." Whulers Land Titles pages 12 &c, Castro's Decree p. 15, and in numberless reports dated at said Pueblo of the Mission upon the petitions of divers claimants for Lands in San Francisco Partido or County.

The Deposition of José de la C. Sandy also that of A. A. Emm speak of it as a Pueblo.

In the last clause of the Decision of the Supreme Court in the "Suisun" Case Richie Claimant, it is expressly declared that they give no opinion as to the granting of Pueblo Lands.

It being established that San Francisco de Asis, the Mission, was once a Pueblo I know of no Law, by which it could become Mission Lands, or lose its character as a Pueblo. Except by the Decree of Michiltorena in 1843, which does not mention Dolores by name.

Governors of California derived all their authority for making grants from Law of 1824 & regulations of 1828. This grant is made in terms, in conformity to said Laws, under it these lands belonging to a corporation or town could not be granted.

After the Secularization of the Mission by Figueroa's Decree of Augt 9. 1834. § 5. no grant could be made of over 400. varas square nor less than 100 varas square to any person over 21 years of age. / See App. to Hallock's Rept No 14.

If the the Pueblo of Dolores was a Pueblo, by what authority did Pico make the Grant to Nos? It purports to be under the

Law of 1824, & Regulations of 28. But this Law conferred no right to interfere with private or Pueblo property.

Upon secularization of the Mission, of course its boundaries would constitute the boundaries of the new Pueblo, and hence "San Miguel" belonging to the Ex Mission Dolores, would also belong to the Pueblo of San Francisco de Asis — & hence could not be granted.

The Expediente in Ross' Case, refers to "San Miguel" as being West of the Establishment of Dolores, and also speaks of it as the Ex-Mission of Dolores. It was once a Pueblo, had an Ayuntamiento in 1839. The Pueblo now was abandoned, but was in force still in 1846. If then by the Decree of Micheltorena in 1844, it was not restored to the Priests, as before contended for, then it was a ~~Presidio~~ Pueblo, as it had been before, and any grant for over 400 varas was void. Such Missions as were secularized, not converted into Pueblos, but granted from 1835 to 1843, such as the Rancho Suisun, Micheltorena's decree declared to be binding, on account of public policy, but he by it, sanctions no act

tending to deprive a Pueblo of its Common Lands —

By § 2. of his Decree, he expressly intimates that those acts were void, or might be set aside were it not for public policy —

The Decision of the Sup. Court, in the Suisun case was put upon the expressed basis, that it was not pretended that they were Pueblo lands, in regard to which the Court expressed no opinion.

Thus whether said land belonged to the Mission or the Pueblo, in neither case could they be granted to Noe —

6 NO

United States
Appellants
v
Jose de Jesus Nor

Brief.

E. M. Lawrence
Attorney

San Francisco 20 Oct. 1855

Dear Cobb.

I take it for granted you will be elected to Congress,

1 Jesse Hunter Spence
2 Ramon de Goeda
3 Entyn Bustamante
4 Pedro Cruz Sandoy
5 John Evans
6 Capt Hussey
7 Juan Marino
8 Juan B Alvarado
9 Jacob Leese
10 William B Ide
11 Sandy
12 A. A. Green
13 Pendabuen

The foregoing affidavits Judge McAllister informed me were a portion of the record in the Noé claim. No 6.

W. H. Chevers
Deputy

The United States
vs
José de Jesus Nué

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

Deposition of William M. D. Howard a witness in behalf of the said José de Jesus Nué taken before Mr. Hall McAllister Judge Cir. Court U. S. for the District of California – The United States being represented by A. E. A. Lawrence Esq. in behalf of the District Atty U. S. and Levi S. Parsons in behalf of said Nué – Questions heretofore put to the said witness deponent on examination in chief or cross.

He says, he knows José de Jesus Nué and has known him since the year 1842 – Signature marked is here handed to witness. The deponent ~~to the~~ that the signatures of Pico Pico & Carrillo are genuine – Has known that Nué had a rancho just this side of the Mission de Solano – I know it from the circumstance that ~~in~~

~~the~~ Some time before the close of the Mexican war in the American flag, we gave me his papers to take to Los Angelos to have them opened by the departmental assembly — I was to give them to Mr Celis a gentleman residing in Los Angelos who was to attend to it — Mr Celis took the papers and delivered them to Mr Celis. Even they ~~were~~ the papers were the titles to the Ranchos.

X Know that Robert T. Rudder exchanged a Rancho he had in Sonoma with Jacob Pleasant for the San Bruno — The trade was made in 1842 or 1843.

X^d. He has no doubt that the trade was made before the American came here. Does not know if he came from Jacob Pleasant to the town of San Francisco. He cannot recollect by the argum

Grant has asked him, I suppose,
since the number of hogsheads
closed thanked him. Cannot
not state whether the hogsheads
he carried down to the Rand
or not — all he knows is what
was stated to him at the time
by Neil. It was a year or
two before the change of flags
he carried the hogsheads down —
I do not know the name of
the Government who gave the Grant.
McNeil was living at the Mission
at the time he carried
the hogsheads down —

What was the common report
as to Peirce's conduct?
The common report was that he had been
the chief agent in the Secession
that Peirce had done so? He
then recently. He does not know
whether the opinion of the
Department officers was
obtained in this case — Knows
nothing about the size of the sand

Have heard the current report that Richard will claim grant — Knew the San Bruno Ranch as the Ridley Ranch since the exchange — Does not know whether the San Bruno Ranch is the one called Ridley — Has still been known as the San Bruno, & the Ridley Ranch is among them — Mr Ridley did not live there, then was no white man living there — It was pretty generally known he owned the Ranch — A portion of the Mexican Alcalde was confirmed by the Prefect — He had nothing to do with it.

Knew that Noe had lands in the at the Mission, but not to what extent or whether the San Bruno was among them.

Ef. in charge of the papers handed to Attorney were titles for a Ranch near a lot — He knows Attorney was not called to Congress — signed affidavit.

Wm. D. M. Howard

Sworn to before me this 3. Aug. 1855 —

M. A. McAllister
Judge

United States of America
United States
vs.
Jose de Jesus Pico
Northern District of California

A A Green being duly sworn deposes and says on or about the fourth inst he learned from some of the witnesses (José de la Cruz Sanchez) relations that José de la Cruz Sanchez the witness had said that he never had made or signed a Deposition in favor of the petition for the Ranch San Miguel for this claimant but has stated to this deponent all these facts himself that on the contrary had deposed against the said petitioner for said Ranch and this learned these facts then for the first time and this deponent has seen the witness since and that the witness had reiterated the same to this deponent that the witness has since that time seen the original report purporting to be signed by him and that the witness told this deponent that the signature through a close examination and well

done yet is not his.

Also this deponent further says that perhaps he did hear that the office of Alcalde was at Dolores and not at Yerba Buena at the date of the grant and yet he at the time those papers purport to be signed and this deponent further says that he expects to prove these foregoing facts by the witness, José de la Cruz Sanchez

Sworn to and subscribed before me this 7th day of August A.D. 1855.

Geo Pen Johnston
U.S. Commissioner

A. Alsreen

We are willing to take the deposition

We are willing to take the deposition of José de la C. Sanchez before Commr. John Conn in the Office of the Surveyor General of California, (with the permission of the said Surveyor) provided the examination upon the part of the Appellants, who introduce the witness, is confined to the "informe" purporting to have been made by the said Sanchez and its genuineness, and that the said examination be extended to no other subject except the said "Informe," whatever.

August 8th 1855 — Thornton & Williams

Accepted
C. P. Rousseau
for S. W. Inge
U. S. Dist Atty.

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Aug. 7. '55

Aug 8/55

CASE NO. 6, ND.

CASE NO. 6. ND.

Office of the Board of U. S.
Land Commissioners, &c.

San Francisco Aug. 8, 1855.

CASE NO. 6 ND
PAGE NO. 220

Sir—

I have the honor to address you under the instructions of this Board, and respectfully to ask your Honor for the return of the Transcript in Case wherein José de Jesus Noé is the Claimant vs. The United States for land near the Mission of Dolores, in San Francisco County, in this State, now in your hands, for the purpose of making the additions thereto as pointed out in the enclosed memorandum by J. P. Williams, Esq. Attorney for the Claimant and any other clerical error that may be discovered by comparing the said record with the originals on file in this Office.

After the examination and correction of the before mentioned Transcript, the same will be without delay returned to your

The Bearer hereof, Mr. Mahan, is one of the Spanish Clerks in this Office, to whom please deliver the said Transcript.

I am respectfully
Your Obt. Servt.
Geo: Fisher.
Secy.

Hon. M. H. McAllister
Judge of the U. S. Circuit Court
for the Circuit of California, acting
U. S. Dist. Judge N. Dist. Cal.

"In 1843 I exchanged the Rancho situated in this county to Rob. Ridley for a Rancho he had in the Sonoma Jurisdiction this was a verbal contract the papers not having been executed, for the exchange for some years afterwards"

Wm. B. Fleming makes oath and says the above extract is taken from the deposition of Jacob P Leese filed in the U. S. Land Commission in case No 745 for the Canada de Guadalupe &c and is a correct & accurate copy from the original, being also in the same case in which is filed a deed of conveyance from Jacob P Leese & wife to Robt Ridley dated December 1849 - for a tract of land near the Ex Mission of Dolores known as Canada de Guadalupe Visitacion y Rodeo Viejo -

Subscribed & sworn to before me this 16 July A.D. 1855.

Wm B. Fleming.

R. Aug Thompson
Com

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CASE NO. 6. ND.

July 16. 8 N 7

United States District Court
for the Northern District of California

The United States
vs.
Jose de Jesus Noe

Northern District of California ss:

Francisco Sanchez of said District being sworn deposes and says, that he was born in the Mission of San Jose, and has lived in the County of San Francisco since he was very young – has resided in said County about fifty years – has been military Commandante twice, in all covering a period of six years – Knows the different Rancho's in said County intimately – Knows the defendant Jose de Jesus Noe – has known him since the year 1834 – Knows well the premises claimed by said Noe in above case – has known them nearly all his life, time, having had to pass over it very often – never heard of said Noe claiming or pretending to hold any title to said premises until 1847 or 1848, some time after the Americans came and took possession of the Country – does not think it possible Noe could have had a title to said premises without his knowing or hearing of it – that he knows said Noe had no house, corral or improvements of any kind on said premises prior to 1848 – Knows Joaquin Pina, he lived at the Presidio in 1847 – was an excellent Soldier – the defendant Noe was Alcalde in San Francisco in 1846

when the Americans took possession of the Country, and removed from there to the Mission Dolores in the year 1848 –

CASE NO. 6 ND

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Francisco Sanchez

Subscribed and Sworn
before me this 10th day of
July A.D. 1856.
Jos T. Hamm
Justice of the Peace
5th Township

I hereby Certify that the aforegoing is a true copy of the Original affidavit on file in the United States District Court for the Northern District of California –

Jos T. Hamm
Justice of the Peace
5th Township

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U. S. District Court

The U. S.
vs
Jose de Jesus Noe -
Aff't -
Francisco Sanchez

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Filed 10 '55

CASE NO. 6. ND.

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

The United States
vs
Jose de Jesus Noe

Northern District of California ss.—

Alfred A. Green of said District being duly sworn deposes and says, that he has lived in the State of California since March 1849, and most of the time in San Francisco County — that he is well acquainted with the premises claimed by said defendant, and also with the several Ranchos mentioned in the title papers to said premises as "Colindantes" — that the grant of said Noe purports to have been made in December A.D. 1845, and mentions as a boundary to the same amongst others, the Rancho of Robert T. Ridley — that said deponent has examined a certified copy of transfer from Jacob P. Leese to said Robert T. Ridley now on file in the Office of the Secretary of United States Board of Land Commissioners for the settlement of private claims to lands in California, which shows that the said Robert T. Ridley did not own the said Rancho mentioned in said Noe's grant, until December 1849 — that said deponent knows the said Jose de Jesus Noe the defendant, and has known him since the year 1847 — that in the latter part of 1849 or early in 1850, the said Noe showed this deponent his title papers in above case, and asked his the said

deponents opinion as to whether the said papers were worth anything without the approval of the Departmental Assembly; the said Nye stating he thought they were not, and stating likewise that he had sent his papers to "Los Angelos" in a Vessel belonging to Mr. Howard and others; but that in consequence of the Country being in a state of Revolution, consequent upon the Americans being in the Country, he had not been able to procure the approval of the Departmental Assembly. That said deponent has examined the certified copies of papers in this case, on file in the Office of the Secretary of the United States Board of Land Commissioners, and finds a document attached to the grant dated 3rd June 1846, purporting to be the approval of the Departmental Assembly. That in 1849 or 1850, at the time Nye showed him the title papers, they had no such approval, and therefore said deponent has good and sufficient reason to believe the same to have been since fabricated and ante-dated.

And the said deponent further says, that he knew Robert T. Ridley, who died in his (this deponents) house near the Mission Dolores in 1851. That said Ridley three or four days prior to his death informed said deponent that said Nye's title papers were fraudulent. That this deponent is not a settler on Nye's Rancho. That Mr. Whitman who had been employed as counsel in this case to assist the District Attorney, and whose intention it was to produce witnesses on behalf of the Government, left for Benicia prior to the case being called on, and did not give notice to the witnesses to attend.

A. A. Green

Subscribed and sworn before me
this 9th day July AD 1855 –
Jos L. Hamm J.P.
5th Township –

I hereby Certify that the aforegoing is a true Copy of the original affidavit on file in the District Court for the Northern District of California

Jos L. Hamm J.P.
5th Township

4

U. S. District Court

The U. S.

vs

Jose de Jesus Nos

Appt. —

L. S. Green

CASE NO.6 ND

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July 7/55

CASE NO.6.ND

Office of the Board of Commissioners
to ascertain and settle Private Land
Claims in California
San Francisco, July 5, 1854.

John A. Monroe, Esqr.
Clerk of the U. S. Dist. Court, N. District,

Sir:

At the request of the Attorney General of the United States, I herewith transmit you a certified copy of his letter to this Office, acknowledging the receipt of the Transcripts in Case No. 47, José de Jesus Noe, and No. 30, Carmen Sibrian de Bernal.

I am, respectfully,
Your Obdt. Servt.

Geo: Fisher.

Sec.