CASE NO.
23
NORTHERN DISTRICT

JIMENO RANCHO GRANT

THOMAS O. LARKIN ET AL

CLAIMANT

CASE NO. 23 ND
PAGE NO. 1

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 131.

Thomas O. Larkin et al CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Simeno Rancho"

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Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, *that on this twenty fourth day of March, 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 Thomas O. Larkin *for the Place named* "Simeno Rancho" *was presented, and ordered to be filed and docketed with No.* 131 *and is as follows, to wit;*

(Vide pages 4-5 *of this Transcript.)*

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

Friday June 25th 1852.

The following case was set in its order for hearing, and ordered to be placed on the Trial Docket, to wit: No 131, Thomas O. Larkin, "Simeno Rancho".

Friday August 14th 1852.

In Case No 131, Thomas O. Larkin et al, for the "Simeno Rancho", on Motion of the Counsel for the Claimant, the following order was granted, to wit: (Vide pages of this Transcript.

Tuesday January 4th 1853.

In Case No 131, Thomas O. Larkin, for the place named "Sinuno Rancho," the Deposition of John Bidwell, a witness in behalf of the Claimant, taken before Commissioner Harry S. Thornton, was filed and is in the words and figures as follows, to wit: (Vide pages of this Transcript

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Thursday January 6th 1853.

In Case No 131, Thomas O. Larkin, for the place named "Sinuno Rancho," the Deposition of Wm D. M. Howard, a witness in behalf of the Claimant, taken before Commissioner Harry S. Thornton, with Documents Marked G & H, annexed thereto, was filed, and is in the words and figures as follows, to wit: (Vide pages of this Transcript.

In the same Case, the Deposition of Moses Schallenberger, a witness in behalf of the Claimant, taken before Commissioner Harry S. Thornton, was filed and is in the words and figures, as follows, to wit: (Vide pages of this Transcript.

Saturday January 8th 1853.

Case No 131, Thomas O. Larkin, et al, for the place named "Sinuno Rancho," called; Genl. James Wilson, Counsel for the Claimants, read the papers in evidence; Answered by the U. S. Associate Law Agent, and the case submitted; Taken under

advisement by the Board.

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Monday, January 10th 1853.

In Case No 131, Thomas O Larkin for the place named "Jimeno Rancho," Commissioner Hiland Hull delivered the Opinion of this Board, and the Decree of Final Confirmation.

Ordered, that the Opinion and the Decree of Final Confirmation of this Board, delivered this day, in this case, be recorded in the Journal.

Which Opinion and Decree are in the words and figures as follows, to wit: (Side pages of this Transcript.

Petition.

To the Board of Commissioners for ascertaining & settling private Land Claims in the State of California.

Your petitioners Thomas O. Larkin of the City and County of San Francisco in the State of California, and John B. Misroon a citizen of the United States and formerly of the State of South Carolina, respectfully represent to your Honorable Board, that they claim a certain tract of land on the Westerly side of the Sacramento River called the "Sinieno Ranch," being a league in breadth from the River towards the West, and of the length running along the Banks of the said Sacramento River from a Northerly to a Southerly direction of Eleven leagues - Containing Eleven leagues, more or less, Situated in the County of Colusi in the State of California; that they claim the same in fee by virtue of a grant made to Manuel Jimeno under the authority of the Mexican Government by Manuel Micheltorena, Governor, Commandant General and Inspector of the Department of Californias, bearing date the forth (4th) day of November, One thousand eight hundred and forty four (1844) and approved by the Territorial Deputation.

Your petitioners further represent that the said grantee on the thirtieth (30th) day of August One thousand eight hundred and forty seven (1847) transferred all his right, title and interest in said land to the above named Thomas O. Larkin and John B. Misroon.

Your petitioners would further represent that the boundaries of the said tract of land have been designated and defined, and that the grantee and those claiming under him have been in the peaceable possession thereof ever since; and that they have no knowledge of any interfering claim.

Your petitioners present herewith a copy

of the original grant of said land in the Spanish Language, together with a translation of the same, and will make further proof of title if required by the Board.

Your petitioners pray your Honorable Board to take into consideration their claim to said tract of land, and decree their title to be valid, and confirm the same.

And your petitioners will ever pray.

San Francisco }
March 24th 1852. }

Thomas O Larkin.
John S. Missroon.
by their Attorney & Counsel
A. C. Whitcomb.

Filed in Office March 24th 1852.
Geo: Fisher
Secy.

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Deposition of John Bidwell.

San Francisco January 4th 1853.

On this day before Com. Harry I. Thornton, came John Bidwell, a witness in behalf of the Claimant Thomas O. Larkin petition No 129 and was duly sworn his evidence being given in English. The U. S. Associate Law Agent was present.

Questions by Claimant.

Question 1st. What is your name age and place of residence and how long have you resided here, and what has been your experience in surveying and drafting maps?

Ans. – My name is John Bidwell, my age is thirty three, and my residence is Chico Butte County. I have resided in California more than eleven years – in Sacramento Valley – and I have been engaged much of my time in surveying and making maps.

Question 2d – Do you know the Ranchos called the Simeno Rancho, the Rancho of Larkin's Children on the Sacramento River, and the Rancho called the Flugge Rancho on the west side of Feather River?

Ans. I am acquainted with these Ranchos and have known them ever since the year 1843. I mean the land which they occupy.

Question 3d – When were these Ranchos occupied how and by whom?

Ans – In the spring of 1847 I visited the Rancho of Larkin's Children it was then occupied by a man by the name of John Williams and had been so occupied for some time previous, there was a dwelling house in which there resided several families, and there was stock upon the place at

that time and it has been occupied ever since down to the present time. I was employed in 1847 by Mr Larkin to build for him a house on the Flugge Rancho which I did in the Spring of 1848, not being able to do so sooner. A man by the name of Yates was put in the house and occupied the place from 1849, until some short time since under Mr Larkin. The house which I built was burned down and Yates built another. As to the Sinneno Ranch I saw a house upon it which was occupied in 1848. I know that the house so occupied had been built before that time.

(Signed) J. Bidwell.

U. S. Law Agent present.

Sworn and subscribed before me
this 4th of January 1853.

Harry I. Thornton.
Comte

January 4th 1853. Before Judge Thornton.

It is hereby agreed by Counsel that the Deposition of John Bidwell taken this day before his Honor H. I. Thornton may be used in each of the following three cases, viz: No 129, No 130 & No 131 being three cases pending.

(Signed) Robert Greenhow
Asst Law Agent of U. S.

(Signed) James Wilson
for Petitioners

San Francisco January 4th 1853.

I certify, that the aforegoing is a true and correct copy of the original deposition taken in Case No 129, and on file in this Office

Geo: Fisher Secy.

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Filed in Office Jany 4th 1853.
Geo. Fisher.
Secy

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Deposition of W. D. M. Howard.

San Francisco, Jany 6th 1853
On this day before Com. H. Harry S. Thornton, came Wm D. M. Howard, a witness in behalf of the Claimants Thomas O Larkin, et al, petition No 131 and was duly sworn, his evidence being given in English.

The U. S. Associate Law Agent was present.

Questions by Claimant.

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

Ans. My name William D. M. Howard, my age is thirty three, and my residence is San Francisco Calif.a

Question 2.d. Are you acquainted with the hand writing of Manuel Michelltorena, and Francisco Arce? If you, look upon document filed with the petition filed in this case, as one Exhibit and marked EE thereto, and say whether the signatures of said Michelltorena and Arce, where they are written on said document are their genuine signatures?

Answer. I am acquainted with the hand writing of Michelltorena, and of Arce, having seen

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them write. I have examined their signatures as written on the document above referred to, and state that their signatures are genuine.

Question 3d. Are you acquainted with the handwriting of Manuel Jimeno and Talbot H. Greene, Will Edward Hartzell, and A. J. McDuffie and William R. Garner. If yea, look at the document filed as an Exhibit and marked G, with the petition to the Board in this case, and say whether the signatures of those persons whenever they occur in and upon the said exhibit are their genuine signatures?

Answer. I am acquainted with the hand writing of the persons named in the above interrogatory. I have examined their signatures where they occur in and upon the said document referred to in the interrogatory, and state that their signatures thereon are the genuine signatures of the said persons.

Wm. D. M. Howard

U. S. Agent present.

Sworn to and subscribed before me this 6th of June 1853.

Harry S. Thornton
Comdr.

122 Filed in Office June 6th 1853.

Geo. Fisher.
Secy.

San Francisco January 6th 1853.

On this day before Comr. Henry S. Thornton came Moses Schallenberger, a witness in behalf of the Claimants Thomas O Larkin, et al, petition No 131, and was duly sworn, his evidence being given in English.

The U.S. Associate Law Agent was present.

Deposition of Moses Schallenberger.

Questions by Claimant.

Question 1st. What is your name, age and place of residence & how long have you resided there?

Ans. My name Moses Schallenberger, my age is twenty six years, and my residence is San José California, & I have resided in this State ever since the Spring of 1845.

Question 2d Are you acquainted with the land in this case claimed and if you are state any thing you may know with regard to its occupation & settlement.

Answer. I was during the years 1846 & 1847 a clerk in the store of the claimant Larkin. Whilst I was so engaged in business for Larkin in the year 1847 a man named Dolores Feliz, who was in the employment of Mr Larkin would come to Monterey from the Sacramento and carry back with him for Mr Larkin horses & provisions which I understood he would take up to the Rancho of Mr Larkin in the Sacramento Valley, this I understood from Feliz & Larkin. The Rancho to which I refer was called the Sinaro Ranch. I understood from Larkin & Feliz that there was a contract between them, that Feliz was to occupy & take care of the said Rancho for Larkin. At the time that Feliz went on the Ranch I understood that his occupation was under the contract.

Cross Questions by the U. S. Law Agent.

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Question 1st. Where is Felix, and how long did he live on the Rancho.

Answer. I do not know where he is, the last that I knew of his being there was in 1848.
U. S. Law Agent present.

Moses Schallenberger.

Sworn to & subscribed before me this 6th of June 1853.

Harry S. Thornton
Comr &c.

Filed in Office June 6th 1853.

Geo: Fisher.
Clk.

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H.
Original Grant
to
Jimeno.

Sello Primero. Ocho Pesos.

Habilitado provisionalmente por la Aduana maritima del puerto de Monterey en el Departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

Micheltorena. Pablo de la Guerra.

Aduana maritima de Monty. Place of the Eagle.

El C. Manuel Micheltorena, General de Brigada del ejercito Mejicano, Ayudante General de la Plana mayor del mismo Gobernador Comandante General e Inspector del Departamento de Californias.

Gobierno del Departamento de las Californias. Place of the Eagle.

Por Cuanto D. Manuel Jimeno ha pretendido para su beneficio personal el sitio que se halla desocupado entre el rancho que se le ha concedido a los hijos de D. Tomas O. Larkin el rio del Sacramento y las tierras baldias que estan por la parte del Sur todo conforme se demuestra en el diseño respectivo; practicadas previamente las Diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos de la materia, usando de las facultades que me son conferidas á nombre de la Nacion Mejicana hé venido en conceder le el terreno mencionado sujetandose á las condiciones siguientes.

1.ª Podra cercar lo sin perjudicar las travesias caminos y servidumbres lo disfrutará libre y esclusivamente destinando lo al uso ó cultivo que mas le acomode.

2.ª Solicitará del Juez respectivo que le de la posesion juridica en virtud de este Despacho por el cual se demarcáran los linderos en cuyos limites pondrá ademas de sus mohoneras algunos arboles frutales ó celestes de alguna utilidad.

3.ª Si Contravinere a estas condiciones perdera su derecho al terreno.

En Consecuencia mando que teniendose por firme y valedero el presente titulo se tome razon de él en el libro respectivo y se entregue a l'interesado para su resguardo y demas fines.

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Dado en Monterrey a cuatro de Noviembre de mil ocho cientos cuarenta y cuatro.

Man.l Michelt.a
Fran.co Arce. Official 1.o

Queda tomada razon de este Despacho en el Libro respectivo a fojas.

Fran.co Arce.

Received for Record at 10 O'clock on the 27.th Sept. A. D. 1851.

Recorded Sept. 27.th A. D. 1857. folio 56. and 57. Book A.

N. P. Monroe. By J. J. Hughes.
Deputy Clerk. Colusi Co. California.
John J. Hughes.

Micheltorena to Jimeno. – Grant.

Filed in Office Jany 5.th 1853.

Geo. Fisher. Secy.

Annexed to the deposition of W.m D. M. Howard of Jany. 6.th 1852.

Geo. Fisher. Secy.

G.
Deed of Conveyance.

En el Puerto de Monterrey de la Alta California á los treinta dias del mes de Agosto de mil ochocientos cuarenta y siete, ante mi Walter Colton, Juez de Paz de esta demarcacion y ante los testigos que subscriben compareció Dn. Manuel Jimeno y dijo: Que por si, y a nombre de su esposa Dona Maria de las Augustias de la Guerra de Jimeno y demas herederos y sucesores y de quien hubiere voz y fama en cualquiera manera vende y da en venta publica y enagenacion perpetua por juro de heredad y para siempre jamas á Dón Tomas O. Larkin de esta vecindad y a Dn. Juan S. Misfroon vecino de la Carolina del Sud, de los Estados Unidos, un terreno que le pertenece en propiedad por concession que á el le hizo el Exmo. Señor Gobernador y Comandante Jen.l de este Departamento Dn. Manuel Micheltorena, con fecha cuatro de Noviembre de mil ochocientos cuarenta y cuatro. Dho. terreno está en la orilla del Rio del Sacramento, entre el ranchо que se les há concedido á los hijos del mencionado Don Tomas O. Larkin tomando una legua de ancho rumbo al occidente y siguiendo por toda la orilla del mismo Rio del Sacramento, hasta medir once leguas por las tierras valdias que estan por el rumbo del Sur al lado de Sonoma todo conforme al diseño que se demuestra en el espediente de la materia, y en el decreto Superior de dos de Noviembre de mil ochocientos cuarenta y cuatro el cual existe en la Secretaria de Gobierno. Declara el Vendedor no tener lo enagenado, ni empeñado, y que esta libre de todo gravamen publico y como tal se les vende á los compradores en el precio de un mil cincuenta pesos. (1050. ps.) que tiene recibidos á su entera satisfacion: Que Desde ahora se desprende y aparta del Dominio, propiedad y otro cualquiera derecho que le asista al referido terreno, renunciando y traspasando lo á los compradores, para que dispongan de el como de cosa propia: obligandose el otorgante á que esta Venta les sea cierta, segura y efectiva y que no se les inquietará ni morera pleyto alguno y que en todo caso, si resultare algun reclamo ocasionado por el vendedor, queda este obligado á resarcir al comprador

todos los daños y perjuicios que se les ocasionen.

A cuyo efecto pasa con esta fecha a los compradores, copia certificada del titulo del diseño y demas contenido del espediente original que existe en el archivo de Gobierno que está á cargo del que certifica, Dn Guillermo Edwardo Hartnell, pues el titulo original padeció estravio en los trastornos politicos que ha sufrido este pais, peró si por fortuna pareciere, se les entregará á los compradores como cosa suya; y a la observancia de todo lo dicho se obliga con todos sus bienes presentes y futuros, y con ellos se somete al fuero y jurisdicion de los Señores Jueces que de sus causas deban conocer, para que a su cumplimiento le compelan y apremien, como por sentencia difinitiva, consentida y pasada en autoridad de cosa juzgada, que por tal la reputa, renunciando las leyes que en el caso le favorezcan. Y para que conste lo firmó con migo y los testigos que subscriben, en duplicado.

Testigos } Manuel Jimeno. { Testigo
Talbot H. Green. A. Jackson. Mc Duffie
Guillermo Edo. Hartnell.

En dicho dia, mes y año, compareció igualmente ante mi y los mencionados testigos Dona Maria de las Augustias de la Guerra de Jimeno y dijo; que a nombre suyo y de sus sucesores y herederos y de quien de ellos hubiere titulo, voz y fama en cualquiera manera, da por bien vendido el parage antes mencionado y que renuncia espontaneamente todo derecho que á el pudiera tener ella y sus herederos.

Testigos. Augustias Guerra de Jimeno.
Talbot H. Green. Testigo.
Guillermo Edo. Hartnell. A. Jackson. Mc Duffie.

The foregoing Document was signed and delivered in my office and in my presence and a record of the same is deposited in the archives of this Court this thiertieth day of August in the year of our Lord one thousand eight hundred and forty seven.

William R. Garner. Walter Colton.
Secretary. Alcalde of Monterrey.

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Recorded in the Book (B.) of Records of the Municipality of Monterrey. Page 13. - March 2nd 1850.

Wm. S. Johnson.

Acting Recorder's clerk.

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Received for record at 10. o'clock on the 27th Sept. A.D. 1851. Recorded Sept. 27th A.D. 1851 fol. 59. 60 and 61.

Wm. F. Monroe.

Recorded Colusi Co. by Jo. S. Hughes. Depy.

Recorded in the Book of Records of the Municipality of Monterrey. Pages 129. to 132. January. 18th 1850.

Wm. S. Johnson.

Actg. Record's Clerk.

In new Book of Records page 13. No. 18. Hugo Reid.

Filed in Office Jany. 5th 1853.

Geo. Fisher.

Secretary.

Annexed to the Deposition of Wm. D. M. Howard of Jany 6th 1852.

Geo. Fisher.

Secretary.

F.
Certificate.

El que suscribe certifica en toda fée de verdad: Que en el año de mil ochocientos cuarenta y cuatro siendo escribiente de la Secretaria de Gobierno de la Alta California escribio un titulo en papel sellado que firmó el Señor General Dn. Manuel Micheltorena como Gobernador de este pais en donde declaraba Dueño en propiedad á Dn. Manuel Jimeno de un terreno en las margenes del Rio del Sacramento conforme al diseño respectivo en el cual se demarcaba una estencion de once leguas colindante en primer lugar con el terreno que se les consedio a los hijos de Don Tomas O. Larkin. Y para la debida constancia se estiende la presente en Monterrey a seis de Junio de mil ochocientos cuarenta y siete.

Pedro Estrada.

El diseño á que me refiero és, segun me acuerdo, como se demuestra á la vuelta. – Y para Constancia lo firmo en el mismo mes y año.

Pedro Estrada.

El que suscribe Certifica en toda forma de verdad; Que en el año de mil ochocientos cuarenta y cuatro, estando encargado de la tesoreria de esta Alta California le consta haber visto un titulo en papel sellado firm- ado por el Señor General Don Manuel Mich- eltorena como Gobernador de este pais, en donde Declaraba Dueño en propiedad á Don Manuel Jimeno de un terreno en las margenes del Rio del Sacramento conforme al diseño respectivo en el cual se Demarcaba una escala de once leguas, poniendo por primer lindero el raneho que se les consedio a los hijos de Don Tomas O. Larkin. Y para la Devida constancia se estiende la presente en Monterey á Seis de Junio de mil Ochocientos cuarenta y Siete.

José Abrego.

Recorded in the Book (B) of Records of the Municipality of Monterey. page 49 & 50.

March 2nd 1850.

Wm S. Johnson.

Actg. Record's Clerk.

Recorded in the Book of Records of the Municipality of Monterey pages. 133. & 134.

January 18th 1850.

Wm S. Johnson.

Actg. Record's clerk.

In new Book of Records pages 49 & 50. Nos 67 & 68.

Hugo Reid.

Filed in Office Jany. 5th 1853.

Geo. Fisher.

Secretary.

Pedro Estrada & José Abrego
Certificate Respecting the Jimeno Raneho.

Habilitado provisionalmente por la Aduana maritima del puerto de Monterey en el Departamento de las Alt

Habilitado provisionalmente por la Aduana maritima del puerto de Monterrey en el Departamento de las California para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

Micheltorena. Pablo de la Guerra.

E. S. Gobernador.

Aduana maritima de Monterrey. Place of the Eagle.

C. Manuel Jimeno, vecino de este Departamento ante V. E. con el debido respecto hago presente: Que conveniendo á mis intereses establecer un rancho p.r el rio del Sacramento, segun el diseño que acompaño suplico á V. E. se sirva conceder me lo por estar completamente valdio y sin que lo haya pedido persona alguna el terreno segun manifiesta el Mapa General que se ha formado en este año por el Agrimensor Biddell de cuya gracia recibiré merced de V. E.

Monterrey Noviembre 1.o de 1844.

Manuel Jimeno.

Monterrey N.o 1.o de 1844.

No pudiendo informar el S. interesado p.r ser lo y a la vez s.rio del Despacho tratigan a la vista todo lo que conviniere tenerse presente p.a proveer.

Michelt.a

Monterrey 2. de Noviembre 1844.

Vista la peticion con que da principio este Espediente, el estado inculto en que se encuentra el terreno solicitado segun el mapa general que se ha formado del rio Sacramento con todo lo demas que se tuvo presente y ver convino de conformidad con las leyes y reglamentos de la materia declaro a D. Manuel Jimeno dueño de once Sitios de Ganado mayor entre el rio del Sacramento el rancho que han solicitado los hijos del Señor Larkin y las tierras valdias por la parte del Sur segun manifiesta el diseño respectivo librese el correspondiente despacho tomese razon en el Libro respectivo y entreguese al interesado para su resguardo y demas fines.

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Nº 131.
D.
"Expediente."

Espediente promovido por D. Manuel Jimeno en pretencion de un terreno en el Rio Sacramento.

(413.)

Monterrey. 7ha la misma.

Michelt.a

El C. Manuel Micheltorena General de Brigada del Ejercito Mejicano, Ayudante General de la Plana mayor del mismo, Gobernador Comandante General é Inspector del Departamento de Californias.

Por Cuanto D. Manuel Jimeno há pretendido para su beneficio personal el sitio que se halla desocupado entre el rancho que se le ha concedido a los hijos de D. Tomas O. Larkin el rio del Sacramento y las tierras baldias que estan por la parte del Sur, todo conforme se demuestra en el diseño respectivo, practicadas previamente las Diligencias y averiguaciones consernientes segun lo Dispuesto por leyes y reglamentos de la materia usando de las facultades que me son conferidas á nombre de la Nacion Mejicana he venido en conceder le el terreno mencionado Sujetandose á las condiciones siguientes.

1.a Podrá sercar lo sin perjudicar las travesias caminos y servidumbres, lo disfrutará libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode.

2.a Solicitara del Juez respectivo que le de la posesion juridica en virtud de este Despacho por el cual se demarcaran los linderos en cuyos limites pondrá amas de sus mohoneras, algunos arboles frutales ó silvestres de alguna utilidad.

3.a Si contraviniere á estas condiciones perdera su derecho al terreno.

En Consecuencia mando que teniendose por firme y valedero el presente titulo se tome razon de él en el libro respectivo y se entregue al interesado para su resguardo y Demas fines.

Dado en Monterrey a cuatro de Noviembre de mil ochocientos cuarenta y Cuatro.

Manuel Micheltorena.

Manuel Jimeno. Sr.

Queda tomada razon de este Despacho en el Libro respectivo a fojas.

= Here follows a map or plan. =

Exma Junta Departamental.

Manuel Jimeno ante V. E. con todo el respeto devido hago presente: Que por el titulo adjunto se acredita haberse concedido a mi favor un terreno en las margenes del rio del Sacramento, y como a V. E. corresponde dar su aprovacion, Suplico se digne otorgarme la de lo que recibirá gracia y merced Juro lo necesario Sirviendo dispensar me el papel comun por no haber del Correspondiente. Monterrey Abril 21 de 1846.

Manl Jimeno.

Angeles Junio 3 de 1846.

Dado cuenta en Sesion de hoy á la E. A. Departamental con esta instancia, se mandé pasar en union del Espediente respectivo á la Comision de terrenos baldios.

Agustin Olvera.

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 seven preceeding and hereunto annexed pages of tracing paper nimbered from one to seven

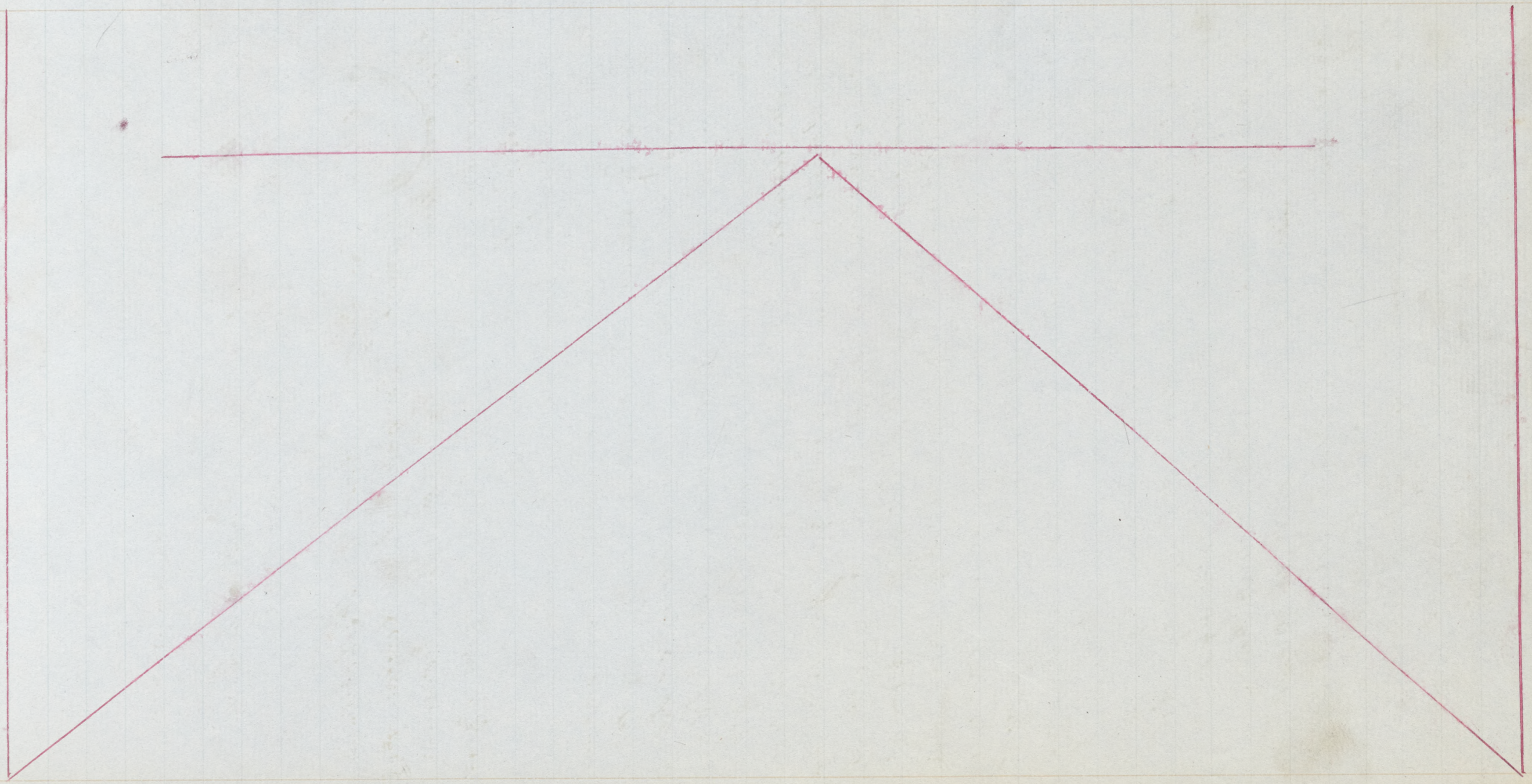
inclusive and each of which is verified by my initials (S. L. K.) exhibit true and accurate copies of certain Documents on file and forming part of the said archives in this Office.

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 8th Day of May. 1852.

Saml. L. King.
Surv General. Cal.

Filed in Office Jany. 5th 1853.

Jev. Fisher.
Secretary.



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Translation of the Original Grant.
M.

Seal the First. Eight Dollars.

Provisionally authorised by the Maritime Custom house of the Port of Monterrey, Department of the Californias for the years one thousand Eight hundred and Forty Four and one thousand Eight hundred and forty Five.

Micheltorena. Pablo de la Guerra.

Maritime custom house of Monterey L. S.

The Citizen Manuel Micheltorena General of Brigade of the Mexican Army Adjutant General of the Staff of the Same, Governor Commandant General and Inspector of the Department of Californias.

Government of the Dept of the Californias L. S.

Whereas Don Manuel Jimeno has petitioned for his personal benefit for the tract of land which is unoccupied between the Ranch which has been granted to the children of Don Tomas O. Larkin, the River Sacramento and the uncultivated lands which are on the side of the South entirely in conformity with the showing in the corresponding plan: The necessary preliminaries and investigations having been gone through with as Directed by the laws and regulations on the Subject: Exercising the authority in me vested, in the name of the Mexican Nation, I have just granted to him the said land Subject to the following conditions.

1st He may enclose it without prejudice to the Cross Ways, roads and rights of way; He shall enjoy it freely and exclusively, Destining it to the use and cultivation which best suits him.

2d He shall solicit the proper Judge to give him Juridical posession of it, in virtue of this grant, for the which, boundaries thereof shall be marked out within the limits of which, besides the usual land marks, he shall plant some fruit bearing or some forest trees of some utility

3d If he shall contravene these

conditions he shall lose his right to the land. –

Wherefore I Order, that this title being of itself duly firm and valid, Record thereof shall be taken in the proper Book, and that it be delivered to the party interested for his security and for other purposes.

Given in Monterrey this Fourth Day of November One thousand Eight Hundred and Fourty Four.

Sgd. Manl. Micheltoren.a
Sgd. Franco. Arce.
First Official.

The Record of this Grant has been taken in the proper Book at folio.

Franco. Arce.

Filed in Office March. 24.th 1852.

Geo. Fisher.
Secretary.

Translation of
G
Deed of Conveyance

At the Port of Monterrey, in Upper California on the thirtieth Day of the month of August, One thousand eight hundred and forty seven, before me Walter Colton, a Justice of the Peace, in this Demoreation and before the undersigned witnesses, appeared Don Manuel Jimeno and said: that for himself and in the name of his wife, Dona Maria de las Asgustias de la Guerra de Jimeno and of all other heirs and successors, and of whom he may have voice or right, in any manner whatever he sells, and gives in public sale and perpetual alienation, by hereditary right and for ever and ever to Don Tomas O. Larkin, of this Port and Don Juan S. Missroon of South Carolina of the United States, a tract of land which belongs to him: in ownership by a concession which Don Manuel Michelorena, most Excellent Governor and Commandante General of this Department, made to him under Date of the fourth of November One thousand eight hundred and forty four. Said land is situated on the margin of the Sacramento River, between the rancho which has been granted to the children of the Said Don Tomas O. Larkin, embracing a league in width in a westerly Direction and following along the bank of Said Sacramento River to the completion of eleven leagues by the vacant lands which are in a Southerly Direction, on the Side towards Sonoma, the whole in conformity with the plat which is shown in the Espediente, relative to the matter, and in the Superior Decree of the Second of November, One thousand Eight hundred and forty four, which exists in the Office of the Secretary of the Government. The Vendor Declares to have neither transferred nor mortgaged it, and that it is free from all public encumbrance, and as such, he sells it to the Vendee for the Sum of One thousand and fifty Dollars ($1 850) which he has received, to his entire Satisfaction. — That from the present time he alienates and Separates himself from the Dominion, ownership and whatever other right he may have to Said

to said tract of land, relinquishing and transferring it to the vendees, to the effect that they may dispose of it as their own property, the vendor binding himself that this sale shall be secure and effective to them and that he will neither disturb nor bring suit of any kind against them, and that in any case if there should result any reclamation occasioned by the vendor he binds himself to indemnify the vendees for all the damages and injuries they may suffer thereby - to which effect he delivered to the vendees a certified copy of the title, the plat and other contents of the original expediente, which exists in the Government Archives, which are in the custody of him who certifies Don Guillermo Eduardo Hartwell because the original title was mislaid during the political overthrows which this country has suffered; but if by chance it should appear, it shall be delivered to the vendees as theirs; and for the fulfilment of all herein stated he binds himself with all his present and future property, and with them he submits himself to the forum and jurisdiction of the Senores Judges, who of his cause ought to take cognizance, in order that to the fulfillment thereof they may compel and coerce him, as if by a final judgment, rendered by authority in res judicata, consented to because the considers it as such, renouncing the laws which in the case are favorable to him. In testimony whereof, he signed it, in duplicate with me and the undersigned witnesses.

Sgd. Manuel Jimeno.

Sgd. Talbot H. Green.
(") Guillermo Eduardo Hartwell. } Witnesses.
(") A. Jackson Mc Duffee. }

On the same day, month and year, before me and the mentioned witnesses, appeared Doña Maria de las Augustias de la Guerra de Jimeno, and said; ——

that in her own name and that of her Successors and heirs, and of whom she may have title, voice or right in any manner whatever, She acknowledged the afore mentioned place rightfully Sold and that She relinquished voluntarily all the right that She and her heirs might have thereto.

Signed. Augustias Suerra de Simeno.
" Talbot H. Green.
Witnesses. " Guillermo Eduardo Hartnett.
A. Jackson Mc Duffee.

I George Fisher, Secretary of the U. S. Land Commission to ascertain and Settle the Private Land Claims in the State of California hereby certify that the foregoing is a true faithful and Correct translation of a Spanish Document in Case No 131, wherein Thomas O. Larkin et al. claim the Simeno Rancho, now on file in this Office. –

In Testimony whereof I have hereunto signed my name – Office of the Secretary of the above named Commission San Francisco this 5th Day of January A. D. 1853.

Geo. Fisher.
Secretary.

Filed in Office. Jany. 5th 1853.

Geo. Fisher.
Secretary.

CASE NO. 23 ND
PAGE NO. 29

Translation.
F
Certificate.

The undersigned certifies in Due verity that in the year One thousand eight hundred and forty four, being clerk in the Office of the Secretary of the Government of Upper California, he wrote a title on Stamped paper, which Don Manuel Micheltorena, Signed as Governor of this Country in which he Declared Don Manuel Jimeno, owner in property of a tract of land on the margins of the Sacramento River, according to the respective plat, on which was marked and extension of eleven leagues adjoining in the first place the land which was granted to the children of Dn Tomas O. Larkin and for the Due testification thereof the present is issued at Monterey on the Sixth Day of June of the year one thousand eight hundred & forty Seven.

Sgd. Pedro Estrada.

The plat to which I refer, is according to my recollection as is represented on the following page and for a testification I Sign it in the Same month and year.

Sgd. Pedro Estrada.

The undersigned certifies in Due form of truth, that it is known to him, that in the year of one thousand eight hundred and forty four, being in charge of the Office of the Treasurer of this Upper California he had seen a title on Stamped paper, Signed by Senor General, Dn Manuel Micheltorena, as Governor of this country, in which he Declared Dn Manuel Jimeno owner in property of a tract of land on the margins of the Sacramento River, according to the respective plat in which was marked out a scale of eleven leagues, placing for the first boundary the Rancho which was granted to the children of Dn. Tomas O. Larkin, and for the Due testification thereof, the present is issued at Monterey on the Sixth Day of June in the year of one thousand eight hundred and forty Seven.

Sgd. Jozé Abrego.

I George Fisher, Secretary to the U. S. Land Commission to ascertain and settle the Private Land claims in the State of California, hereby certify that the foregoing is a true and correct and faithful translation of a Spanish Document in case No 131, Wherein Tomas O. Larkin et al. claim the Jimeno Rancho, now on file in this Office. In testimony Whereof I have hereto signed my name office of the Secretary of the above mentioned Commission. San Francisco. this 5th Day, Jany. AD. 1853. Geo. Fisher Sy.

Filed in Office. Jany 5th 1853. –
Geo. Fisher. Sy.

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PAGE NO. 30

Record of Proceedings at the instance of Don Manuel Jimeno, soliciting a tract of land by ("en") the river Sacramento.

(413.)

E.

Translation of D. Espediente.

Excellent Sir Governor.

I Manuel Simeno Casarin, a resident of this Department represent before V. E. with Due respect: that in as much as it suits my interests to establish a "rancho" about (por.) the Sacramento River, according to the accompanying Sketch, I entreat V. E. to be pleased to grant it to me, Since it lies completely unoccupied and nobody has petitioned for it, the land as it is made apparent by the general map formed this year by the land Surveyor Bidwell, by which grace I will receive mercy from V. E.

Monterrey. November the 1st 1844.

(Signed.) Manuel Simeno.

Monterrey. Nov ember 1st 1844

The Party concerned not being enabled to report on account of his being at a time concerned party and Secretary of Government, I order that whatever it may be convenient to have in mind for the purpose of coming to a determination be brought to my Knowledge.

Sgd. Micheltorena.

Monterrey. November the 2nd 1844.

After having seen the petition at the head of this record of proceedings the uncultivated State in which the land petitioned for lies; according to the general map which has been formed of the Sacramento River and whatever else it was found convenient to attend to, in conformity with the laws and regulations on the Subject, I declare Don Manuel Simeno, the owner of eleven Square leagues ("Sitios de Ganado mayor"), between the Sacramento River, the ranch which the Children of Señor Larkin have applied for, and the vacant lands lying South as the respective Sketch Shows. Let the corresponding patent be issued, let it be entered in the respective Book, and let it be Delivered to the party concerned for his Security and other ends.

Monterrey. Same Date.

Signed. Micheltorena.

The Undersigned Manuel Micheltorena, General of Brigade in the Mexican Army, Adjutant

General in the Staff of the Same, Governor Commandt General and Inspector of the Departments of the Californias.

Whereas Dn Manuel Jimeno has solicited for his personal benefit the site lying unoccupied between the Ranchо that has been granted to the children of Don Thomas O. Larkin, the Sacramento River and the vacant lands lying South, as it is all shown in the respective Sketch, the investigations thereunto concerning having been previously accomplished according to the Directions of the laws and regulations on the Subject by virtue of the authority in me vested, in the name of the Mexican Nation, I have found expedient to grant to him the tract of land mentioned, Subject to the following conditions.

1st He may fence it without obstructing (perjudicar) the paths-access, roads and Servitudes he shall enjoy it freely and exclusively, Destining it to what use or cultivation may best suit him.

2nd He shall Solicit the respective Judge to give to him the juridical possesion by virtue of this patent, whereby the boundaries shall be marked out, on the limits of which, he shall put besides its landmarks some trees, either fruit bearing or forest trees of some utility.

3rd If he should contravene these conditions he shall lose his right to the land.

Consequently I order that the present title being held as firm and valid, the Same be entered in the respective book and be Delivered to the interested party for his security and other ends.

Given in Monterey On the fourth Day of November One thousand eight hundred and forty Four. Manuel Micheltorena.

Manuel Jimeno. Secretary.

This patent has been entered in the respective book folio.

To the Excellent Departmental Assembly.

I Manuel Jimeno represent before V. E. with all Due respect; that by the adjoined title is

proved the grant made in my favor of a tract of land on the margins of the Sacramento ("correspondé") River and in as much as it pertains ( ) to V.E. to give V.E.s approval. I beg V.E. to Deign to grant it to me whereby I will receive grace and mercy. I swear de and V.E. will be pleased to excuse my usage of common paper, there being none of the corresponding paper.

Monterrey April the 21st 1846.

Signed. Manuel Jimeno.

Angeles. June the 3rd 1846.

Account having been given in to Day's Session to the Excellent Departmental Assembly with this instancy it was ordered to be referred together with the respective Record of Proceedings to the Committee on Vacant Lands.

Sgd. Agustin Olvera.

Filed in Office Jany. 5th 1853.

Geo. Fisher. Secy.

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PAGE NO. 34

No. 31. Thomas O Larkin & John S. Missroon, Claimants.

Opinion delivered by Commissioner Hiland Hall.

The claimant asks for the confirmation to them of eleven square leagues of land situated on the Sacramento river, in the County of Colusi, for which they show a grant from Governor Micheltorena to Manuel Jimeno, dated November 4th 1844, & a conveyance from the said Jimeno to themselves dated August 31, 1847 — The grant is fully proved & we find no cause to doubt its genuineness. The grant appears to have been presented to the Departmental Assembly & referred to the committee on vacant lands, June 3, 1846; but no further action on it is shown by the public archives or in any other manner. There is no evidence that judicial possession of the land was given, but it appears that actual possession was taken by the claimants in the year 1847, a house built upon the land & inhabited & that the land has been occupied by the claimants ever since. The land is not within ten leagues of the Sea coast, but in every other respect the claim is nearly identical with that of Cruz Cervantes, & in conformity to the principle determined by the Board in that case, we think the claim should be confirmed — Commissioner Thornton concurring in the result — We accordingly enter a decree of final confirmation as follows —

Decree of Final Confirmation.

This Board on full consideration, having come to the conclusion that the said claim is valid, now proceeds to make & does make the following decree of final confirmation, viz, It is decreed, that said claim be confirmed to the extent & quantity of Eleven square leagues, being the same land described in the grant, & of which the possession was proved to have been long enjoyed, Provided, that the said quantity be contained within the

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CASE NO. 23 ND
PAGE NO. 35

boundaries called for in said grant & map to which the grant refers; & if there be less than the said above named quantity within said bounds, then we confirm to the claimant that less quantity.

(Signed) Hiland Hall.
(") Harry I. Thornton.) Commrs.

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PAGE NO. 36

Office of the Board of Commissioners,

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

I, G. Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing thirty eight pages, numbered from 1 to 38, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. 131 on the Docket of the said Board, wherein Thomas O. Larkin et al are Claimant — against the United States, for the place known by the name of "Simeno Rancho"

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this thirteenth day of April A. D. 1854, and of the Independence of the United States of America the seventy-eighth

Geo: Fisher
Sec'y

23

23 ND

Thos O Laskin

'Jimeno Ranch'

23

Attorney General's Office
10th August 1854.

Thomas O. Larkin, claimant
vs.
The United States.
} 131.

You will please take notice that an appeal in the above case (a transcript of the proceedings in which was received at this office on the 27th of April 1854) 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.

Caushing
Attorney General U.S.

U. S. Dist. Court
N. D. of California
No. 23 –

The United States
— vs Appellants
Thos. O. Larkin et al

Notice of Appeal
in Case No 131

Filed Sept 20, 1854
Lucas Murray
Clk

CASE NO. 23 ND
PAGE NO. 41

No 1

CASE NO. 23 ND
PAGE NO. 42

United States
vs
Thomas O'Larkin &
J. S. Missorn

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

The appellees, in this case, are notified, that on the 11th day of April 1855 at 10 o'clock A.M. at the Clerk's Office, of the above named Court in the City of San Francisco Cal-ifornia the deposition of Samuel Chase, and others, will be taken to be read as evidence on the part of the appellant in the trial of the above case,

San Francisco Cal
Apl 10th 1855.

A. Russell
Acting U.S. Dist Atty

No 23

United States

vs

Thos O Larkin &
J. S. Missroon

CASE NO. 23 ND
PAGE NO. 43

San Francisco April 10th 1855 Rec'd a copy of the within notice this day. — A C Whitcomb
Counsel for claimants

Filed April 11th 55
L A Ma

No 2

CASE NO. 23 ND
PAGE NO. 44

UNITED STATES DISTRICT COURT,
Northern District of California.

United States
vs
Thomas O Larkin

San Francisco, April 11th 1855

ON this day, before Ino A. Monroe a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came

Samuel Chase a witness produced on behalf of the United States

in Case No 23, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 131 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: A Glassell acty. U.S. Dist Attorney.

Samuel Chase being duly sworn says.

QUESTION BY Dist. Atty.

What is your age and place of Residence

Answer I am twenty five years of age and reside on Russian River, Mendocino County.

Question When did you emigrate to California?

Answer. I came here in September 1842.

Q. Where have you resided since that time

Answer - In 42. 43. 44. 45 I resided in Santa Cruz. in 46 I was engaged in the bear flag war in California in the spring of 47 I came from the lower country and lived on Thomas O Larkins Ranch in Sacramento valley (-the upper valley).

The Ranch was on the east side of Sacramento River some ten or twelve miles above the town of Colusi, I went there and occupied the Ranch under an agreement with John S. Williams who was employed by Thomas O Larkin.

Q Did you or not build the house which Stirling occupied subsequently -

Answer - I did - I think the Ranch was principally above the house I have spoken of. Mr. Larkin required Williams and myself to corral the stock above the house on the river, which we did.

Question - How long did you reside on the house you have spoken of.

Answer One year & one half.

Question. Did you know the Limens Rancho.

Answer I did not.

Question. Did you know the land situated on the westerly bank of the Sacramento, lying between the house of Stirling and the first Slough putting into the Sacramento River on the westerly side thereof above the mouth of the Rio de las Plumas or Feather River and for a space of three miles back from the River.?

Answer. I know it well.

Question Was any one living on that land when you went up there.

Answer No white man only digger Indians. The first white man who lived on the westerly side of Sacramento river nearest to us was Knight, who lived at "Knights Landing", ~~about~~ There was no white man on the westerly bank of the river below lived none to us than Knights Landing

Question. Do you know who was the ~~next~~ first white man who settled thereon

after the year 1847

Answer a Spaniard by the name of Dolores moved there and settled in 1848

2 What was the character of the improvements he made if any?

Answer

He made some little improvements, Put some poles in the ground and covered it with tulares, skins &c. Felled some white Oak trees and made him a corral

Cross examination.

No 23.

U. S. Circuit Court.

In Mexican State

vs

Thos. R. Martin et al.

Deposition of Chas. Sam C. Chase

Filed April 11. 1855.

Wm. A. Bonner

Clk

CASE NO. 23 ND
PAGE NO. 47

No 2

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

The United States
Appellants
vs
Thomas O. Larkin & John S. Missroon
Claimants & appellees

The Petition of the United States by their Attorney represents: that this cause is an application for a review of the decision of the Board of Commissioners whereby the Claim of the said Appellees was confirmed as appears by reference to the records in the case:

That a transcript of the said Records was filed in the Court on the 13th day of April A.D. 1854: that a notice of appeal was filed on the Twentieth day of September A.D. 1854 - and that the land claimed lies in the said District

That the said Claim is invalid.

Wherefore appellants pray that the said decision of the Board be reversed, & that this Court decree the said title to be invalid.

Respectfully &c, A. A. Russell
Asst U. S. Dist. Atty

District Court of the Northern District of California

The United States
Appellants

vs

Thomas O. Larkin &
John L. Missroon
Claimants & appellees:

Petition for Review

Filed June 25. 1855.

J. Chevers
Deputy

CASE NO. 23 ND
PAGE NO. 49

No 3

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

The United States of America - appellants - vs. Thomas O. Larkin and John S. Missroon } "Rancho de Simeno" - On appeal by the U.S. from the Board of Land Commissioners

Appellees & claimants.

In answer to the Petition of the said appellants filed herein, the said claimants & appellees deny to be true the allegation made in said petition that the said claim of the said Claimants & appellees is invalid. - And aver & represent that their - the said claimants & appellees - title to the said "Rancho de Simeno" claimed in this case is a good & valid one. -

Wherefore the said Claimants & appellees pray that the decision herein of the Board of United States Land Commissioners for ascertaining & settling Private Land claims in the State of California be affirmed, and the title of the said claimants & appellees be decreed to be valid, and that this Honorable Court confirm the same. — And your petitioners will ever pray &c

A. C. Whitcomb
Counsel for claimants & appellees

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

No. 23 =

The United States
Appellants
vs
Thomas O. Larkin and
John L. Missroon.

Answer

CASE NO. 23 ND
PAGE NO. 51

Filed June 25. 1855.
by W. H. Chever,
Deputy.

No 4

A. A. Whitcomb
Counsel for claimants & appellees

Present, Hon. Jno. H. McAllister, Circuit Judge and Hon. Ogden Hoffman Jr. Dist. Judge

The United States, vs. Thos. O. Larkin, et al.

No. 23 — by order of the Court Testimony taken in open Court before the Judges on the 28th June 1855.

~~Valbot~~ Geo. Fisher being duly sworn on the part of the Claimant in this case, deposes and says.

The document in the transcript of the proceedings before the Land Commission marked "L", is a copy of ~~the original~~ a deed of conveyance, purporting to be the original in the Board of Land Commissioners which is in my charge as secretary of said Commission.

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Sworn to in open Court, + Subscribed before me June 28, 1855, John A. Monroe, Clerk, by W. H. Chevers, Deputy.

Geo. Fisher

Cross examination waived by the U. S. Dist. Atty.

Valbot H. Green being duly sworn on the part of the Claimants — deposes and says. I was in Monterey in the year 1847. Resided there from 1841 to 1848. In the year 1848 I knew Manuel Jimeno, Augustias Guerra his wife, Walter Colton, William Edward Hartnell, A. Jackson McDuffie, William R. Garner. Witness is here shown a deed of conveyance proved above by Geo. Fisher, to be the original, of which the document marked "L", in the transcript is a

copy. I saw those persons whose names are subscribed to said document, as follows, Manuel Jimeno, and Augustias, ~~his wife~~, Guerra de Jimeno, his wife, sign their names on the date which said document bears, to said document, and thereupon I signed my name as subscribing witness thereto. ~~From the latter part of the year 1844 up to~~

The political troubles between Pio Pico & Governor Michel Torreno commenced the latter part of 1844, and continued until March 1845, when Mitchel Torreno left the country. The troubles between Pio Pico & José Castro commenced in 1845, & continued up to the time it was settled that Pio Pico should be Governor, and Castro Commondante General. The disturbance between Col Fremont, and José Castro, commenced ~~about~~ afew weeks after February 1846. Those troubles continued until the latter part of 1847, or the first part of 1848. Manuel Jimeno was Secretary of the Government up to the time that Michel Torreno left the Country. From the time the political troubles commenced in this country up to the time of the Treaty of peace, it was not safe for a man to go up into the Sacramento valley, or to send cattle

cattle there on account of the Indians, unless to be near to Col: Sutters. I was acquainted with Dolores Feliz & John Armstrong in 1847. In the latter part of 1847 Larkin & Missroon employed them to go up & take ~~charge of~~ possession of the Ranch in this case, and I furnished them with all the things necessary for so doing, cattle &c. In 1849 Mr Larkin sent an agent up to dispose of a part of the stock on said Ranch, and soon after a man named John Williams purchased a part of this stock of Mr Larkin, and on acct of such purchase, deposited with me the sum of $5000 — John Williams took charge of Mr Larkin's interest up there. He is now dead, he died in the early part of 1850. He was succeeded by Mr Sterling, who I am informed, is now dead. I do not know that Mr Larkin ever went upon the land in question. I have been in the Sacramento Valley since between the years 1846 & ~~the~~ the latter part of 1848. I do not recollect that Mr Larkin ever told me he had been on this land. I do not know that he ever cultivated any portion of the land, but I know of his having sent men on it for that purpose. I do not know that they ever cultivated any portion of this. They remained

until after the discovery of gold. They went there in May 1847. Gold was discovered in May 1848. The condition of the country during this time was considered unsettled, but not so much so as in 1846. The Indians having somewhat removed into the mountains.

Sworn to in open Court this 28th day of June 1855, before me, John A. Monroe, Clerk by N. H. Chevers, Deputy.

Talbot H Green.

Dist. Atty waived cross examination.

William H. McKee being duly sworn on the part of the Claimants, deposes & says. I knew John Armstrong in 1847. Dolores Feliz I did not know until 1848. In the month of May of that year, I saw him on the tract in question. I saw them both there at that time. They were in charge of Mr Larkin's Cattle.

Sworn to before me in open Court this 28th June 1855. John A. Monroe, Clerk by N. H. Chevers, Deputy.

Wm H. McKee

Dist. Atty waived Cross Examination

No 23 —

U. S. Dist. Court.

The United States,

— vs —

T. O. Larkin, &

I. D. Missroon.

Depositions taken in open Court.

Filed June 28. 1855.

by Chevesit,

Deputy.

CASE NO. 23 ND

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CASE NO. 23 NO
PAGE NO. 57

At a Stated Term of the District Court of the United States of America, for the Northern District of California, held at the Court House in the City of San Francisco, on Thursday the fifth day of July in the year of our Lord one thousand eight hundred and fifty-five.

Present: Hon. M. A. McAllister, Circuit Judge,
The Honorable OGDEN HOFFMAN, Jr., District Judge.

The United States,
—vs—
Thomas O. Larkin &
John D. Musson.

No 23

In this Case on the application of the U. S. Atty made in open Court it is ordered by the Court that an appeal in behalf of the United States from the final decision of this Court rendered in said Cause, at the present term be, and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions and proceedings in the said Cause be sent to the Supreme Court of the United States without delay.

No 23 —

United States District Court, Northern District of California.

The United States,

—vs.—

Thos. O. Larkin &
John. S. Missroon.

Order granting Appeal, &c.

Filed July 5th 1855

John. A. Monroe, Clerk.

by W. H. Chevers, Deputy.

CASE NO. 23 ND
PAGE NO. 58

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

Thomas O. Larkin and John S. Missroon } claimants for "Rancho de Simeno", and appellees

vs.

The United States } appellants

This hereby stipulated & agreed that the transcript of this case to be sent on appeal to the Supreme Court of the United States shall be made up by leaving out of the transcript of the case (as sent up by the Land Commission-Secretary) the Certificates of Pedro Estrada and Jose Abrego - with their translations - appearing therein, the same not having been offered in Evidence by either party, and having got among the files of the case by mistake. —

A. Slasson
Asst U. S. Atty

San Francisco
August 15th 1855

A. C. Whitcomb
Counsel for Claimants

Northern District of California

This hereby ordered that the Clerk of this Court prepare the above mentioned transcript in accordance with the foregoing stipulation. —

Ogden Hoffman Jr
U. S. Dist Judge

San Francisco
August 15th 1855

No: 23 =

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

Thomas O. Larkin and John L. Middleton
vs
The United States:

Stipulation:

Filed August 15, 1855,
by Owens
Deputy

CASE NO. 23 ND
PAGE NO. 60

NORTHERN DISTRICT OF CALIFORNIA.

CASE NO. 23 ND
PAGE NO. 61

UNITED STATES DISTRICT COURT.

The United States,
vs.
Thomas O. Larkin,
and John D. Morrow,

CLERK'S FEES. No 23

1854

April 13	Filed Transcript,	$	"	20
	" Notice of Appeal,		"	20
	" Notice to take testimony,		"	20
	" Deposition of Chase,		"	20
	" Petition & answer,		"	40
	" Depositions of Fisher, Green & McKee,		"	60
	Swearing 3 witnesses,		"	60
	Filing & entering decree confirming claim		1	10
	" & " order granting Appeal &c		1	10
	" Stipulation in regard to Transcript		"	20
	" & entered order in accordance with Stip		1	10
	Judgment Record 200 fol at 22½ cts		45	00
	Map in Record		10	00
	Dockets &c		4	50
		$	65	40
	Binding Transcript,		2	00
		$	67	40
	Postage on Transcript,		3	65
		$	71	05

United States District Court

Northern District of California.

No 23

Thos. O. Larkin,
and
J. S. Missroon,

vs.

The United States.

CASE NO. 23 ND
PAGE NO. 62

Clerk's Fees, $ 67.40
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Filed August 22, 1853.
G. Chever,
Deputy.

Amount 71.05

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John A. Benner, Clerk.
G. W. F. Chever,
Deputy.

CASE NO. 23 ND
PAGE NO. 63

UNITED STATES OF AMERICA, SS.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

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

greeting:

Whereas, lately, in the District Court of the United States, for the Northern District of California before you, _____ in a cause, between the United States, appellants and Thomas O. Larkin and John S. Missroon, appellees, the decree of the said District Court was in the following words, viz: —

"It is hereby ordered, adjudged and decreed, that the decision and decree of the said Board of United States Land Commissioners to ascertain, and settle the private land claims in the State of California, made in this case, be affirmed, and that the claim of the said Thomas O. Larkin and John S. Missroon, appellees and claimants herein, be, and the same is hereby confirmed, to the extent and quantity of eleven square leagues, or sitios de ganado mayor, of land, and for no more, being the same land described in the grant and map referred to therein, and of which the possession was proved to have been long enjoyed; provided that the said quantity to the original grantee, Manuel Jimeno, granted, and now to the said claimants, James O. Larkin and John S. Missroon, confirmed, be contained within the boundaries called for in said grant and map to which the grant refers, and if there be less than eleven square leagues, or sitios de

ganado mayor, of land within the said boundaries, then there is confirmed to them the said less quantity, it being apparent to the Court, that there is more than two hundred varas square, the minimum allowed to be granted by the regulations of the Mexican Congress of 1828, concerning colonization."

as by the inspection of the transcript of the record _____ of the said District Court, which was brought into the Supreme Court of the United States, by virtue of an appeal agreeably to the act of Congress, _____ in such case made and provided, fully and at large appears.

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and fifty five the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel: **On consideration whereof,** it is now here ordered, adjudged and decreed by this Court that the decree of the said district Court in this cause be and the same is hereby affirmed. — May 12th

You, therefore, are hereby commanded that such further _____ proceedings be had in said cause, _____ as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding: Witness the Honorable Roger B. Taney Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and fifty five. —

COSTS:

Clerk,.....$

Attorney,...$

$

~~*Taxed by*~~ Wm Thos Carroll

Clerk of the Supreme Court of the United States.

No 95

No. 99, December Term, 1855.

MANDATE

SUPREME COURT UNITED STATES.

U. States vs Sanchez et al

Filed Sept. 4, 1856,

Geo. W. Moore,

Clerk

By W. H. Pearce,

Deputy

CASE NO. 23 ND

PAGE NO. 56

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

The United States
vs
Thomas O. Larkin &
John S. Missroon

This day came Charles D. Semple before me Clerk of said Court and made oath that heretofore, in this Hon Court, there was a grant of eleven leagues of land called the "Jimeno Grant" situated in the Counties of Colusa and Yolo on the West bank of the Sacramento River, confirmed to the above named Defendants; that before the final confirmation of said grant the said Missroon sold his entire interest therein; that the said Larkin also sold before his death and before the final confirmation his entire interest except about two thirds of one league which this Affiant is informed now belongs to the heirs of the said Larkin; that that this Affiant is now the owner of about two thirds of one league of said grant claiming title under the said Larkin & Missroon by mesne conveyances from them. Affiant further says that Missroon is an officer in the United States Navy and never took any part in the management of the case, but that Larkin had the entire controll of it until the final confirmation. A controversy then arose between some of the principle owners when Larkin retired from the case leaving the management of the survey to this

Affiant and some two others. A survey was ordered, and made by the United States Surveyor General for the State of California which was protested against by this affiant and the matter was referred to the Secretary of the Interior and said survey was set aside and a new one ordered which last survey was made in the month of October 1858 and approved by the Surveyor General aforesaid. Now this affiant says that by this last approved survey the said "Simeno Grant" is not properly located; that it is located, to the extent of two leagues, upon land claimed by the owners of the "Colus" grant containing two leagues finally confirmed to this affiant and this affiant believes that the title to the Colus grant is superior to the title of the Simeno grant to the same land, so that if the title to the Colus grant shall prove to be the superior and better one then this Affiant will loose about one half of his aforesaid interest. Affiant further says that there is more than eighteen leagues contained within the map or diseno of the said Simeno grant and that the whole maximum of land may be surveyed within the diseno without interfering with the land claimed by the claimant of the said "Colus" grant.

Therefore this Affiant prays that an order may issue out of this Hon Court directing that the said approved survey may be returned into this Hon Court, for its adjudication

CASE NO. 23 ND
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and decision.

C. D. Semple

Sworn to and subscribed
September 3, 1859, before me,
W. A. Chevers,
N. P. Com.

No. 23.

U. S. Dist. Court.

The United States,

—vs—

Larkin & Meiron.

Affidavit of
Chas. D. Temple.

Filed Sept. 6. 1859,
W. A. Cheever,
Clerk.

CASE NO. 23 ND
PAGE NO. 70

At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court House, in the City of SAN FRANCISCO, on Saturday the Third day of September in the year of our Lord one thousand eight hundred and fifty-nine,

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States, vs. Larkin & Misroon.

D. C. No. 23.
L. C. No. 131.

It being represented to the Court that there is a contest in regard to the survey of the land claimed in this case, made by the Surveyor General of the United States for the State of California, now on motion of Chas. D. Semple, and on reading and filing affidavit of the said Semple, it is ordered by the Court that the said Surveyor General return to this Court the Plat of the survey by him approved, of the land claimed herein.

And it is further ordered that upon the coming in of the said survey, the said Semple, notify the Attorneys of the Claimants of the same.

No. 95.

District Court of the United States

IN AND FOR THE

Northern District of California.

The United States.

vs.

Larkin & Mission.

Order to Return Survey.

Filed Sept 3rd, 1859.

W. A. Cheney Clerk.

By

Deputy.

CASE NO. 23 ND

PAGE NO. 72

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

Clerk's Office,

I hereby Certify the foregoing to be a true copy from the Minutes of the said Court.

Clerk.

By

Deputy.

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

The United States vs Thomas O. Larkin & John S. Missroon } No 28 D. C.
" "

And now Charles D. Sample Comes and excepts to the Survey of the "Sinena" grant returned by the Surveyor General of the United States for the State of California into this Court with his approval for the following causes to wit,

1st Because the said approved Survey embraces within its limits two leagues of land claimed by the owners of a confirmed Mexican grant known by the name of the "Coles" grant which said Coles grant is for specific land within the general territory out of which the said Sinena grant was to be taken, and no juridical survey or other segregation of said Sinena grant was made prior to the execution of the said Coles Grant.

2nd Because the territory out of which the said Sinena grant was ~~made~~ to be taken contains more than eighteen leagues and consequently the survey could have been made without any conflict or interferance with the said specific grant or any other confirmed grant.

3rd Because the said approved survey

not in the place indicated by many noted objects on land-marks sketched upon the desino or map, to wit, Hardys and Gordons grants, "Las Rios", the Sycamore Slough and the Sacramento, Feather and bear Rivers - those noted objects show that the proper location of the said "Simeno" grant is in the South end of the desino whereas the said approved survey is in the North end thereof.

4th Because the said survey is not in accordance with the instructions of the Secretary of the Interior to the Surveyor General dated 29th of June 1858, in reference to the survey of the said Simeno grant, a copy of which instructions is herewith filed as part of these exceptions marked "A".

5th Because the said approved survey was made by a Deputy, sent on to the City of Washington and approved in the said City by the Surveyor General without the Owners of the Colus grant or the grantees of the Simeno grant or any of the owners of the Simeno grant, except one being notified of the existence of any such survey.

6th Because the United States have confirmed eleven leagues to the Claimants of the Simeno grant and two leagues to the Claimants of the Colus grant, and by this survey, the one party or the other must loose two leagues although the territory reserved for them is more than sufficient to satisfy both claims.

7th Because the owners of the Colus grant settled upon the specific land granted to them long prior to any settlement made by the

owners of the Jimeno grant, and have continuously occupied the same ever since and have permanent and valuable improvements thereon, to wit, the Town of Colusa (the County Seat of the County of Colusa) and many large houses vineyards and orchards in the County all of which are included in the said approved Survey of the Jimeno Grant.

6th And finally because said approved Survey is a palpable violation of Justice and equity and in utter disregard of the Secretarys instructions.

C. D. Temple
part owner of
Jimeno grant

No. 23.

U. S. Dist: Court.

The United States.

—vs—

Larkin & Misroon.

Exceptions of Chas: D. Temple to survey.

Filed Oct: 8th 1859.

W. H. Chevers.
Clerk.

United States District Court for Northern District of California.

The United States - appellants

-vs-

Thomas O. Larkin,
John S. Missroon
Claimants & appellees } Claim No. 23 - for "Jimeno" Rancho.

A. C. Whitcomb being duly sworn deposes & says, that as Counsel for claimants he filed the claim for the above Rancho in the United States Land Commission in the month of May 1852; that so far as this Court is concerned, he has been the sole attorney of record, and the only counsel for claimants in this case; that the present approved survey of the "Jimeno" Rancho, has been made & approved for nearly two years; that several months after the said survey had been transmitted to the "General land office" at Washington, Charles D. Semple claiming a small undivided interest in the upper two leagues of the Grant obtained from this Court ex-parte & without any notice to this deponent or to any other person connected with the case, so far as this deponent has any information, an order directing the survey to be returned into Court, and directing notice to be given to the claimants attorneys whenever the survey should be so returned: that deponents

first knowledge or information in reference to this order which is entered as of the 3rd of September 1859, was from reading some notice thereof many months ago in the newspapers of the day; that he has never received from said Semple or any of his attorneys any notice of said order or of any proceedings taken under it, and that he finds upon an examination of the records of this Court that said Survey has never been returned to this Court. —

A. C. Whitcomb

Subscribed & sworn to before me this 7th day of August A.D. 1860
W. H. Chevers
N. S. Com: —

Sir

Please take Notice that upon an Affidavit of which the above & foregoing is a copy a Motion will be made before the above entitled Court on the 13th day of August A.D. 1860. at the hour of 11 o'clock in the forenoon, or as soon thereafter as Counsel can be heard, to vacate & set aside an order entered in this Case on the 3rd day of September A.D. 1859, for the return to said Court of the Survey of the "Jimeno" Rancho.

San Francisco
August 7th 1860

A. C. Whitcomb
Counsel for claimants of "Jimeno" Rancho

To
Charles D. Semple Esq

United States District Court
for Northern District of California

The United States

~vs~

Thomas O. Larkin
John S. Missroon

Affidavit & notice of motion

A. C. Whitcomb
Counsel for Claimants

Filed August 17, 1860,
W. H. Chevers,
Clerk

CASE NO. 23 ND
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CASE NO. 23 ND
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At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court House, in the City of SAN FRANCISCO, on Monday the Twentieth day of August in the year of our Lord one thousand eight hundred and ~~fifty-nine~~, Eighty,

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

United States

vs.

T. O. Larkin et al

The Motion heretofore made by Counsel for Claimants to vacate the order of this Court, directing the Surveyor General of the United States to return his survey of the land comprised in the above case, into this Court for examination and review, is hereby repealed, and it is ordered adjudged and decreed, that said motion be and is hereby overruled and denied, reserving to the Claimant ~~the~~ the liberty upon the return of the Monition, to shew cause if any he has, against the right of Charles D. Semple, upon whose Motion the above order was granted, to intervene in this ~~cause~~ proceeding, and become a party ~~to~~ thereto —

Ogden Hoffman
Dist Judge

— 23 —

District Court of the United States

IN AND FOR THE

Northern District of California.

The United States,

vs.

Larkin & Messier.

Order denying motion to vacate order for return of survey etc. etc. etc.

Filed August 20, 1860,

W. H. Chevers Clerk.

By

Deputy.

CASE NO. 23 ND

PAGE NO. 81

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

Clerk's Office,

I hereby Certify the foregoing to be a true copy from the Minutes of the said Court.

Clerk.

By

Deputy.

U. S.
vs
P. Lomeno

Taken to Pressroom

23 ND

In this case an order was entered at a former term requiring the survey to be brought into Court. The order was obtained on the motion of a party claiming to be owner of an adjoining rancho and also interested in the rancho the survey of which was objected to. At the ~~of~~ ~~the~~ opening of the present term the claimants counsel moved to vacate this order as the survey had not then been brought into court and ~~as it was~~ as having been improvidently granted originally — The argument of this motion was postponed ~~on~~ the Court intimating its intention to provide for such cases by general rules —

General rules have since been adopted by ~~the Court~~ by one of which all orders for the return of surveys into court are vacated and annulled in all cases where

the survey has not been actually returned pursuant to such order — And the parties are left to proceed under the recent act of congress as if no steps to bring the survey into Court had been taken.

~~A few days before the adoption~~

Those cases where the survey had been returned into court were also left subject to the provisions of the act except that in such cases no publication by the Surveyor General was required; ~~as~~

A few days Before the adoption of these rules the party who had obtained the order for the return of the survey proceeded to be filed in this Court — It was thus ~~[illegible]~~ taken out of the operation of the general rule above mentioned It is objected that this filing of the survey was an evasion of the rules then about to be adopted and published and that the Court ought to treat the case as if the survey

had not been filed; and ~~there~~ leave the order for its return to the operation of the general rule or order vacating all such orders where the survey had not been actually returned at the date of the adoption of the rule —

If the situation of the parties was in any material respect altered by the filing of the survey it might deserve consideration whether a party should be allowed in apparent anticipation of a rule about to be adopted and perhaps availing himself of the knowledge that ~~the~~ the establishment of the rule was in contemplation — to defeat its operation —

But in this case the only effect of vacating the order for the return of the survey would be to render necessary a petition by the surveyor Genl as required by the 1st section of the act of 1860 — and to oblige

4

the party objecting to obtain a new order for the return of the survey according to the practice established by the Court This order would be obtained on an ex parte ~~shor~~ application to the Judge or Court and when obtained would leave all parties in substantially the same situation as now. It was suggested by the claimants Counsel that it might be shown that the party who has obtained the order had no right to intervene in the proceeding — Admitting this to be so, the claimants has now the same right which he would have if the order were vacated — For at the return day of the motion which is now being published he will have an opportunity to object to the admission as parties to the suits of any persons who may already intervened or may

5

then seek to intervene —
As the ~~[illegible]~~ right of the party who applies for an order to return a survey is to intervene in the suit is in all cases under the recent act determined ex parte by the Judge in the first instance the claimant could under a de novo proceeding initiated pursuant to that act have no earlier or better opportunity to contest the right to intervene, than is now saved to him by treating this cause as one in which "proceedings are pending" as provided for in the 6th section. In other case he must wait until the return of the injunction and all parties are before the Court before he can object to the right of any one of them to make himself a party to the cause —
As the survey has in fact been returned — and a mere

has issued as in other pending cases requiring all parties to intervene for their interests on a specified day and as it does not appear that any advantage would be gained by setting aside these proceedings, and subjecting the contestant to the trouble of a new application and the delay of a publication by the Surveyor Genl it ~~has~~ seems best to allow the cause to be proceeded as if it were one in which "proceedings were pending" at the time of the passage of the act and of the adoption of the rules —

The motion to vacate the order heretofore made is therefore denied — with liberty to the claimant to ~~object~~ show cause on the return of the motion against the right of the present contestant or any other person seeking to intervene.

to become a party to the suit.

U. S. No 23.

vs

T. O. Larkin et al

Opinion on
Mo: to take
order for return
of Survey
Aug. 11. 1860

Filed August 20. 1860.

W. H. Chevers
Clerk

CASE NO. 23 ND
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CASE NO. 23 ND
PAGE NO. 90

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the CITY OF SAN FRANCISCO, on Wednesday the 19th day of September in the year of our Lord one thousand eight hundred and sixty.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

v.

Larkin & Mizroon.

IN LAND CASES.

District Court No. 23.

Land Com. No.

AND now at this day the United States Marshal having made return upon the Monition heretofore issued in this cause, that he had given due notice as therein commanded; on motion of John J. Williams Attorney for Chas. D. Semple proclamation was made that all parties having, or claiming to have, an interest in the survey and location of the land finally confirmed in the above entitled cause, appear and intervene for the protection of such interest; the U. S. Attorney appeared in behalf of the United States and A. L. Whitcomb, in behalf of the Claimants. John J. Williams appeared in behalf of Charles D. Semple, and on Motion, it is ordered by the Court that he be permitted to intervene in behalf of the said Semple, and no other parties appearing

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

No. 23.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Larkin & Messroon.

ORDER ON RETURN OF MONITION.

Filed Sept. 19, 1860.

W. H. Chevers

Clerk.

CASE NO. 23 ND

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CASE NO. 23 ND
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United States of America,)
Northern District of California.) SS.

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

GREETING:—

WHEREAS, objection has been made to the official survey and location of the land finally confirmed, in case No. 23, to Larkin & Messroon known as the "Jimeno Rancho", and situated in the County of Colusa in said District.

NOW THEREFORE YOU ARE HEREBY COMMANDED, in the name of the President of the United States of America, to give due notice to all parties having, or claiming to have, an interest in such survey and location, that they be and appear before the District Court of the United States for said District, sitting in Land Cases, on or before Wednesday, the 19th day of September A. D. 1860, at 11 o'clock, A. M. (if that day shall be a day of jurisdiction, and if not, on or before the next Wednesday thereafter,) then and there to intervene for the protection of such interest, or their defaults will be taken. And what you shall have done under this writ do you then and there make return thereon.

WITNESS, the Hon. OGDEN HOFFMAN, Judge of said Court, at San Francisco, in said District, this 15th day of August A. D., 1860.

W. H. Chevers

CLERK.

The within Monition was received by me on Wednesday the 15th day of August 1860, and in obedience thereto I have given due notice, as therein commanded, by causing the publication of said notice, for 4 consecutive Wednesdays, in the San Francisco Herald, commencing on the 22nd day of August 1860; and for 4 consecutive Saturdays, in the Marysville Express a paper published nearest the land, commencing on the 18th day of August 1860

Dated San Francisco, Septr 19th 1860.

P. L. Solomon U. S. Marshal.

No. 23.

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

THE UNITED STATES.

v.

Larkin & Micesson,

MONITION.

Returnable September 17, 1860.

Issued August 15th 1860.

Filed Sept. 19, 1860.

W. H. Chevers
Clerk.

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

The United States
vs
Thomas O. Larkin &
John S. Missroon

Claim No 23
for Jimeno Rancho

C. D. Sample intervening in the above entitled case, under the permission and order of said Court to that effect, for the protection of his rights and interest as owner and claimant of Rancho "Colus" finally confirmed to him; makes the following exceptions to the Survey of the said Jimeno grant made and approved by the United States Surveyor General for the State of California, a plat whereof has been returned and filed in the Clerk's office of this Court, to wit,

1st Because the said Survey covers and includes the whole of the lands of the said Rancho Colus No 28 which has been finally confirmed to him under the provisions of the act of Congress of the 3rd of March 1851 and the

Acts Supplementary to and amendatory thereof.

2nd Because the exterior limits of the Said Jimeno Rancho contains over nineteen and a half leagues; and as no juridical possession was ever given by any officer of the Mexican Government the Confirmees may now locate anywhere within Said exterior limits without necessarily coming in conflict with any other confirmed Claim

3rd Because the location of Said Jimeno grant can be made, containg the maximum granted, without interfering with any other grant.

4th Because the original Grantee, Jimeno Sold to the above named confirmees eleven leagues, and one of them, to wit, Missroon has Sold his entire interest (five and a half leagues) to innocent purchasers, for a valuable consideration; and Larkin has Sold his entire interest except one third of two leagues to innocent purchasers who have a right to Such a location as will give them the full quantity by them purchased.

5th Because Said Semple is the owner of two fifths of two thirds of the upper or Northern two leagues of Said Jimeno

Grant and by the said approved survey nearly one half of the said upper two leagues conflicts with the said Cokes Grant.

6th Because the said approved survey is not in a compact form as required by the decisions of the U.S. Supreme Court; but has too great an extent of front on the Sacramento River, thereby impairing the value of the adjoining public domain.

7th Because the said Semple has the better right to the lands embraced in his grant of the Rancho "Cokes" than those claiming under the said Jimeno grant and the latter should not cover or interfere with the lands of the former.

8th Because the said Jimeno Grant which was confirmed in the above entitled case of the United States against Thomas O. Larkin & John S. Missroon, No 23 and the decrees of final confirmation are all void as against the said Semple; and the claimants under them have no right, legal or equitable, to interfere with, cover or overlap on the location of his claim under the said Grant of the Rancho

"Colus" and the decrees in his favour of final confirmation.

9th

Because the Simeno Grant, dated on the 4th day of November 1844, calls, for its Northern boundary, for lands Solicited by the Children of Thomas O. Lonshin, when, in fact, no such lands were Solicited; yet the said approved Survey assumes a Northern boundary upon lands afterwards Solicited by said Children; whereas the Southern boundary (being a noted Slough) furnishes a certain and incontrovertable place of Begining

Charles D. Semple
by his attys
Thornton Williams & Thornton

23

United States Dist Court
Northern District

United States
vs
Larkin et als
No. 23

Exceptions to survey
by C. D. Semple in-
tervening in the above
cause by permission
of the Court

Filed Sept. 26. 1860.
W. H. Chevers
Clerk

CASE NO. 23 ND
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U. S. District Court.

The United States
vs
Thos. O. Larkin et al

No 23. L. C. 131.
"Jimeno Rancho".

And now come the United States, by Calhoun Benham their Attorney, and except to the official survey of the land finally confirmed herein, a copy of the original plat whereof was filed in this Court by the Surveyor General of the United States for California on the eleventh day of August A. D. 1860.

And the United States aver:

That the place of beginning of said survey should have been at a point on the west bank of the Sacramento river which constituted the eastern terminus of the southern boundary of the land solicited by the Larkin children; thence westerly along said southern line of the land solicited by Larkin's children, one league; thence southerly on subdivision lines as near as may be with the meanderings of said Sacramento river, eleven leagues, that is, the northwest corner distant from the southwest corner eleven leagues,

with the width of one league: thence to the Sacramento river so as to embrace the quantity of eleven leagues and no more. - whereas said survey commences at a point on the Sacramento river identical with the southeast corner of Larkins children's rancho as surveyed and patented. instead of commencing at the point identical with the southeast corner of the land solicited for Larkin's children. the said last mentioned point being at some distance, to wit, the distance of one mile and one half of one mile north from the first mentioned point. which will be accurately determined by the proofs.

Wherefore the United States pray that said survey be set aside and the Surveyor General directed to reform the same in accordance with the location hereinbefore set forth.

Dated San Francisco. Sept. 29. 1860.

Calhoun Benham
U. S. Attorney

23

U.S District Court

The United States

v

T. O. Larkin et al

Exceptions to survey
by United States

Filed Sept. 29. 1860.
W. H. Chevret,
Clerk

CASE NO. 23 ND
PAGE NO. 101

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

The United States } No 23
vs
Larkin & Missroon } Claimants for Jimeno Rancho

It is hereby stipulated & agreed that the depositions Casimir Bielawski, Samuel R. Smith & Stephen Cooper taken in Case No 28 - (The United States vs Charles D. Semple), may be read & used in evidence in the above-entitled case No 23. —

A. C. Whitcomb
Attorney for claimants

C. D. Semple
Intervenor

Calhoun Benham
U. S. Atty.

No 23

U.S. District Court

The United States
vs
Larkin & Missroon

Stipulation admitting certain evidence in 28. etc.

Filed January 7. 1861.
W. H. Chevers,
Clerk

CASE NO. 23 ND
PAGE NO. 104

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Larkin & Missroon

IN LAND CASES.

Dist. Court No. 95.

Land Com. No. 131.

To Calhoun Benham, Esq. U. S. Attorney, and John J. Williams attorney for Chas. D. Semple.

You are hereby notified that the testimony of Wm. J. Lewis in the above entitled cause in behalf of the Claimants will be taken before me, the undersigned, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, commencing on Tuesday the 18th day of December A. D. 1860, at 10 o'clock, A. M., and continuing from day to day until finished, at my office, No. 14, U. S. Court Rooms; and you are hereby further notified to then and there appear and propound such questions to the said witness as you may deem fit.

Dated at San Francisco, in the District aforesaid, this 13th day of December A. D. 1860.

W. W. Cheney,

U. S. COMMISSIONER.

No. 23.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Larkin et al. Mission.

NOTICE.

To E. Benham,
U. S. Atty.
and
John J. Williams,
atty for Semple.

CASE NO. 23 ND
PAGE NO. 105

W. H. Clerk

U. S. COMMISSIONER.

Due service acknowl.
Edged this 13. Dec. 60.
John J. Williams

I personally served the within notice on
Copy on Calhoun Benham U. S. District Attorney
Dec 13, 1860.

R. L. Solomon
U. S. Marshal
By D. L. Beck
Deputy.

DISTRICT COURT OF THE UNITED STATES.

DISTRICT COURT OF THE UNITED STATES,

Northern District of California.

CASE NO. 23 ND
PAGE NO. 106

The United States
VS.
Larkin & Ellisroon

San Francisco, Dec. 28 1860

On this day, before me, WILLIAM H. CHEVERS, a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c., &c., came William J. Lewis

a witness produced on behalf of the Claimants

in Case No. 23, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 131 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, to wit.: By~~

Deposition taken in pursuance of Notice hereto annexed

PRESENT: E. J. Pringle Esq. for Claimt — U.S. Atty. for U.S.

QUESTION 1st, By Counsel for the Claimants

What is your name, age, residence & occupation?

Ans: William J. Lewis — 48 years, San Francisco — Surveyor & Civil Engineer by profession —

2. Look at the diseño in the transcript of this case, and state according to the scale of the diseño, what is the average width of the Rancho?

Ans. Four fifths of a League by careful measurement of diseño - and comparison with scale on the map -

3 What is the area of said Rancho, as appears by the diseño, with an average width of 4/5ths of a League, provided the length along the River be 39 miles?

Ans. Eleven and 8/10ths Mexican Leagues -

4 ~~What is the length of the~~ If by the scale, Eleven Leagues be actually equal to 39 miles

What would 4/5 ths of a League be equal to by the same proportion?

Ans. Two and 836/1000 ths Miles -

8 - What, according to that proportion, would be the area of the tract, its length being 39 miles, its width 2-836/1000 ths of a mile -

Ans. Seventy thousand, Seven hundred and Eighty six Acres - Equal to 15 Leagues 94/100 of a league -

Deposition closed -

Wm. S. Lewis.

Subscribed & sworn to before me this 28. day of Dec. A.D. 1860

W. H. Chesser

U.S. Commissioner

23

W. S. Dist Court

The United States

vs

Larkin & Mesroon

Deposition of
Wm J Lewis
on behalf of Claimants

Filed Jan 7. 1861.
W. A. Ehrens.
Clerk

CASE NO. 23 ND
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U. S. Dist. Court.
Nor. Dist. of Cal.

105.

U. S.
vs
Larkin et als.

No. 23. ND

CASE NO. 23 ND
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The claim in this case having been finally confirmed by the Supreme Court ~~at~~ the land was surveyed and located by the Surveyor General - and that survey is now before the Court under the provisions of the Act of 1860.

~~Than decree~~ The land confirmed to the claimants was described in the decree as of the extent of 11 square leagues to be taken within the boundaries mentioned in the grant and delineated on the diseño - ~~and of~~

In the original petition of Fuicuo to the Governor no boundaries or quantity of land were mentioned - he merely solicited a tract of land on the Sacramento as is shown by the accompanying sketch -

In the decree of concession the Go-

enor Andres Jimeno" to be the
"owner of eleven square leagues of
"land between the Sacramento
"River the rancho which the chil
"dren of Larkin have applied
"for and the vacant lands lying
"south as the respective sketch
"shows."

The grant describes the land
in the same terms but it does
not specify the number of leagues
granted.

On referring to the diseño we
find the course of the Sacramento
for a considerable distance
laid down — along which lies a the
narrow tract designed "Rancho
que solicita Jimeno" The Northern
boundary of this tract is the
southern line of the Rancho of
Larkins children — while on the
south an estero or slough is
represented and marked "linde
so" or boundary.

The West or back line is drawn
parallel to the course of the

~~Course of the~~ river but there is nothing to fix its location except its distance from the river as indicated by the scale of 11 leagues drawn on the diseño.

According to this scale the width of the tract is about 5/8th of a league — But this indicia cannot be relied on to fix the position of the western line — For the total length of the tract on a direct line from North to South ~~of~~ appears by the same scale to be less than ~~9~~ 10 leagues ~~whereas~~ and whereas it ~~was~~ is found by actual measurement to exceed 39 miles or 13 leagues. It would seem ~~from~~ therefore that the true location of the land confirmed is not open to question — As ~~two~~ the boundaries on the North and South are distinctly indicated on the diseño, and the river Sacramento forms the third, while the quantity is limited to 11 square lea

gues it follows that the back
or western line must be run
at such a distance from the Nor
thern to the southern boundar
ies at such a distance from
the river as will give the quan
tity required —

Such is the express decision of
the Supreme Court — "The plan
or sketch" says the Court "found
in the expedients in connection
with the description given in the
[illegible] furnishes all the materials

is erroneous – The boundary of the Rancho of Larkin's children being, it is alleged, placed about a mile and a half too far to the South –

No proofs whatever have been introduced to show what ~~was~~ is the true location position of this line – The Rancho of Larkin's children has been surveyed & patented. ~~according to the same claims adopted in the survey before~~ The southern line is thus for finally established as against the U. S. and tho' that location would not be final as against the claimants in this case, if it could be shown to be erroneous yet ~~when~~ in the absence of all proof ~~and~~ ~~as against the U. S.~~ I cannot ~~I see no~~ ~~ground~~ for assuming ~~ing~~ it to be incorrect ~~on~~ ~~for~~ & setting aside the survey on that ground, — especially on the suggestion of the U. S. by whom it has ~~already~~ been fixed as between themselves & the representatives of the children of Larkin

But the principal difficulty with regard to this survey arises

from the fact that subsequently to the grant to Jimeno John Bedwell obtained a grant for the Rancho of Cohes of the extent of two leagues in length and one in width along a part of the Sacramento now included in the dis trict of Jimeno —

The claim for this Rancho was confirmed by the Court, ~~without any Decree~~ and it has been surveyed and located —

It is suggested that the land of Jimeno be surveyed in a tract of one league in width beginning at his northern boundary and extending along the river until it meets the Rancho of Cohes — And that the ~~tal~~ remainder be surveyed to the south of that Rancho in a tract of similar width —

If this width be taken as that of the tract there can undoubtedly be found land

7 enough between the southern and northern boundaries of the tract Jimeno tract to give to the claimant the whole quantity of 11 leagues after deducting the Cohus Rancho—
But to this location there are insurmountable objections
1. I can conceive of no authority by which this Court can divide a tract evidently intended to be continuous along the Sacramento River ~~between~~ ~~two~~ from one fixed points to another into two distinct tracts separated from each other by a body of land two leagues in length— From which one of Jimeno boundaries we start, and what are ~~widths we~~ be the width assumed ~~for~~ is evident that he intended to select, and the Governor to grant lands lying in one entire tract— along the river— ~~And this is what the Governor gave him~~ — No subsequent grant by the Governor

8

could deprive him of the land so granted — And even if the sobrante or surplus ~~were~~ had been granted ~~the~~ to another the rights of the latter would, ~~be~~ have been subordinate to those of Jimeno, and could only attach to what remained after Jimeno's ~~land~~ ~~had been~~ ~~an~~ 11 leagues had been measured to him in ~~a~~ an entire ~~single~~ tract: as required by the ordinances —

2dly The assumption that the ~~land~~ tract granted to Jimeno was intended to be one league in width ~~appears~~ seems to be wholly unwarranted — It is ~~not~~ not so expressed in the grant nor is the tract so drawn on the diseño — For on the latter, as ~~before~~ already stated, the width of the tract, as shown by the scale is about 5/8th~~s~~ of a league But by assuming such to be the width we would necessarily

9 disregard
one or the other of the express
calls of the grant — i.e. if we
begin at the estero and run
northwardly, a tract one league
in breadth and ~~all~~ eleven in
length would ~~not reach~~ fall short
a distance of two leagues, of
the northern boundary mentioned
in the grant; and vice versâ
if we commence at the north
and in like manner run
southwardly, the ~~extreme~~ southern
line would fall short by a
similar distance of the Estero —
But in either case the rancho
of Cohus would be included
for that Rancho is situated
in the centre of the tract &
is necessarily embraced in any
survey of the Pinieno tract
which locates his land in one
entire tract —

But it is unnecessary to dis
cuss the point further for the
decision of the Supreme Court
so unmistakeably indicates the

location of the tract confined to the claimant as to leave to this Court no discretion on the subject —
The circumstance that by this location two patents will issue from the U. S for the same ~~tract~~ land to different individuals is to be regretted — But it seems unavoidable when the Mexican government has itself done the same thing and when the proceedings in this Court have been ~~separately~~ conducted between the U. S and each of the claimants separately — neither having a right to intervene in the suit prosecuted by the other — and the object of the proceeding being not to determine their ~~respective~~ rights as between themselves, but whether ~~either or both had such grants as made the land private~~ the U. S. had any rights as

against other —
That question having been decided in the negative there seems to be nothing objectionable in giving the patent or quit claim of the U. S to each claimant for the land the title to which he has established as against them, leaving them to settle their rights inter sese before the ordinary tribunals — It certainly cannot be claimed that the U. S, even if the representatives of Innuendo were willing that their 11 leagues should be measured to them, in two separate tracts, are bound to extend the width of the tract to one league, or more if necessary in order that both may be satisfied when there is nothing to indicate that a tract of that width was ever intended to be granted —
In the survey returned into Court it does not appear that the Estero

12 is taken ~~as~~ the Southern boundary — The tract appears to have been laid off one leagues in breadth commencing at the southern line of the rancho of Larkins children

I therefore think it should be set aside and a new survey made, of which the northern boundary shall be the ~~line~~ southern line of that Rancho — the southern boundary the estero delineated on the diseño the Eastern boundary the Sacramento river, and the western boundary a line parallel ~~with~~ to the Sacramento and at such a distance ~~as~~ from it as will make the area of the tract equal to eleven square leagues of land and no more —

23.

U. S. Dist. Court.

The United States.

— vs —

Larkin & Misseron.

Opinion respecting Survey. etc.

Filed Feby 7. 1861.
W. H. Overall,
Clerk

CASE NO. 23 ND
PAGE NO. 123

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Friday the Eighth (8th) day of February in the year of our Lord one thousand eight hundred and sixty one. —

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States v. Thomas O. Larkin and John S. Missroon Claimants	Land Claim No. 23 — "Jimeno Rancho"

This cause came on for a hearing in the matter of the survey of the tract of land called "Jimeno Rancho" heretofore finally confirmed in this cause to said Claimants, and having been argued by the respective Counsel for the Intervenor Charles D. Semple, the United States and the said Claimants, and due deliberation having been had in the premises, it is hereby ordered, adjudged & decreed that the Survey of the said "Jimeno Rancho" marked as approved November 4th 1858 by J. W. Mandeville U. S. Surv. Genl. Cal., and filed in this cause Aug: 11. 1860 be & the same is hereby rejected, annulled & set-aside: — And it is hereby further ordered, adjudged & decreed that the U. S. Surveyor General for California make & return to this Court without delay another Survey of the said "Jimeno Rancho" which shall be bounded on the North by the Southerly line of the Rancho of Larkin's Children, on the South by the Creek or Slough marked "Estero" on the diseño (in the Expediente of the said "Jimeno Rancho") and making into or connected with the Sacramento River at the distance of about thirty-nine (39) miles Southerly from the said Southerly line of the

Rancho of Larkin's Children, on the East by the Sacramento River, and on the West by a line connecting the Northerly and Southerly boundaries, and so far distant from the said river in a Westerly direction as to include within such survey the quantity of Eleven Square leagues of land and no more. —

Ogden Hoffman
U. S. Dist Judge

No. 23.

UNITED STATES DISTRICT COURT
Northern District of California.

The United States.
v.
Larkin & Mc Pherson,

Order Rejecting Survey, &c.

Filed February 9, 1861.
M. A. O'Neal, Clerk.

CASE NO. 23 ND
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In the District Court of the United States
for the Northern District of California

The United States vs Thomas O. Larkin & John S. Missroon Claimants	Land Case No 23 for "Jimeno Rancho"

Gentlemen:

Please take notice that on Friday next April 5th 1861 at 11 o'clock A.M. or as soon thereafter as Counsel can be heard I will move said Court to finally confirm & approve the official survey (of the land finally confirmed herein to said Claimants) made in pursuance of the order of said Court entered on the 8th day of February 1861: a certified copy of the plat of which said survey has this day been filed in the Clerk's Office of said Court. —

San Francisco April 3rd 1861.

To
Calhoun Benham Esq.
U.S. Atty for said District
Charles D. Semple Esq.
Intervenor

Yours &c
A. G. Whitcomb
Counsel for Claimants

U.S. District Court
Northern District
No 23

The United States
vs
Larkin & Nisserva

Filed April 5, 1861,
W. H. Chesebro
Clerk

Accept Service 3rd
April 1861
U.S. Sample
Intervenor

Due Service of the within notice of motion is hereby admitted.
San Francisco
April 3rd 1861

Billings
U.S. Atty

25

In the matter of
the Survey of the
Simeno Rancho

I herewith
return the re-Survey of the Simeno
Rancho, made under the decree of
the 5th February 1861 - The Estero men=
=tioned therein, as connecting with the
Sacramento River, at the distance of
about thirty nine miles Southerly, from
the Southerly line of the Rancho of Larkins
Children, is found at the point indicated
on the plat returned, being a short
distance to the North of the point
known as Knight's landing - The
Deputy in making his return, has
collated from the records of the office,
from the work of the different Surveyors
and observation on the ground -
The face of the country on, and around
the Estero, and to the north along por=
=tions of the western boundary, changes
with the seasons, portions at times, being
dry, and again wet or overflowed -
The Estero has been meandered a
portion of the way as indicated
on the plat, and the portion marked
in deep blue on the Survey, has at
present the appearance of a lake
or large pond, the land above,
to the North and North West, is

U. S. Dist Court
Northern District

No. 23.

In the matter of
Survey of Buenos
Rancho —

Statement to accom
=pany return of
Survey —

Filed April 5. 1861.
W. H. Chevers,
Clerk

CASE NO. 23 ND
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also at present unsolvency, west and
bankrupt to
quantum —
Respectfully
Your obt Servant
W. H. Wallworth
Atty. Ogden
for
Hoffman
U. S. District Court
No. S. Sun Fran

CASE NO. 23 ND
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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Saturday the Eighth day of April in the year of our Lord one thousand eight hundred and sixty one

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States VS Thomas O. Larkin and John S. Messrovn Claimants Charles D. Semple Intervenor	Land case No 23 for "Jimeno Rancho"

This cause came on to be heard in the matter of the survey of the land heretofore finally confirmed in this case to the said claimants on the motion of the Counsel for said Claimants to finally confirm & approve the official survey of said "Jimeno Rancho" marked as approved March 26th 1861 by J.W. Mandeville U.S. Surv. Genl. Calia. made in pursuance of the order of this Court entered on the 8th day of February A.D. 1861, and the Counsel for the respective parties, and Charles D. Semple Intervenor in person appearing in Court and consenting to said motion to said official survey, and due consideration being had in the premises

It is hereby ordered, adjudged & decreed by the Court that the said official survey of the said "Jimeno Rancho" containing forty eight thousand eight hundred & fifty-four 26/100 acres of land approved March 26th 1861 by J.W. Mandeville U.S. Surv. Genl. Calia. - a certified copy of the original plat of which said official survey was on the 3rd day of April 1861 filed in the Clerk's office of this Court, and is now marked "approved Ogden Hoffman Dist. Judge April 6th 1861" - be and the same is hereby finally confirmed approved & adopted by this Court as the true, proper & correct survey of the said land finally confirmed in this cause to said Claimants Thomas O. Larkin & John S. Messrovn, and called "Jimeno Rancho" as aforesaid.

And it is further ordered that the said certified copy of the original plat of which said official survey filed as aforesaid in this Court on the said 8th day of April 1861 be attached hereto for a more full, particular & exact description of the exterior boundaries of the land included in said official survey, and hereinbefore finally confirmed to the said claimants. —

San Francisco
April 6th 1861 =

Ogden Hoffman
Dist Judge

No. 23.

UNITED STATES DISTRICT COURT
Northern District of California.

The United States
vs
Thomas O. Larkin and
John S. Emerson

Decree.

Filed April 6th 1861.
W. H. Chevers,
Clerk.

CASE NO. 23 ND
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U. S. District Court

The United States

v.

Thos O. Larkin &
John S. Missroon

Final Decree

Filed April 6. 1861.
W. A. Cheever
Clerk

CASE NO. 23 ND
PAGE NO. 132

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Friday the 12th day of April in the year of our Lord one thousand eight hundred and sixty one,

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States. v. Larkin & Missroon.	D. C. 23. L. C. 131.

This cause having come on to be heard on objections filed to the survey, and location, by the Surveyor General of the U.S. for California, of the lands heretofore confirmed to the claimant, pursuant to the provisions of the Act of Congress, approved June 14. 1860, and the said survey, and location having been disapproved by the Court, and a new survey ordered, which has accordingly been made, and by the final decree of this Court, made, and entered on the 6th April 1861, approved, and adopted. Now on motion of Calhoun Benham, Esq. U.S. Atty. made in open Court, it is ordered by the Court that an appeal in behalf of the United States, from said final decision be, and the same is hereby granted, and

No. 23.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States.

v.

Larkin & Misstroon.

Order granting appeal in behalf of the U. S.

Filed April 12, 1861.

W. H. Chevers,
Clerk.

CASE NO. 23 ND
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That a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause be sent to the Supreme Court of the United States on the next ensuing.

Thomas O Larkin &
John S. Messroon
ads
United States

Opinion of the Court
delivered by His Honor
Ogden Hoffman Jr.
U. S. Dist. Judge.

23 ND

In this case the claim of the appellee was confirmed by the Board of Commissioners.
An appeal from that decision was taken to this Court. But the case has been submitted by the Dist. Atty without the statement of any objection to the validity of the claim on the part of the U. S.
The original grant by Governor Micheltorreno to Manuel Jimeno bears date November 1844. The conveyance to the present claimants is dated August 30. 1847
The grant is fully proved. Nor is its genuineness called in question.
The grant appears to have been submitted to the Departmental Assembly & referred to a committee on vacant lands June 3-1846. but no further action on it is shown to have been had
The Expediente however was returned to and is found among the Government archives. Had the action of the Assembly been unfavorable the ~~sup~~ Governor ~~would~~ should have transmitted it to the Supreme

Government for its resolution (Reg^ns of 1828 sec. 6) – The fact therefor that the Expediente was not so transmitted but was returned like other approved grants to the Archives renders it highly probable that the approval of the Assembly was actually obtained. The absence however of that approval has been held by the Supreme Court to be no ~~obje~~ obstacle to the confirmation of the claim – and It is unnecessary therefor to determine whether ~~such~~ the evidence in this case is sufficient to raise the presumption that the Assembly actually approved the grant –

The land claimed by the Appellees is described in the original grant as "the tract of land which is unoccupied between the Rancho which "has been granted to the children "of Don Tomas O'Larkin, the river "Sacramento and the Mucullumchas "lands which are on the side of "the South entirely in conformity "with the showing in the corres-"ponding plan"

On reference to the plan or map found in the Expediente ~~the~~ to we find the boundaries of the tract granted, laid down with accuracy

erable precision - The first or Northern boundary is the Rancho granted to the children of Don Tomas O' Larkin - The eastern boundary is the Sacramento River. The Southern is a large Estero, (marked on the map "linde ro" or boundary) running into the Sacramento ~~at the distance of~~ about 2 leagues above, as appears by the scale upon the diseño, the mouth of Feather River - Nothing appears on the map to indicate the locality of the western boundary - That ~~line~~ boundary is evidently an imaginary line running parallel with the Sacramento and ~~at~~ far distant therefrom ~~in the~~ westerly direction as to embrace within the tract the quantity of land granted -

There is no difficulty therefore in ascertaining the locality of the land granted - nor has any objection of that kind been raised -

There is no evidence that the grantee took possession of his land The grant however does not contain the usual condition of cultivation and habitation within

a year — The omission of this condition may ~~perhaps~~ possibly justify ~~the supposition~~ have been owing to the fact that the grantee was already in possession of the land —

It appears known from the evidence that from the latter part of 1844 until the end of 1847 it was unsafe to go in ~~to the~~ Sacramento valley unless in the vicinity of Capt Sutters Fort — ~~[illegible]~~ ~~the grantee~~ From 1844 the time of the grant until ~~the~~ the final occupation ~~finally~~ by the American forces, the country was distracted by the wars between Michel Torreno & Pio Rico and between the latter and Castro — It is well known that during this state of things the uncivilized Indians became more turbulent and were dangerous to the frontier settlements which were not strong enough to resist them. In 1847 the rancho was taken possession of, and extensively stocked by by the present claimants and this seems to have been the earliest moment when ~~such~~ the settlement could have been effected —

The circumstances in this case are almost identical with those in the case of Fremont — and it seems

and under the authority of that case the excuses for the non fulfillment of the conditions must be deemed sufficient — There is nothing in the case from which an abandonment of the grant can be inferred —

We think therefore that the decision of the Board should be affirmed. and the claim of the appellees be deemed to be valid.

Jackson & Mussoon

vs

The U. S

Opinion —

No 23 —

July 5th 1835

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

CASE NO. 23 ND

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Thomas O. Larkin and John S. Missroon } Appellees & claimants for "Rancho de Jimeno"

vs.

The United States Appellants.

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

Thomas O. Larkin and John S. Missroon

ads

The United States:

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

San Francisco, April 13. 1854

John A. Monroe Esq.
Clerk of the U. S. District Court for the
Northern District of California.

Sir;

I herewith transmit you, pursuant to the requirements of the Act of Congress, approved August 31st, 1852, a Transcript of the Record of the Proceedings and of the Decision of this Board, of the Documentary Evidence and of the Testimony of the witnesses upon which the same is founded, in Case No. 131 on the Docket of the said Board, wherein

Thomas O. Larkin et. al is

the Claimant against the United States, for the place known by the name of "Simeno Rancho"

and request your receipt for the same.

I am, Respectfully,
Your Obt Servant,

Geo: Fisher.

CASE NO. 23 ND
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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States, v. Larkin & Missroon.	IN LAND CASES. Dist. Court No. 23. Land Com. No. 151.

To Calhoun Benham, Esq. Atty. & Dist. Attorney.

You are hereby notified that the testimony of Wm. J. Lewis in the above entitled cause in behalf of Claimants will be taken before me, the undersigned, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, commencing on Tuesday the 18th day of December A. D. 1860, at 10 o'clock, A. M., and continuing from day to day until finished, at my office, No. 14, U. S. Court Rooms; and you are hereby further notified to then and there appear and propound such questions to the said witness as you may deem fit.

Dated at San Francisco, in the District aforesaid, this 13th day of December A. D. 1860.

W. W. Cheney

U. S. COMMISSIONER.

No. 23.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

V.

Larkin, et al.

Copy NOTICE.

To Calhoun Benham, U. S. Atty.

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W. H. Chever

U. S. COMMISSIONER.