

CASE NO.

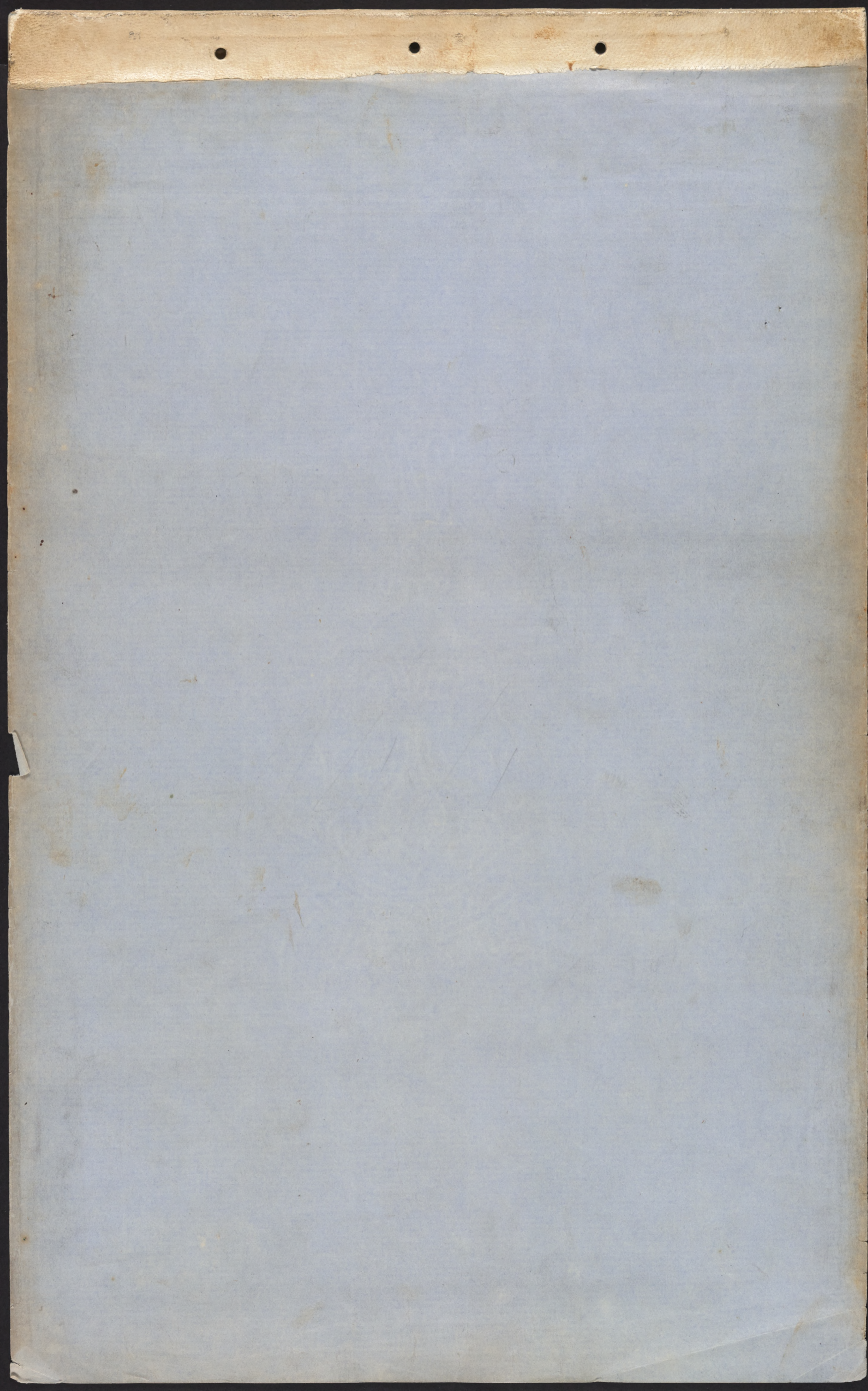
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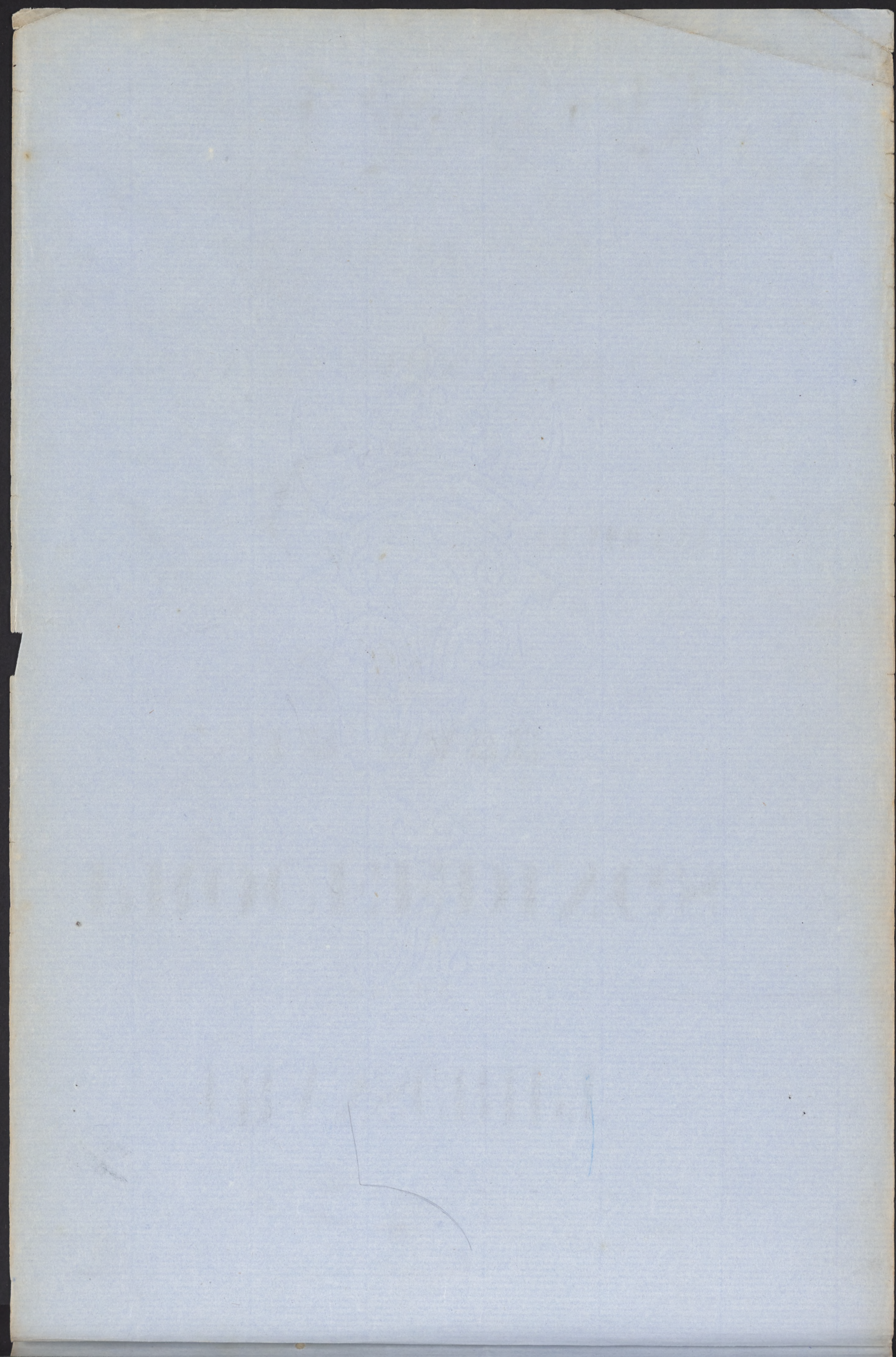
NORTHERN DISTRICT

COLUS GRANT

CHARLES D. SAMPLE

CLAIMANT





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PAGE 1

TRANSCRIPT
OF THE
PROCEEDINGS

IN CASE

NO. 144

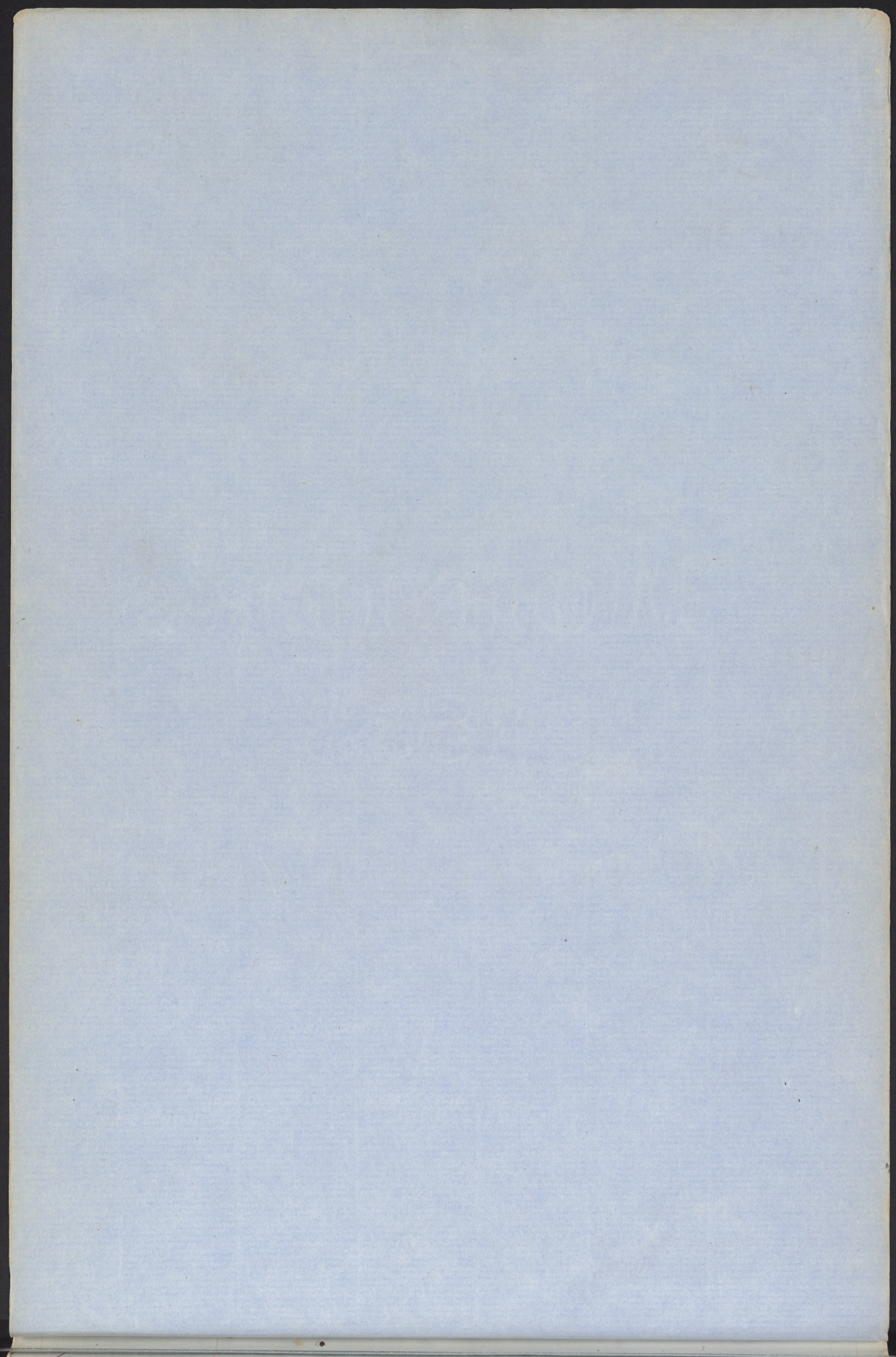
Charles D Sample CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

Colus



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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Be it Remembered, that on this
Anno Domini One Thousand Eight Hundred and Fifty=, 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 Chas. D. Sample,
for the Place named
"Colius"
was presented, and ordered to be filed and docketed with No. 144 and
is as follows, to wit:

(Vide page of this Transcript.)

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

San Francisco April 8th 1852.
In Case No. 144 Charles D. Sample, the deposition
of John Biawell, a witness in behalf of the claim-
ant, taken before Commissioner William Hall was
read: (vide page of this Transcript)

San Francisco Aug. 5th 1853.
On motion of the United States Associate Land
Agent, Case No. 144 was ordered to be placed
on the Trial Docket.

San Francisco Aug 8th 1853.
Case No. 144 Charles D. Sample for the place
named "Colius," called: Submitted on briefs
to both sides.

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San Francisco Oct. 25th 1853.
In Case No. 144 Charles S. Sampson for the
place named "Coveau", Commissioner Alphonse
Selch delivered the opinion of the Board
repeating the claim;
(Vide page _____ of this transcript)

To the Honorable the Commissioners to ascertain & settle the private Land Claims in the State of California.

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Petition of

Your petitioner Charles D. Temple, respectfully represents that on the twenty eight day of June in the year one thousand eight hundred & forty five, John Bidwell a naturalized citizen of Mexico, & resident in the territory of Alta California, petitioned Pio Pico, the Governor of said Territory for a grant of a certain parcel of land of the name of Colus, in the valley of the Sacramento river, consisting of two sitios or leagues of land. That the said Governor Pio Pico on the date of the fourth day of October of the year one thousand eight hundred & forty five, granted the said land in conformity with the said petition. That the Honorable Departmental Assembly duly confirmed the said grant on the eight day of October of the same year. all of which will more fully & at large appear by an official copy of the various documentary papers and witnesses of title in relation thereto now on file in the office of Samuel D. King Esq. United States Surveyor General for the state of California, are herewith exhibited & marked B. together with the translation of the same marked C. Your petitioner states that the said John Bidwell by deed, bearing date the twenty sixth day of January in the year one thousand eight hundred & fifty, herewith exhibited marked D. sold & conveyed the said grant of land for valuable consideration to your petitioner. That the Mexican law under which the said grant was made as aforesaid to the said Bidwell has been fully complied with - that the said Bidwell held the said land from the aforesaid grant thereof by the said Pio Pico to the date of the said transfer to your

petitioner. When the petitioner took possession thereof & now holds the same under & by virtue of the said conveyance to him.

And your petitioner therefore prays that the said title may be confirmed.

C. D. Simple.

Smith & Melan.

Attys for Claimant.

Filed in Office March 31st 1852.

Geo. Fisher.

Secy.

San Francisco April 8th 1852.

On this day before Holand Hall one of the Commissioners for ascertaining & settling private land claims in the state of California came John Bidwell a witness produced in behalf of the claimant in the case of Charles D. Simple being number 144 in the docket of the Commissioners & was duly sworn. The Law Agent was duly notified & attended by Mr Greenhow.

In answer to questions put by Council for the claimant the witness testified as follows, viz:

My name is John Bidwell, my age is thirty two years; I have lived in California since the month of November A.D. 1841, & now reside at Chico in Butte County. I know the tract of land called Celus. It is situate on the West bank of the Sacramento river about 10 or 15 miles above what are called Sutter's Buttes. It was granted to me by Governor Pio Pico in October 1845 & the grant approved a few days after by the Departmental Assembly of California.

The grant contains two square leagues of land as shown in the title papers. When I received the grant in October 1845 I intended to occupy the land the following summer but was prevented from doing so by the hostilities which began in 1846 between the Mexicans & Americans, & I served in the Army during the war with Mexico. In June 1849, after the war, I built a corral on the land for corralling my cattle. In January 1850 I conveyed the land to Charles Simple the present claimant who immediately took possession & still occupies it. The map which accompanied my title included a larger tract than two leagues, & as I could not obtain a judicial survey on account of the war, & as the dividing line between my grant & that made to Manuel Jimineo was not well defined in the map, I spoke to Thomas O. Sarkin the then owner of the Jimineo grant, & we had a verbal understanding that I should go & occupy the land according to my papers, & locate it next to the land granted to his children. The Rancho of the Colus Indians was within the limits of the grant made to me.

Paper marked N. H. Hall, purporting to be the original title paper from Gov Pio Pico to the witness, being shown him, he says it is such original paper which was delivered to him a few weeks after its date. Paper marked M. H. Hall being shown him, he says it is an original paper which was delivered to him showing the confirmation of his title by the Departmental Assembly - that he the witness viewed both papers at the same time & that both are genuine. The witness further says that he is acquainted with the hand writing of Pio Pico & José M^a Comanillas, and knows their signatures to each of said papers to be genuine.

J. Bidwell.

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1444

Summ & subscribed

Before me

Holland Hall.

Comr.

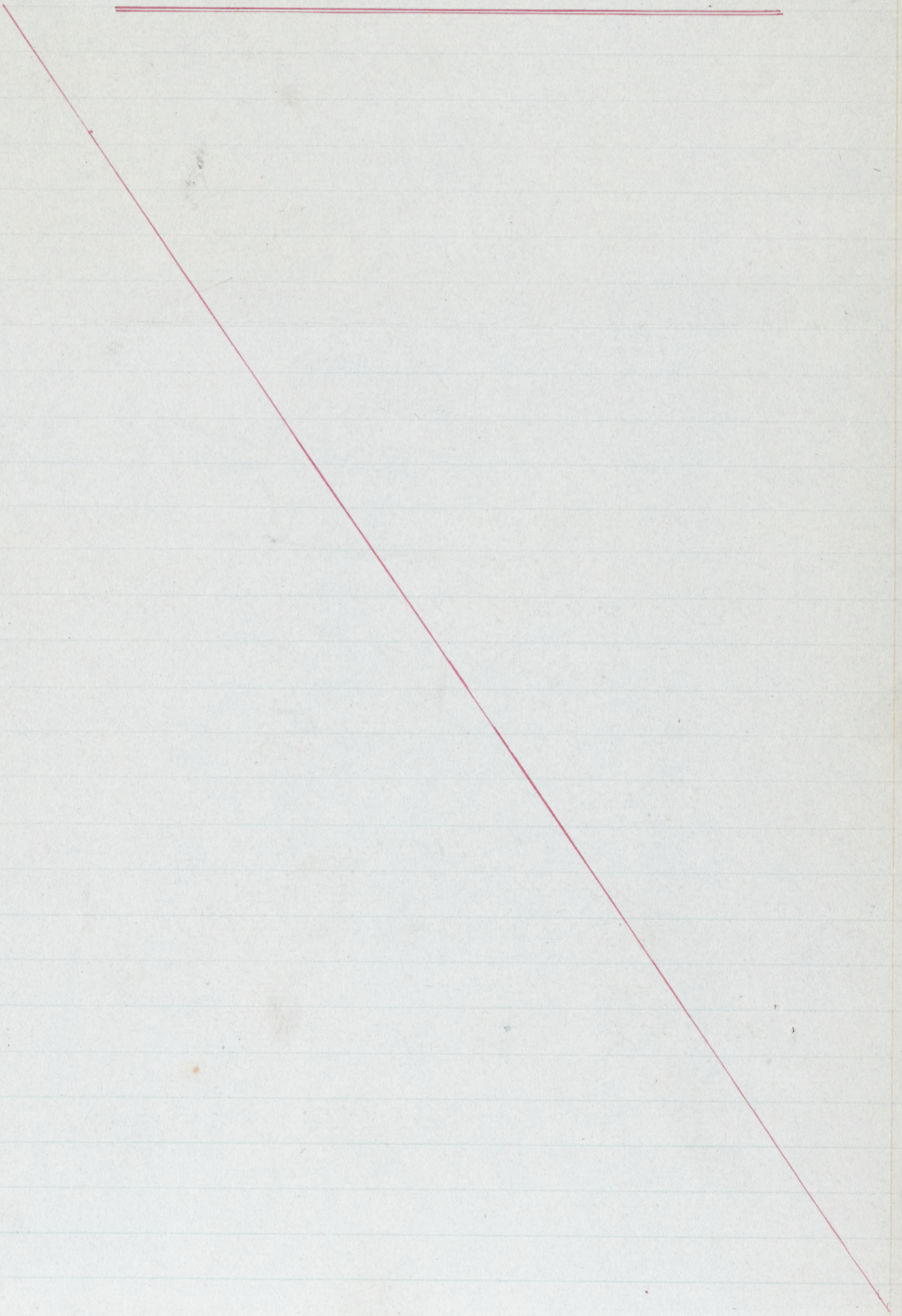
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Filed in Office April 8th 1852.

Geo. Fisher.

Secy.



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1845

1. A. D. 12

Expediente

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Promovida por D^{no} Juan Bidwill
en pretencion del terreno de
la Orilla del

Sacramento

2143

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Excmo For Gobernador
Juan Bidwell Mexicano por naturalizacion
y residente en este pais desde el año 1841.
ante V. E. con el mas profundo respecto se
presenta y espone

Que hallandose enteramente
resuelto à dedicarse à la agricultura y ha-
-biendo adquirido algunos bienes conside-
-rables de Campo, suplica à V. E. tenga la
bondad de Concederle el terreno conocido
con el nombre de Colus à Orilla del Rio
Sacramento, cuyo parage es Caldia, con-
-sta de dos sitios y son sus linderos, al
N. O. tierra Caldia, al N. E. el Rio Sacra-
-mento al S. y S. O. tierras Caldios como
manifiesta el diseño que debidamente
acompana.

P. S.

A. V. E. suplica se digné acceder a esta
súplicacion por lo que recibire merced y
gracia. Para lo necesario etc.
Nueva Helvetia à 28 de Junio de 1845
Juan Bidwell

Here follows

Map

Por Alcalde de la 1.^a Nom.^{on} de Sonoma

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Juzgado 1.^o — Juan Bidwell Mexicano por
de Sonoma — naturalizacion, à V. suplico se
El terreno q.^o — sirva informar si el terreno
solicita el — que manifiesta el adjunto
Interesado, este — diseño es Valdivo; y todo lo de-
Juzgado no le — mas que V. esea necesario;
Sobra si es Val — Que deseando el Solicitante
— divo ò no p.^o el — ocupar dho terreno lo mas pronto
distancia de q.^o — posible y siendo preciso el info-
esta de ese lugar — me de V. como Juez de la ju-
por el consequent^e — risdicion à que pertenece
servirse à pedir — para obrar la demora que su-
el Informe del — frura sus instancias por la
Juzgado de Nuevo — grande distancia de la Ca-
Helvetia se este — pital si tuviese que regresar
Valdivo ò no lo — de ella para obtener dho info-
— como Junio 16. — me suplica à V. tenga la
1845 — bondad de informar sobre
Jacob P. Lese — dho terreno para poder la lleva-
de sus deseos.
P. J.

A. V.uego se digne admitirle esta su
humilde peticion y otorgarle la merced
que impetra. g

Sonoma @ 16. de Junio de 1845
Juan Bidwell.

El terreno que solicito en su pedimento
el Ciudadano Don Juan Bidwell y
que es representado en el Diseño. esta
desocupado y doy esta Certificacion para
las fines que convengan.

Neva Helvetia Junio 20 de 1845.

J. A. Sutter.

Angeles Octubre 2 de 1845

Vista la Real Cedula con que da prin-
— cipio este expediente y el informe de D.ⁿ
Juan Augusto Sutter con todo lo demas

Por Alcalde de la 1.^a Nom.^{on} de Sonoma

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<p>Suggado 1.^o — de Sonoma — El terreno q.^o — solicita el — Interesado, este Suggado no le Sobra si es Val -dio ò no p.^o el distancia de q.^o esta de ese lugar por el consequen searse à pedir el Informe del Suggado de Nuevo Helvetia se este Valdio ò no lo -nomo Junio 16. 1845 — Jacob P. Lese</p>	<p>Juan Bidwell Mexicano por naturalizacion, à V. suplico se sirva informar si el terreno que manifiesta el adjunto diseño es Valdio, y todo lo de -mas que V. esea necesario; Que deseando el Solicitante ocupar dho terreno lo mas pronto posible y siendo preciso el infor -me de V. como Juez de la ju- -risdiccion à que pertenece para obrar la demora que su -fura sus instancias por la grande distancia de la Ca- -pital si tuviese que regresar de ella para obtener dho infor -me suplica à V. tenga la bondad de informar sobre dho terreno para poder la lleva de sus deseos. P. J.</p>
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A. V. ruego se digne admitirle esta su
humilde peticion y otorgarle la merced
que impetra. c

Sonoma @ 16. de Junio de 1845
Juan Bidwell.

El terreno que solicito en su peticion
el Ciudadano Don Juan Bidwell y
que es representado en el Diseño. esta
desocupado y doy esta Certificacion para
las fines que convengan.

Neva Helvetia Junio 20 de 1845.
J. A. Sutter.

Angeles Octubre 2 de 1845

Vista la Obsecutud con que da prin-
-cipio este expediente y el informe de D.ⁿ
Juan Augusto Sutter con todo lo demas

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que se tubo presente y ver conuino de con-
 -formidad con la ley de 18 de Agosto de
 1824 y reglamento de 21 de Noviembre de
 1828 declaro al Sr. Dⁿ Juan Bidivell
 dueño en propiedad del parage de Colus
 en la Orilla del Sacramento y en estencion
 de dos sitios de ganado mayor. Estendase
 el despacho correspondiente tomese razon
 en el libro respectivo y dirigase este espe-
 -diente a la Ex^{ta} Asamblea Depar-
 -tamental para su aprobacion. Pio Pico
 Gobernador interino del Departamento
 de las Californias asi lo mando decreto
 y firmo Doy feè

Pio Pico

Pio Pico Gobernador interino del Departa-
 -mento de las Californias.

Por cuanto Dⁿ Juan Bidivell ha preten-
 -dido para su beneficio personal el terreno
 conocido con el nombre de Colus en la
 Orilla del Rio Sacramento al rumbo
 N. E. practicadas previamente las dili-
 -gencias y averiguaciones convenientes
 segun lo dispuesto por leyes y reglamentos
 usando de las facultades q^{as} me son con-
 feridas a nombre de la Nacion Mexicana
 he venido en concederle el espresado ter-
 -rano declarandole la propiedad de el
 por las presentes letras entendiendose dicho
 consecion de entera conformidad con las
 leyes de reserva de la Aprobacion de la
 Ex^{ta} Asamblea Departamental
 y bajo las condiciones siguientes.

- 1^a Podrá cercarlo sin perjudicar los
 caminos, y servidumbres lo disputara
 libre y esclusivamente destinandola al
 uso & cultivo q^o mas le acomode.
- 2^a Solicitara del Juez respectivo le de la
 posesion juridica en virtud de este

despacho por el cual se demarcaran los linderos con las mojoneas necesarias.

3^a El terreno de que se le hace donacion es de dos Sitios de ganado mayor segun espresa el diseño que obra en el exped^{te}.

El juez que diese la posesion to hara medid^{os} conforme a Ordenanza quedando el sobrante q^e resulta a la Nacion para los usos que le convengan.

En consecuencia mando que teniendo el presente titulo por firme y valedero se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en la Ciudad de los Angeles a 27 de Octubre de mil ochocientos cuarenta y cinco. Queda tomado razon de este titulo en el libro a que corresponde.

Angeles Octubre de 1845.

Dado en esta en Sesion de hoy con est^o exped^{te} a la C. St. Departam^{ental} se mando pasar a la comision de terrenos baldios.

Pio Pico Pres^{de}

Agustin Olvera Sec^{rio}.

Esc^{ma} J^{on}

La Comision de terrenos baldios impuesta de este exped^{te} promovido p^o el Cud^o Mexicano p^o naturalizacion D^o Juan Bida-
well, en solicitud del paraje llamado Colus en el Rio del Sacramento y q^e le ha sido adjudicado en propiedad p^o el Gov^o Departam^{ental} en titulo de 4 del corriente mes; en estencion de dos sitios de ganado mayor sujeta a la entrega de V. C. Las proposiciones siguientes:
1^a Se aprueba la concecion hecha en propiedad p^o el Sup^o Gov^o Departam^{ental} en titulo librada a fha 4 de este p. Mes.

a favor de D^{no} Juan Bidwell del paraje llamado Colus en el Rio del Sacramento y Estension de dos Sitios de ganado Mayor de entera conformidad con la ley de 18 de Agosto de 1824 y el reglamento de 21 de Mayo de 1828.

2^a El agraciado cuidara de cumplir con lo prevenido en el art^o 12 del citado reglamento de 1828 p^o poder disponer libremente de este propiedad.

Sala de Comisiones. Angeles Octubre

8 de 1845

Gran^o de la Guerra Narciso Botella.

Angeles Octubre 8 de 1845

En Sesion de hoy se aprobo por la Coema Asamblea Departamental con las dos proposiciones el dictamen presedente mandado se le devuelva el expediente respectivo. Al Excmo Sr Gobernador para los fines convenientes.

Dio. Pico Presd^o

Augustin Olvera Srio.

En la fecha se libro a la parte la copia respectiva.

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 & under my charge and control a portion of the Archives of the former Spanish & Mexican Territory of Department of Upper California do hereby certify that the Eleven preceding and herewith annexed pages of tracing paper numbered from One to Eleven inclusive and each of which is verified by my initials (S. D. K.) exhibit true and

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accurate copies of certain Documents
now on file and forming part of the
said Archives in my Office.

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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 twentieth
day of February A. D. 1852

Saml. D. King

Survey. Genl. Cal.

Filed in Office March 31st 1852

Geo. Fisher Leary.

13.23

Translation of the Expediente of the grant of the Rancho of Colusa to D^{no} Bidwell. Translated by Robert Fremont. - Translation. 1845.
Expediente relative to the petition of Juan Bidwell for the tract of land called Colusa, on the banks of the Sacramento.

473.

"6"
Translation of Juan Bidwell, a Mexican by naturalization, & Expediente - residing in this Country since the year 1841, appears before V. E. with the most profound respect & declares.

That having firmly resolved to devote himself to agriculture, & having acquired some considerable property in cattle, he prays V. E. to have the kindness to grant to him the tract of land known by the name of Colusa, on the bank of the river Sacramento which tract is vacant & contains two sitios bounded thus; on the North west by vacant land; on the North east by the Sacramento; on the South & South West by vacant land as shown by the drawing annexed to this petition.

He begs Your Excellency to deign accede by which he shall receive mercy and favor. He ensures to all that is required &c.
New Helvetia June 28th 1845.

Signed, Juan Bidwell.
To the Alcalde of First Nomination of Sonoma. Office of the first Juan Bidwell, a Mexican by naturalization, prays you to be pleased as to the tract of land to which the accompanying petitioners request, -ing map relates is vacant; & this Court cannot that you will state anything else say whether it is respecting it, which may be necessary. The petition being on account of its desirous to occupy this land great distance as soon as possible, & your self from this place - port as Judge of the jurisdiction

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you will therefore, to which it belongs being necessary, please to apply to in order to prevent the delay to which the Court of New Mexico his petition will be subjected, in -
-relia for a report, consequence of the great distance of as to whether it is the capital, in case he should be ob-
-sacunt or not. -liged to return hither, in order to
Summa June 15th 1845. obtain the report he prays you to
1845. have the kindness to give the ne-
Jacob P. Seew. -cessary information, that he may
-carry his desires into fulfillment.
Therefore, he prays you to admit this his humble
petition & to grant the favor which he asks.

Summa June 16th 1845.

Juan Bidwell.

The tract of land which citizen Juan Bidwell solicits, in his petition as represented on the map, is unoc-
-cupied & I give this certificate for the purposes for which it may be useful.

New Mexico June 20th 1845.

(Signed) J. A. Sutter.

Angus October 2nd 1845.

Having examined the petition at the begin-
-ning of this expediente, & the report of D. Juan Agusto Sutter, together with all the other circum-
-stances of the case, in conformity with the law of August 18th 1824, & the regulation of No-
-vember 21st 1828, I declare Don Juan Bidwell the proprietor of the tract of Colne, on the bank of the Sacramento river, of the extent of two sitios de ganado mayor. Let the proper title be drawn up, an entry be made on the proper books, & this expediente be addressed to the Most Excellent Departmental Assembly for its approval.

Pro Pio Governor ad visionem of the Department of the Californias, thus did order, decree & sign, which I certify,

(Signed) Pio Pico.

Pro Pio Governor ad visionem of the Department

of the Californias.

Marcos Juan Bidwell has requested for his personal advantage the tract of land known by the name of Colus*, on the bank of the river Sacramento on the north east, having previously taken the measures, & made the inquiries necessary according to the provisions of the laws & regulations, in exercise of the powers which have been confirmed in me in the name of the Mexican nation, I have resolved to grant to him the said land, declaring him to be the proprietor thereof, by the present letters, with the indent in doing that this grant is made entirely in conformity with the laws, with the reservation that it shall be approved by the Most Excellent Departmental Assembly, & under the following conditions.

1- He may enclose it without prejudice to the roads & servitudes, & enjoy it fully & exclusively, devoting it to such use & cultivation as may suit him best.

2- He shall petition the Judge of the place to put him in judicial possession of the land, in virtue of this order by whom the boundaries shall be marked out with the proper land marks.

3- The land of which donation is thus made, consists of two sitios de ganado mayores shown by the map attached to the expediente. The Judge who may give the possession, shall have it measured according to ordinance, the excess remaining to the nation for common purposes.

Therefore, I order the present letter to be held as firm & valid, that entry be made of it in the proper book, & that it be delivered to the petitioner, for his security & other ends.

Given at the city of Los Angeles, on this 14th day of October one thousand eight hundred & forty five.

This letter has been entered in the corresponding book. - Angeles October 1845.

Note by the Translator: * In the original the words first named, bounded by the river

Sacramento on the north east; the words signifying bounded by more rivers named, & those signifying on the banks of were substituted.

4/144

This expediente having been submitted to the Most Excellent Departmental Assembly in its session of this day, it was ordered to be referred to the committee on vacant lands.

Pio Pico. President.

Agustín Olvera. Secretary.

Most Excellent Sir!

The Committee on vacant lands having considered the expediente on the part of the Mexican citizen by naturalization, Don Juan Bidwell soliciting the tract of land called Colus on the banks of the river Sacramento which has been assigned to him as his property by the Departmental Government, of the extent of two sitios de ganado mayor presents to the deliberation of your Excellencies the following propositions.

1. - The grant made by the Superior Departmental Government, in the title delivered on the 4th instant, in favor of Don Juan Bidwell of the ownership of the tract called Colus, on the river Sacramento, in extent of two sitios de ganado mayor in entire conformity with the law of the 18th of August 1824 & the regulation of the 21st November 1828 is approved.

2. - The grantee will take care to comply with the provisions of the 12 article of the said regulation of 1828, in order to be enabled to dispose freely of this property.

Committee Room Angeles October 8th 1845.

Signed Francisco de la Guerra. Narciso Botello.

Angeles October 8th 1845.

The most Excellent Departmental Assembly in its session of this day, approved the two propositions made in the preceding report and ordered the expediente in question to be returned to the most Excellent Governor for further disposition.

Pio Pico. President.

Agustín Olvera - Secretary.

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On the same day a copy of the same was delivered to the person interested.

San Francisco March 29th 1852.

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The preceding translation was made by the undersigned Robert Grantow, Attorney at Law, from the Spanish copy made from the original in the office of the Surveyor General of California, to which copy was attached the following certificate.

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, & as such having in my office, & under my charge & control a portion of the Archives of the former Spanish & Mexican Territory & Department of Upper California, do hereby certify that the eleven preceding pages of tracing paper, numbered from one to eleven inclusive, & each of which is verified by my initials (S. D. K.) exhibits true & accurate copies of certain documents now on file and forming part of the said archives in my office."

In testimony whereof I have hereunto signed my name officially & affixed my private seal (not having a seal of office) at the city of San Francisco at this second day of February A. D. 1852.

Samuel D. King.

Sur "Gent. Cal"

And I declare that this my translation is a true and accurate version of the contents of the said copy.

Robert Grantow.

A. George Fisher Secretary of the Board of United States Commissioners to ascertain and settle the private land claims in

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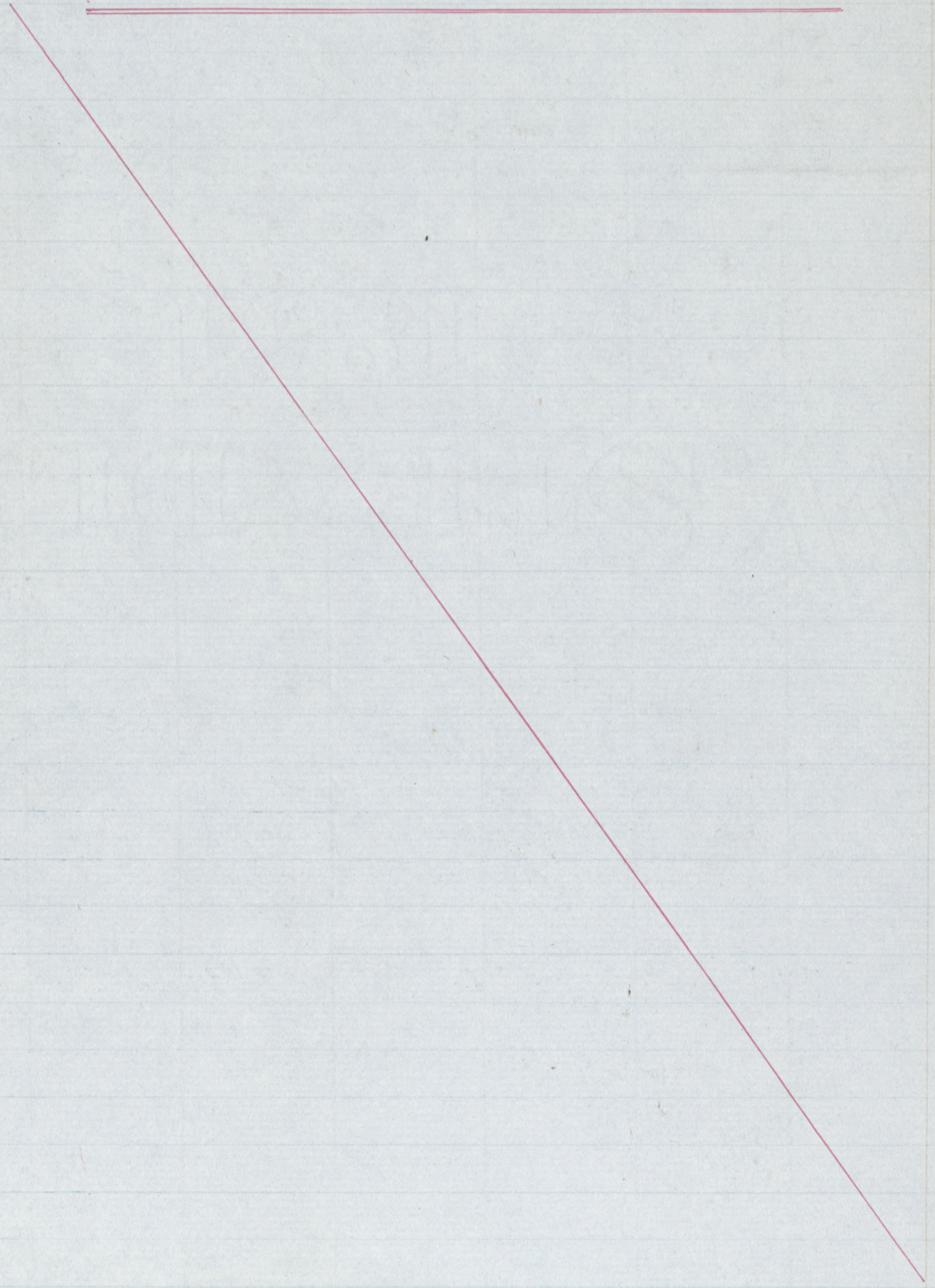
the State of California, hereby certify the foregoing
to be a true and correct translation of a Spanish
document on file in this office, in case No 144,
Chas D. Semple & in my keeping & custody as
such Secretary.

Witness my hand this 3rd July
1853.

Filed in Office March 31st 1852.

Geo: Fisher.

Secy.



Tello primero Ocho pesos.

Habilitado provisionalmente por la A-

=duana marítima del puerto de Monterey

Exhibit n. H. en el Departamento de las Californias

Hall annexed para los años de mil ochocientos cuarenta

ti. Deposition y en cuatro y mil ochocientos cuarenta y

of John Bidwell

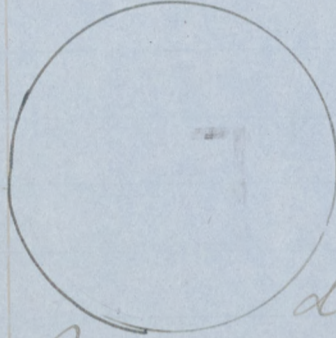
=well

Micheltovena

Pablo de la Guerra

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Pío Pico primer Vocal de la
Cámara de Asamblea y Goberna-
dor Interino del departamento
de las Californias.

Por cuanto D^o Juan Bidwell ha preten-
=dido para su beneficio personal el terre-
=no conocido con el nombre de Colus
en la Orilla del Rio del Sacramento
al rumbo N. E. practicadas previamente
las diligencias y averiguaciones conserven-
=tes segun lo dispuesto por las leyes y
reglamentos usando de las facultades
que me son conferidas al nombre de
la Nacion Mexicana he venido en con-
=cederle el expresado terreno declarando
la propiedad de el por las presentes le-
=tras entendiendose esta concesion
de entera conformidad con las leyes
à reserva de la aprobacion de la Cámara
de Asamblea Departamental y bajo
las condiciones siguientes.

1^o Podran ser concho sin perjudicar
los caminos y Servidumbres, lo dispo-
=sarà libre y exclusivamente destinando
=lo al uso y cultivo que mas le acomode

2^o Solicitara del Juez respectivo la posesi-
=cion juridica en virtud de este despacho
por el cual se demarcaran los linderos
con las mojoneas necesarias.

3^o El terreno de que se hace donacion es de dos
sitios de ganado mayor segun explica

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el diseño que obra en el expediente.
El Juez que diere la posesion lo hará
medido conforme à Ordenanza quedando
el sobrante que resulta à la Nacion
para los usos que le convengan.

En consecuencia mando que
teniendo se por firme y valedero se tome
razon de el en el libro respectivo y se
entregue al interesado para su resguard
do y demas fines.

Dado en la Ciudad
de los Angeles à cuatro de Octubre de
mil ochocientos cuarenta y cinco.

Pio Pico

Jose M^a Covarrubias
Srio.

Queda tomada razon de este titulo en el
libro respectivo

Angeles fecha ut. Supra

Covarrubias.

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Filed in Office August 17th 1853

Geo. Fisher Secy.

First Stamp Eight Dollars.

Provisionally authorized by the maritime Custom House of the Port of Monterey in the Department of the Californias for the years 1844 & 1845.

Micheltorrea. Pablo de la Guerra.

CASE 28 ND
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Customs
House
Stamp

Translation of
the Exhibit N^o of the
H. Hall annexed

Pio Pico Chief Member of the Most Excellent Assembly & Governor ad interim of the Department of the Californias.

Whereas Don Juan Bidwell has petitioned for his personal benefit the tract of land known by the name of Colus on the bank of the river Sacramento to the N. E. direction.

the steps & investigations concerning the same having been previously taken according to the disposition of laws & regulations - exercising the powers conferred upon me, in the name of the Mexican Nation, I have granted to him the said tract of land, declaring to him the ownership thereof by the present letter - said grant to be understood to be fully in accordance with the laws - at the reserve of the approval of the Most Excellent Departmental Assembly, upon the following conditions.

1^o. He may fence it without injuring the roads & servitudes; he shall enjoy it freely and exclusively, appropriating it to such use and cultivation as may suit him best.

2^o. He shall apply to the proper officer to give him judicial possession by virtue of this dispatch, by whom the boundaries shall be marked out with the necessary landmarks.

3^o. The tract of which donation is made to him is of two sitios de ganado mayor as mentioned in the sketch annexed to the expediente. The officer giving the possession shall cause it to be measured according to ordinance, the surplus thereof to remain to the Nation for convenient uses.

Whereupon I order that, being held firm

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2/144

CASE 28 ND

PAGE 24

Valid, entry thereof be made in the proper Book,
and it be delivered to the party concerning for his
safety and other ends. Given in the city of Los
Angeles on the 11th of October 1845.

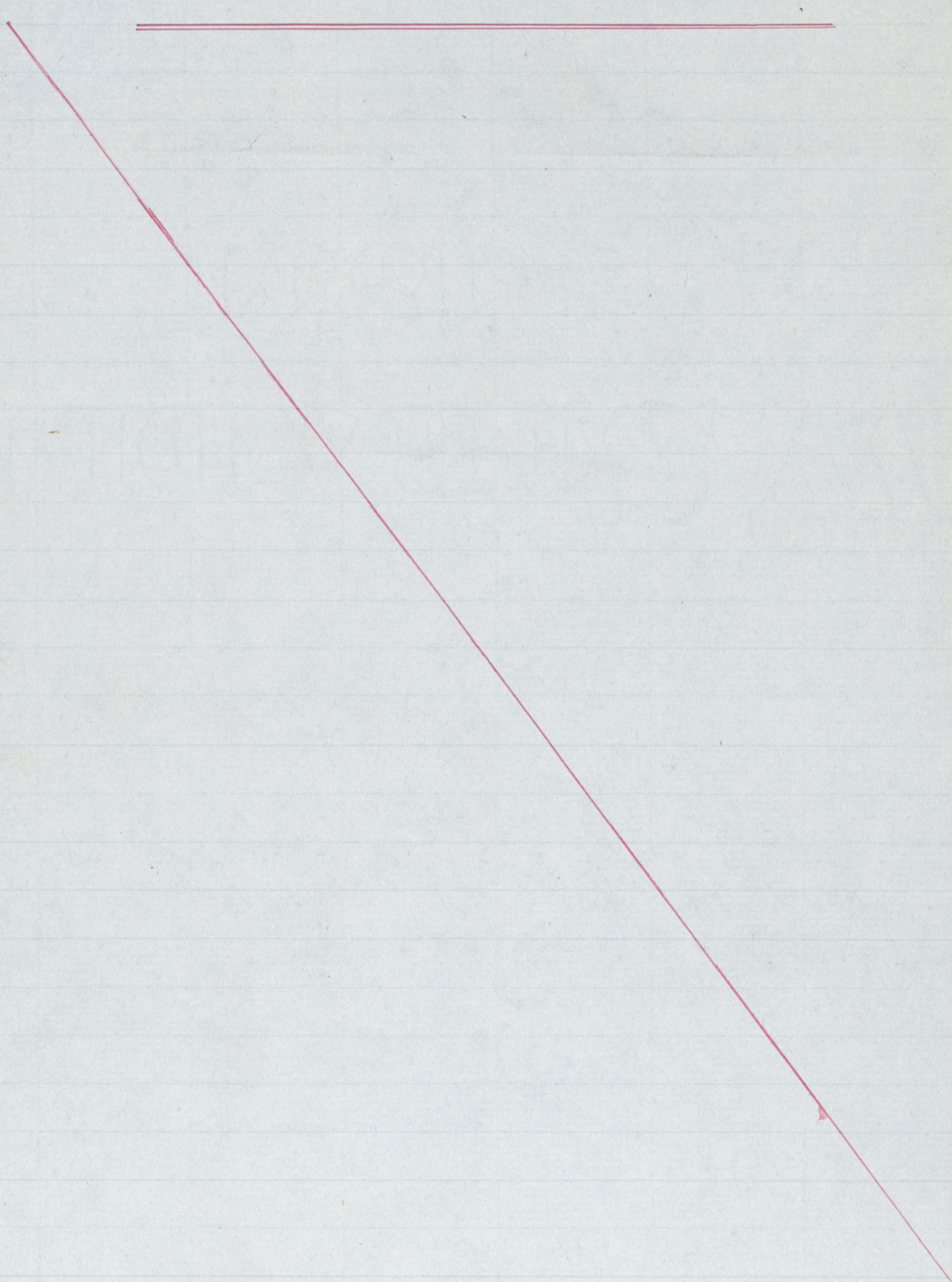
(Signed) Pio Pico.

(") José M. Comanillas.

Secy.

Entry of this title is made in the proper Book,
Angeles date ut supra;

(Sig^d) Comanillas.



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Pio Pico Gobernador Interino del Departamento de las Californias

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Exhibit M. H.
Hall annexed
to Deposition of
John Bidwell

La Exma Asamblea Departamental en Sesion de hoy ha acordado lo siguiente.

1^o Se aprueba la consecucion hecha en propiedad por el superior Gobierno Departamental en titulo librado fecha 4 de este mes a favor de D^{no} Juan Bidwell del parage llamado Colus en el Rio del Sacramento y en las estencion de dos sitios de ganado mayor de entera conformidad con la ley de 18 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828.
2^o El agraciado cuidara de cumplir con lo prevenido en el articulo 12 del citado reglamento de 1828. para disponer libremente de esta propiedad.

Y para resguardo de la parte de D^{no} Juan Bidwell lo hago asi saber. Dado en la ciudad de los Angeles en este papel comun por falta del Sellado a ocho de Octubre de mil ochocientos cuarenta y cinco.

1.90

Pio Pico

Jose M^a Covarrubias
Srio

Filed in Office August 1st 1853

Geo Fisher Secy

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Pro Pico Governor ad interim of the Department
of the Californias.

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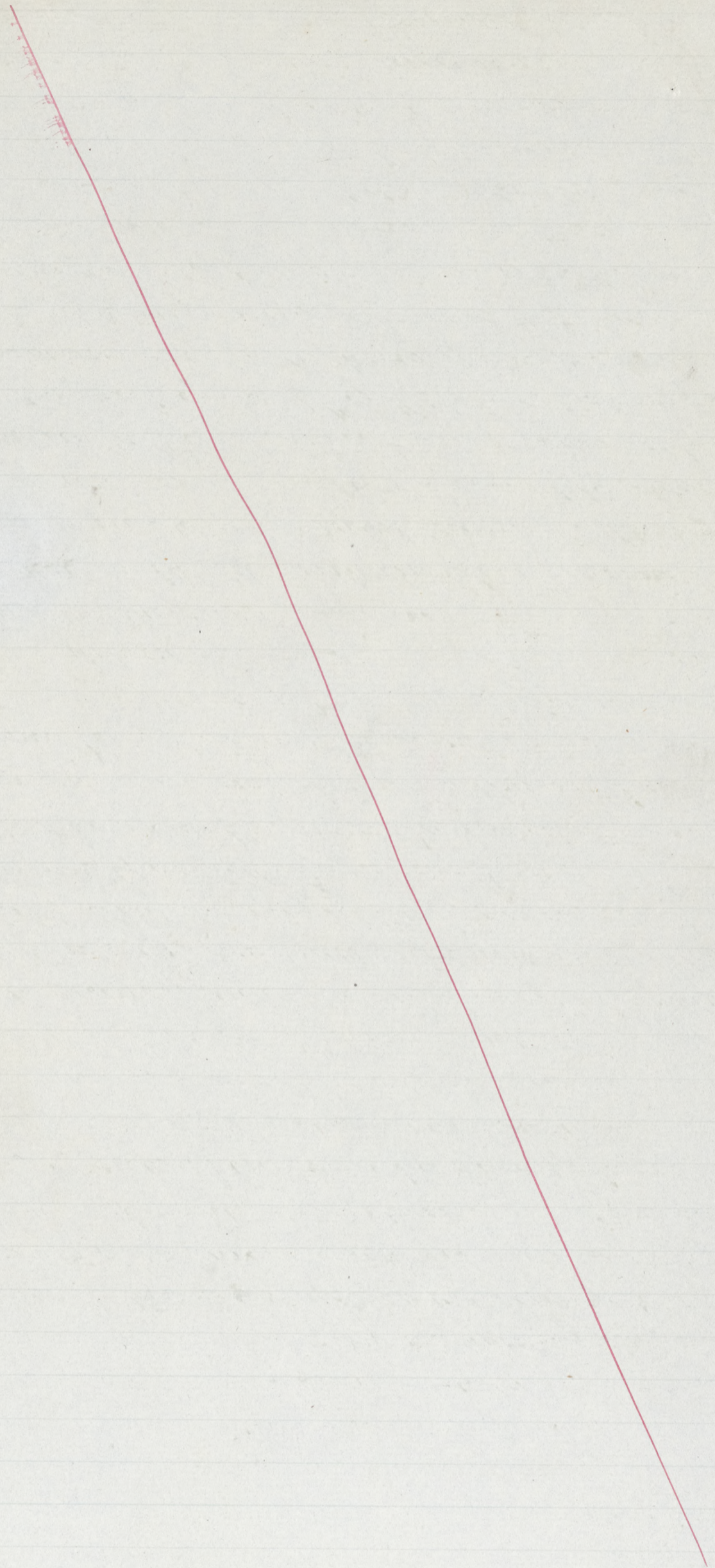
The Most Excellent Departmen-
tal Assembly in session of this day has
resolved the following.

Translation of
the Exhibit N^o 1^o "The grant made in fee by the Superior
H. Hall annulled Departmental Government by letter issued
to the depositing on the 4th of this month in favor of Don
Juan Bidwell. Juan Bidwell, for the place named Colis
on the river Sacramento, & to the extent of
two sitios de ganado mayor is approved fully
in accordance with the law of 18th of August of
1824 - & the regulation of 21st of November
1828.

2nd. The grantee shall be careful in comply-
ing with the provisions in Article 12 of the said
regulation of 828 (1828) to dispose freely of
his property."

And for safety on the part of
Don Juan Bidwell thus I make it known.
Given in the city of Los Angeles on this com-
-mune paper for want of the sealed one on the
8th of October One thousand eight hundred
and forty five.

(Signed) Pro Pico.
(") José M. Covarrubias.
Secy.



John Bidwell to C. D. Simple - deed - 2 leagues
Sacramento -

CASE 28 ND

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Transfer.

John Bidwell
to
Charles D. Simple

This indenture made & entered into this 22nd day of January A. D. 1850 between John Bidwell & Charles D. Simple both of the state of California. Witnesseth that for and in consideration of the sum of two thousand dollars in hand paid the receipt whereof is hereby acknowledged, the said Bidwell hath bargained, sold & conveyed, & by these presents doth bargain, sell & convey unto the said Simple all right, title & claim in & to a certain tract or parcel of land in the said State on the north or west side of the river Sacramento containing two square Spanish leagues as appears by the grant from the Mexican Government to the said Bidwell bearing date the 4th day of October A. D. 1845, which said tract is bounded as follows; to wit: Beginning at the lower corner of the tract commonly called "Sarkins' Ranch" on the north or west bank of the river Sacramento, thence down the said river binding thereon two Spanish leagues to a stake on the bank of the river thence out from the river at right angles with the last mentioned line one Spanish league to a stake, thence up the said river two Spanish leagues parallel with the first mentioned line to a stake, thence one Spanish league to the beginning which will more fully & accurately appear by reference to the petition & map upon which the said grant of the 4th of October 1845, was founded now amongst the archives of the province (now state) of California. To have & to hold the above tract or parcel of land, with its appurtenances, in as full & ample a manner as the said Bidwell himself might or could do under the grant aforesaid, unto the said Simple his heirs & assigns forever, & the said Bidwell covenants to warrant & defend the title to the said tract of land only against the claims of himself, his heirs and

CASE 28ND
PAGE 28

assigns and no others whatsoever.

In testimony whereof the said Bidwell hath hereunto set his hand & affixed his seal the day and year first above written. The words or was intended J. Bidwell. Seal twice before signed.

Witnesses
J. D. Hoppe.
J. S. Bradford.

State of California 3/3
Santa Clara County 3/3

Be it remembered that on this the 18th day of September 1850 before me John S. Richardson Recorder in & for said County J. D. Hoppe & J. S. Bradford personally known to be the persons who subscribed their names as witnesses to the foregoing Instrument & acknowledged that they witness the signing of the said Instrument freely & for the purposes therein mentioned by the grantor J. Bidwell.

In testimony whereof I have hereunto set my hand & affixed my private seal there being no official seal the date last above written.

Seal

John S. Richardson.
Recorder.

Filed in Office March 31st 1852.

Geo: Fisher.
Clerk

Charles D. Temple vs The United States. For the place named "Colus", being two square leagues of land.

CASE 28 ND

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Opinion by
Alphus Felch.

It appears from the Expediente a traced of which is filed in the case, that Juan Bidwell petitioned for a grant of the land June 28 1845; - that the Governor referred the petition for information & after reports thereon were received, he made an order of concession under date of October 2 1845; -. On the fourth of the same month the Governor Pio Pico, issued the grant, subject to the approval of the Departmental Assembly, which approval was given four days afterwards. The land solicited is described in the petition as "the tract of land known by the name of Colus," on the bank of the river Sacramento, which tract is vacant & contains two sitios, bounded thus; on the north west by vacant land; on the north east by the Sacramento; on the South & South West by vacant land; as shown in the drawing annexed to this petition. In the grant the land petitioned for is alleged to be "the tract of land known by the name of Colus" on the bank of the river Sacramento, to the north east direction" & this is granted, the applicant to obtain juridical possession, having the two square leagues which are granted to him, set apart by metes & bounds, the surplus thereof to remain the property of the nation. The only thing which is certain in these descriptions is that the land is bounded on one side by the Sacramento River. There is nothing to give the place along the river, where it is located, nor to identify a single point where it touches that stream. The three other sides are mentioned in the description, but on these sides the land is stated to be bounded by vacant land, the reference to these boundaries is not made to lines already run, & known & which could

CASE 28 ND

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be found on the face of the earth. The whole region, as well as that proposed to be granted as that by which it would be encompassed when surveyed & segregated, is represented as vacant land. The allegation that the premises granted are bounded by the vacant land on three sides, indicate nothing more than that the vacant land granted will be located in a large tract of vacant land belonging to the nation, & that when the land is located, the lines will divide it from the unappropriated portion; but no indication is given as to the place where the lines are to be run or the separation of the land to be made. Nor is this aided by the map which was filed by the claimant & which is before us as a part of the expediente. There it is true drawn upon it purporting to show the form & outline of the tract in which the premises granted were to be located, but they appear to draw arbitrarily through the natural lands without anything to indicate why they are placed in the position which they occupy on the map, or where or where they are to be found on the face of the earth, by a surveyor. They are mere lines on paper, never run, so far as we have any evidence on the subject, & having no monuments or land marks to indicate the locality. The three sides of the tract which are not identical with the river, have no description which will not as well be answered by a line drawn in one place as in another through the vacant lands, & there is no description which fixes the front on any specified portion of the length of the Sacramento.

The grantee was required by the terms of the grant to procure a judicial survey, & thus to locate his land, with defined limits & boundaries, & to place proper monuments to perpetuate the evidence of

its limits and extent, but this has never been done. There are no marks, measurements, angles, or description given, either in the title papers or the evidence before this Commission, which can be considered as locating the land granted and separating it from the immense tract of vacant land on the river Sacramento, or by which a surveyor could be guided so as to make the survey.

There are several other questions presented by the Counsel for the Government in the case, but as the objection above mentioned is fatal to the claim, it is not necessary to examine them.

Confirmation refused.

Filed in Office Oct 25th 1853.

Geo: Fisher.
Secy.

Charles D. Sample
vs
The United States.

Decree.

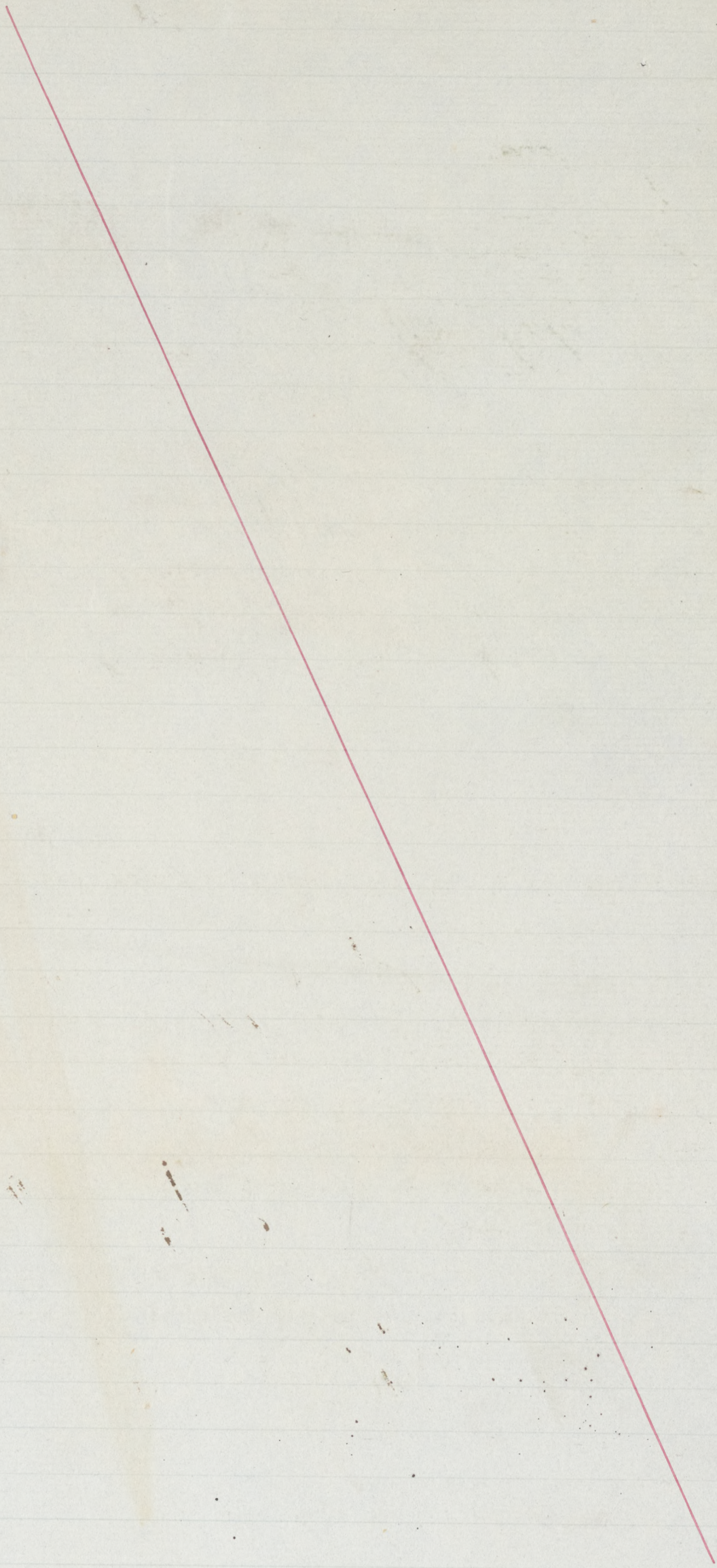
In this case, on hearing the proofs and allegations, it is adjudged by the Commission that the said claim of the petitioner is not valid, and his application for a confirmation thereof is therefore denied.

Ashens Felch.
Thompson Campbell.
R. Aug. Thompson. Commissioners.

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Filed in Office Oct 25th 1853.

Geo: Fisher.
Secy.



Office of the Board of Commissioners,


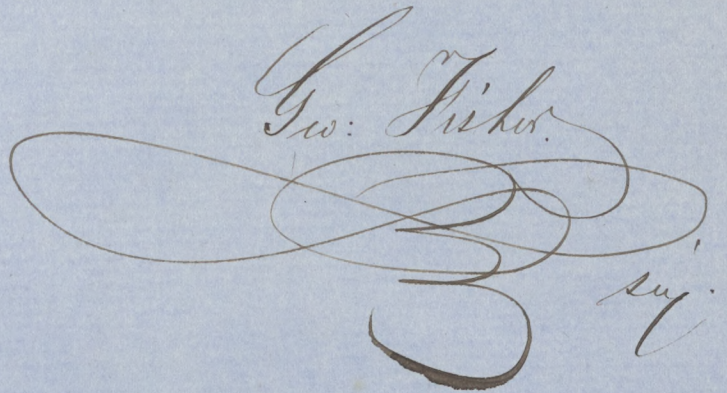
To ascertain and settle the Private Land Claims in the State of California.

I, *George Fisher* Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing *thirty six* pages, numbered from 1 to *36*, 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. *144* on the Docket of the said Board, wherein *Charles O. Sample* is

the Claimant — against the United States, for the place known by the name of *Colus* —

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

G. Fisher

28

S. DISTRICT COURT,

District of California.

INC. 57-28

THE UNITED STATES,

28

Alfred Q. Sample

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS.

In Case No. 144

Filed, August 5th 1854,

John A. Monroe,

Att.

28

of the United States

Clerk's Office of the District Court for
the Northern District of California

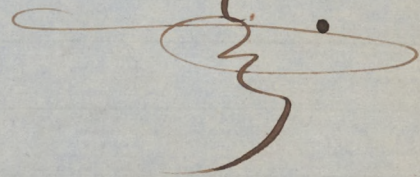
CASE 28 ND

PAGE 33

Whereas The Commissioners con-
stituted for the purpose of ascertaining and set-
tling private Land claims in the State of Cal-
ifornia, by the act of Congress of the United States
of America approved on the 3rd of March 1851
entitled "an act to ascertain & settle the pri-
vate Land Claims in the State of California"
did on the 25 day of October 1853 - by their
decision of that date, decide against the
claim presented by the undersigned, to the
said Commissioners, which claim is No. 144
on the Docket of Claims before said Board & is for
lands lying in the said Northern District; And
the said Claimant being desirous that the
said District Court should review the said
decision, now hereby files this notice, in the
said Clerk's Office, of his intention to prose-
cute an appeal as is provided by the 12th
Section of an Act entitled, "An act making
appropriations for the civil and diplomatic
expenses of the Government for the year ending
the thirtieth of June 1853 and for other pur-
poses" which said act was approved on the
31st of August 1852 -

April 17th 1854

} Charles L. Semple
Assignee of John Bidwell original
Grantee by his attorneys
Thornton H. Williams



No 28
U. S. Dist. Court,
~~~~~

United States

- vs -

Chas. D. Semples,  
~~~~~

Notice of Appeal,

CASE 28 ND

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Filed April 17, 1854,
by Schell DC

2

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

CASE 28 ND

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Whereas the Commission con-
stituted for the purpose of ascertaining and
settling private land claims in the State of
California, by the act of Congress of the United States
of America, approved on 3rd of March 1851, entitled
"an act to ascertain & settle the private Land
Claims in the State of California", did on the 25th
day of October 1853, by their decision of that date
decide against the claim presented by the un-
designated to the said Commission, which claim is No.
144 on the Roster of Claims before said Board is for Land
lying in the said Northern District. And the said Claim-
ant being desirous that the said District Court should
review the said decision, now hereby files this notice
in the said Clerks Office, of his intention to prosecute
and appeal as is provided by the 12th section of an
act entitled "an act making appropriations
for the civil and diplomatic expenses of the Government
for the year ending the thirtieth of June 1853 and
for other purposes" which said act was ap-
proved on the 31st of August 1852 —
October 5th 1854 }

Charles de Temple
Assignee of John Bidwell original
Grant by his Attorneys
Thosnton Williams

No 28

Chas. D. Temple

^{vs}
The United States

Notice of Appeal

Filed Oct. 5, 1862

In Court

CM

CASE 28 ND

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CASE 28 ND
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At a *Special* 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 *Tuesday* the *21st* day of
November in the year of our Lord one thousand
eight hundred and fifty-*four*.

Present:

J. S. K. Astor
The Honorable ~~OSDEN HOFFMAN, Jr.~~, District Judge.

Charles D. Seiple
— vs —
The United States

No. 28

On motion of
Counsel for Appellant, and with the
consent of the U. S. Dist. Atty. Ordered
that leave be granted to all parties to
take further evidence in this cause,
upon reasonable notice, before a
U. S. Commr of this Court.

U. S. Dist. Court.

No. 28
"

Chas. D. Seuple,

- vs -

The United States.

Order permitting
evidence to be taken.

Filed Nov^r. 21. 1854.
John A. Morrow,
Clerk.

CASE 28 ND

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CASE 28 ND

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Office of the Attorney General of the United States,

Washington, 30th November 1854.

Charles D. Semples

vs.

The United States

} 44.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 1st day of August 1854 the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

Cushing

Attorney General.

D.C.

No 28

U. S. District Court

Northern District

The United States

vs.

Charles D. Sample

Appeal Notice.

Filed January 8, 1855,

John A. Monroe,

Clerk

CASE 28 ND

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UNITED STATES DISTRICT COURT,
Northern District of California.

San Francisco, February 9th 1855

ON this day, before *W. A. Cheever* a
Commissioner of the United States for the Northern District of California, duly
authorized to administer oaths, &c., &c., came _____
John Bidwell a witness produced on behalf of the
Claimant, _____
in Case No. *28*, being an appeal from the Board of Commissioners to ascer-
tain and settle the Private Land Claims in the State of California, in Case
No. *144* on the Docket of the said Board of Commissioners, and was duly
sworn and testified as follows — ~~his evidence being interpreted by~~
~~a sworn interpreter~~

PRESENT: *John, J. Williams of Counsel for*
Claimant, and the U. S. Dist. Attorney
by Andrew Glassell, Esq.

QUESTION BY *Claimant,*

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

Answer,

John Bidwell, am 35 years of age, &
reside in Butte County, California.
I have resided in this State since
the year 1841

Question 2^d

Are you acquainted with the Rancho
"Cobos," claimed in this case.

Answer

I am,

Question 3^d

Look if you please upon the map
contained in the record filed in this

Case, and state by whom, and when the original of said Map was made, and describe the boundaries of said Rancho in reference thereto.

Answer.

The original of said Map was made by me in 1845, and presented with my Petition to the Governor, upon which the grant was made, there is a very noted point on the Sacramento river, being a high mound, the ~~site~~ ^{site} of the Rancheria "Colus", the Northern boundary begins on the Sacramento river, at a point just one league above said Colus rancheria, and runs directly back from the river, at right angles with the general course of the river, one league, thence parallel with ^{the general course of said river} and down said river so far as to include two square leagues of land, this noted point or mound above spoken of is on the Western bank of the Sacramento river, the tract was intended to be, as expressed on this Map, two leagues long, and one wide.

Question 4th.

Please state why there was no other occupation of this rancho than that described in your former deposition in this case.

Answer.

Because hostilities broke out between the United States, and Mexico, and I went into the war, on the part of the United States. In the Spring of 1846, I employed a man to go there, and live, and take charge of the place for me, He died very shortly afterwards.

Cross examined by U. S. Atty,
Question 1st.

Have you any interest in the event
of this cause.

Answer,

None whatever.

Question 2^d

Did you ever make any survey, and if
so, what kind of survey from which
to plot said Map.

Answer,

I made no other survey than a general
reconnoissance by riding over it, using
a pocket compass, not riding on the
boundaries particularly, but over the
whole tract generally.

Direct resumed.

Question 3th,

By the aid of said Map, establishing the
beginning point as stated by yourself
could, or could not an accurate survey
of this land be made.

Answer,

I could locate it accurately, and I think
any other Surveyor could.

Question 4th,

Are you a practical Surveyor, and if so,
how long have you been engaged in Sur-
veying.

Answer,

I am a practical Surveyor, I have been
more or less engaged in surveying ^{ever} since the
Year 1839.

Sworn to, & subscribed this

9th of Febry, 1855, before me,

W. H. Chevers, U. S. Comm'r

W. H. Chevers

No 28 —

U. S. Dist. Court.

The United States,

— vs —

Chas: D. Sample,

Deposition of
John Bidwell,

Filed Febry 9, 1853,

Wm. A. Monroe,

Clerk

CASE 28 ND

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UNITED STATES DISTRICT COURT,
Northern District of California.

San Francisco, *April 4th* 1855

ON this day, before *W. G. Chivers* a
Commissioner of the United States for the Northern District of California, duly
authorized to administer oaths, &c., &c., came *S. B. Wisner*
a witness produced on behalf of the

Claimant
in Case No. *28*, being an appeal from the Board of Commissioners to ascer-
tain and settle the Private Land Claims in the State of California, in Case
No. *144* 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: *James D. Thornton, Atty for At*
and Andrew Russell, Esq, Acting
U. S. District Attorney,

QUESTION ^{1st} BY *Claimant,*

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

Answer,
S. B. Wisner, 27 years of age, and
reside in Benicia California.

Question 2^d
Do you know the Rancho de "Colus",
and if you, state what you do know
about it.

Answer,
I know said Rancho, I was there in
December, 1849, I saw the Ranchoeria
of Colus Indians, and a Corral (Gangue
or Mexican) right on the bank of the Sac
River, some 200 yards below the found

Rancheria, Question 3^d
By what name were the said Indians
known,

Answer,
They were known by the name of Colus
Indians, and lived in a Rancheria on a
Mound,

J. B. Migney
Witnessed and subscribed before me this
4th day of April, A. D. 1855,

W. D. Cheever
U. S. Com^{pr}

RECEIVED BY

No 28

U. S. Dist. Court,

The United States,

Jus -
Chas: D. Sample,

Deposition of Migney,

Filed April 4th 1855
John A. Monroe,

Clk

CASE 28 ND

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UNITED STATES DISTRICT COURT,
Northern District of California.

San Francisco, *April 4th* 1855,

ON this day, before *W. G. Chevers* a
Commissioner of the United States for the Northern District of California, duly
authorized to administer oaths, &c., &c., came *C. M. Woodcraft*
a witness produced on behalf of the

Claimant
in Case No. *28*, being an appeal from the Board of Commissioners to ascer-
tain and settle the Private Land Claims in the State of California, in Case
No. *144* 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: *James D. Thornton, Atty for Claimant,*
and the U. S. Dist. Atty, by C. Glassell,
Deft.

It
QUESTION BY Claimant,

What is your name, Age & Place of Residence.
Answer,

*C. M. Woodcraft, 38 years of age, my
Place of Residence, San Francisco, Cal.*
Question 2^d

Do you know the rancho de "Colus",
and if so, state what you know.
Answer,

I know the Colus Rancheria of Indians.
In August 1851 I was a U. S. Indian
Commissioner, and as such Commissioner
gained a full knowledge that these
Indians had been there a very great
number of years this is the only
tribe of Colus Indians in California.

These Indians inhabited a large mound, or Raucheria about 150 yards from the Steamboat Landing in the present town of Colusa, ~~at~~ between ~~by~~ ^{the} ~~high~~ ^{high} miles from the Buttes in a West ~~by~~ ^{by} North direction, on the West bank of the Sacramento River.

Question 3^d —

If you know, please state, if there are any Sloughs, hills, creeks, or any other notorious, or distinctive objects in the neighborhood of said Raucheria, and if so, how far off are they.

Answer,

The adjacent country is ^{comparatively} ~~entirely~~ level. About eight miles South of the Raucheria, there is a slough, called Steamore Slough, about half a mile North, there is a small slough, which during the rainy season is filled with running water, independent of the two sloughs, and the Indian Mound, all of which I have before mentioned, there are no other distinctive objects, by which the location could be fixed.

Wm. Crockett

Seen to and subscribed before me
this 4th day of April, 1855,
W. D. Cheever
N. S. Com^{rs}

No 28 -

U. S. Dist. Court.

The United States

- vs -

Chas: D. Sample,

Deposition of O. M. Westmorecraft,

Filed April 4th 1855.

Loth. A. Monroe,

Clerk

CASE 28 ND

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

CASE 28 ND

PAGE 50

Your Petitioner respectfully represents to this Honorable Court that he did, heretofore, as will fully appear by the transcript of the proceedings had before the Board of Commissioners to ascertain & settle the private land claims in the State of California, now on file in this Court, present before the said Board whilst holding its session in the City of San Francisco, a claim for the land lying and being in the State of California & Northern District thereof & which said land is fully described in the said transcript, being of claim No 144. of the list of claims presented to said Board under & by virtue of the act of Congress approved on the 3rd of March 1851.

The claim of this petitioner is founded upon a grant made by Pio Pico, under the authority of the Mexican Government, as Governor of the Department of California, on the 4th of October 1845, to one John Bidwell, and upon the conveyance of said Bidwell executed to this Petitioner; all of which will appear in the Transcript of Proceedings had as aforesaid. *

Your Petitioner respectfully represents that the said claim has been rejected by the said Board, and he now here humbly prays this Honorable Court to review the decision of the said Board and to decide on the validity of their claim.

Charles D Sample
by his atty;

Thornton Williams & Thornton

I acknowledge due service of the above petition this 7th day of
April 1855. -

A. Russell
Acting U.S. Dist. Atty

*

Here insert the following -

And Your Petitioner would further state, that on the 5th day of August 1854 the said Transcript, and on the 17th of April and 5th of October 1854, notice of his intention to prosecute an appeal, as required by Law, were filed in the Clerk's Office of this Honorable Court, as will appear by the record -

Thornton, Williams & Thornton

Amended by consent
June 13. 1855.

A. Russell
Asst. U.S. Dist Atty

No 28
U. S. District Court,

Chas: D. Temple,

- vs -

The United States,

Petition.

CASE 28 ND

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Filed April 7, 1855.

John. A. Monroe,

Clerk

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In the District Court of the
United States for the Northern Dis-
trict of California:

The United States
Appellees.

vs.

Charles D. Simple
Appellant.

The above named Appellees by their
Attorney deny the validity of the
title of the said Claimant, the above
named Appellant set out in his
said petition. And pray that the
Court may affirm the decision of
the Board of Commissioners and
decree the said title to be invalid.

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

U.S. District Court

No 28

The United States
vs
Charles D Temple

Answer

Filed June 14, 1855,
by W. H. Chevers
Deputy

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9 Waples 9

The United States
vs
Charles D. Semple }

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The evidence in this case shows that on the 28th June 1845 the Juan Bidwell petitioned the Governor for a grant of land. After the usual reference for information and reports thereon a grant was issued on the 4th October 1845 by ^{the Governor} the Rico subject to the approval of the departmental assembly - ~~this~~ ^{of which} approval was given four days afterwards. The genuineness of the grant is not disputed.

The land solicited is described in the petition as "the tract of land known by the name of 'Colus' on the bank of the river Sacramento which tract of land is vacant and contains two sitios bounded thus on the north west by vacant land on the north east by the River Sacramento on the south and south west by vacant land as shown by the drawing annexed to this petition."

In the grant the land granted is described as the tract of land known by the name of 'Colus' on the bank of the river Sacramento to the north east of

action" -

Under the evidence submitted to the board this claim was rejected for want of definiteness of boundaries, or any description sufficient to enable a surveyor to locate it.

It was considered by the Board that the only thing which is certain in this description is that the river land is bounded on one side by the Sacramento river - that there is nothing to fix the place along the river where it is located ~~or~~ to identify a single point where it touches that stream."

~~"It is this aided by the map contained in the Ex.~~

It was further considered by the Board that this defect was unaided by the map which accompanied the petition and found a part of the Expediente as that ~~it~~ nothing appeared in evidence to show why the lines on it were placed in the position they occupy on the map, or how they are to be found by a Surveyor.

"They are say the Commissions men lines on paper having no monuments or land marks to indicate the locality - the three

sides of the tract which are not identical with the Sacramento River have no description which will not as well be answered by a line drawn in one as in another through the vacant lands and there is no description which fixes the front on any specific portion of the length of the Sacramento.

To meet the objections stated in the above extracts from the opinion of the Commissioners additional testimony has been taken in this Court

By the evidence of John Bidwell the original grantee it appears that the original of the map contained in the Expediente was made by him in 1845 and presented with his petition to the Governor that there is a very noted point on the Sacramento River - being a high mound the site of the Rancharia "Colus." This point is the northern boundary begins on the Sacramento at a point just one league above said "Colus" Rancharia and runs due N. back from the river at right angles with its general course - one league - thence parallel with

The general course of said river and down said river so far as to include two square leagues of land - The tract was intended to be as expressed in the map "two leagues long and one wide".

The witness adds that with the aid of the map and establishing the beginning point as stated he or any other surveyor could locate it accurately.

The testimony of this witness is confirmed by that of D. M. Worcester and L. B. Busner.

The former of these witnesses was in 1851 U. S. Indian Commissioner and as such acquired full knowledge that the "Colus" Indians had been on the Rancho de Colus a very great number of years the site which is the only one of that name in California inhabited a large mound or rancheo about 150 yards from the steamer boat landing of the present town of Colusa between 6 & 8 miles from the Buttes in a west by north direction on the west bank of the Sacramento River.

~~L. B. Busner testified that in 1849 he saw the Indians called~~

~~Colus living on a Rancharia on
the Mound~~

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These Indians known as the "Colis"
tribe were still inhabiting their
Rancharia on the mound spoken
of, as late as 1849 as appears
from the testimony of S. B. Miner.

The map which forms part of
the Expediente indicates the general
form of the granted land solic-
ited precisely as testified by the
witness Bidwell. It has ^{been} made
with some skill and ~~accuracy~~
^{is much superior to any} ~~accuracy~~
^{from the loose and rude} ~~delimitations~~ ^{delimitations} which ^{accompany} ~~are found~~
~~in~~ most of the Spanish Mexican
Expediente grants.

The Mound or Rancharia de "Co-
lus" is distinctly indicated on
this map and in a position
entirely corresponding with that
described in the testimony of
the witnesses. ^{as appears from} ~~the~~ ^{the} ~~map has a~~
Scale attached to ^{the map} ~~it~~ and the
It is evident from an inspection
of the map that if the Ranch-
eria of Colus can be found ~~by~~
surveyor with the aid of the
map could have no difficulty
in locating the land. That
that Rancharia and the Mound
on which it was situated can

He found the testimony leaves
no room to doubt
we think that the objection of
the Commissioners that there ~~is~~ ^{are} no
monuments ~~to~~ natural land marks
to indicate the locality of the
grant, and no description which
fixes the front on any specific
portion of the length of the Sacra-
mento River is effectually removed
by the evidence taken in this court

With respect to the ~~com~~ perfor-
mance of the conditions it appears
that when the grantee first received
his grant in Oct. 1845 he intended
to occupy his land the following
summer but was prevented from do-
ing so by the hostilities which began
in 1846 between Mexico & the U. S.
He however employed a man in that year ^{to} live upon his land take charge
of it, but he ~~did not~~ ^{The witness} ~~did not~~ ^{remained} in the American Army
~~was very short~~ during the war and in June 1849
by afterwards immediately after its conclusion
he built a corral upon ^{his land} ~~it~~ for
his cattle - In January 1850 he con-
veyed the land to Lemple the
present claimant who immediately
took possession of it and occupied
it.

Then excuses for not fulfilling
the conditions are it will be
seen at least as satisfactory
as those decided in the case of

amount to be sufficient - In this case there has been no more a sonably delay and the reasons for not occupying the land are such as by an American Court should be received with favor. There is no pretence to say that the grant was abandoned - for the ~~whom~~ grantee seems to have commenced the improvements of his land ^{as} ~~the~~ as soon as the cessation of hostilities permitted him to do so -

It is not to be observed in addition that the grant in this case was ~~conferred~~ ^{approved} by the Department at Assembly, and a couple to the passed to the grantee by the ^{approval} ~~concurrence~~ of all the authorities. His grant was thus by the regulations of 1828 definitively valid & the Mexican title completely divested ^{the grant} - In the case of Tamout had been received the approval of the Departmental Assembly - whether in any case of a grant made definitively valid by the approval of the Assembly this Court can decree a forfeiture for the breach of conditions subsequent it is not now necessary to inquire for the right of the plaintiff is clear on the principles laid down in the last as well as on the earlier decisions of the Supreme Court.

No other objections to the confirmation of this claim have been brought to our notice nor has our examination of the record ~~do we find~~ ^{do} any other's suggested to us on an examination of the record in the case.

A decree of confirmation must therefore be entered -

Charles D. Sample

The U. S.

No 98 -

Filed July 5, 1855,

John A. Mousse,
Clerk,

by W. A. Cheever,
Deputy.

Opinion confirming
claim obtained by
Judge Hoffman.

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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 *Courthouse* in the City of SAN FRANCISCO,
on *Thursday* the *fifth* day of
July in the year of our Lord one thousand

Present: *Hon. M. J. McAllister, Circuit Judge,*
and *The Honorable* OGDEN HOFFMAN, JR., *District Judge.*

The United States,
vs
Charles D. Temple,

No 28

In this case on the application of the U. S. Dist. 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 28

United States District Court, Northern
District of California.

The United States,

—vs.—

Charles D. Sample,

Order granting appeal
&c

Filed July 5th 1855

John A. Monroe,
Clerk.

by W. H. Chevers
Deputy.

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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 Charles D. Temple, petitioner against
The United States, wherein a decree was rendered
in favor of the said petitioner - whereupon the
said United States prayed an appeal which was
duly allowed by the said District Court to remove
the said cause to the Supreme Court of the United
States, _____

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as by the inspection of the transcript of the record *under the seal* _____
_____ of the said *District*
Court, which was brought into the Supreme Court of the United States, by virtue of _____

agreeably to the act of Congress, and the rules of the said Supreme
Court _____ 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,~~ and it appearing that the United States have failed to have their cause filed and docketed in conformity to the rules of this court it is now here ordered, adjudged and decreed by this court, that this appeal from the District Court of the United States for the Northern District of California be and the same is hereby docketed and dismissed, and that this cause be and the same is hereby remanded to the said District Court. -

April 25th

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, ...\$ *~~~~~*
 \$ *~~~~~*

Duplicate *Amtho. Carroll*
 Clerk of the Supreme Court of the United States.

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No. *241*, *December Term, 1855.*

MANDATE
 SUPREME COURT UNITED STATES.

W. Bates vs. People

Duplicate

filed Sept. 3, 1857,

W. D. Cheever

Deputy

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17.99

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

CASE 28 ND

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Charles D. Semple

The United States

The Mandate of
The Supreme Court of the United States
in the above case being this day read in
open Court and it appearing thereupon,
that the appeal heretofore granted in
this case to the Supreme Court of The
United States, has been dismissed ^{now} _{in}
Motion of the said Charles D. Semple,
by his attorney. It is ordered, adjudged
and decreed, that the said Mandate
be filed and leave be and is hereby
given to the said Charles D. Semple, to
proceed under the decree of this Court,
heretofore rendered in his favor, as
under final decree of Confirmation.

Sept: 3, 1857.

John Hoffman

Deit Judge

Charles D. Simple

vs

The United States

Decree to file
Mandate U. S. Supreme
Court

Filed Sept: 3, 1857,
W. H. Chever,
Deputy.

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At a Stated Term of the DISTRICT COURT OF THE
UNITED STATES OF AMERICA, for the Northern District of
California, held at the Court Room, in the City of SAN FRANCISCO,
on 30th the _____ day of
May in the year of our Lord one thousand
eight hundred and fifty- nine

Present:

The Honorable OGDEN HOFFMAN, District Judge.

Charles D. Sample
vs
The United States

No. 28.
~~No. 147~~ D.C.
No 144 L.C.

Upon Motion of the said Claimant by his attorney, it is ordered that the Surveyor General of the United States for the State of California return into this Court the survey by him made and approved of the Rancho "Colus" claimed in the above case

No 28

UNITED STATES DISTRICT COURT,
Northern District of California.

Charles S Sample

vs.

The United States

Order to return
Survey

Filed May 30. 1859

W. H. Chivers,

CLERK.

CASE 28 ND

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By

DEPUTY.

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Chas D Temple } No 28. D. C.
 vs } 144. S. C.
 The United States }

In this case instructions were issued to W. J. Lewis, Dep. Sur, on the 24th Sept^r, 1857, but upon the return of the survey of the "Simero" Rancho, (under a grant dated Nov^r 2^o 1844) the greater portion of the land embraced, within the grant, (dated Oct^r 20 1845) and diseno of the "bolus", was found to be within the exterior lines, of the survey of the Simero Rancho -

After a most thorough examination and in obedience to the instructions of the Department, in such cases, the whole matter was referred to Washington, for decision, under date of Feb^r 19th 1858 -

The Department under date of June 29th 1858, in answer thereto, issued an opinion, upon the basis of which I ordered a resurvey of the "bolus" and "Simero" Ranchos; the plat & field notes of which, were returned by the Deputy, & approved by me, & sent to the Department -

The plat marked A. filed herewith is a copy of the survey of the "Bolus" Rancho as thus forwarded, and embracing all the land within the boundaries of the grant and diseno, of said Rancho, that had not been included in the survey of the "Simero" Rancho, and made part thereof -

Under date of March 14th 1859, the Department acknowledge the receipts of approved plats of the "Simeno" and "Bolus" Ranchos; and state as follows: "I have to inform you that your ac-
tion in the case of the former, is ap-
proved by this office"

A survey of both Ranchos, has been made, in accordance with the views of the owners of the "Bolus", and were submitted to the Department, at the same time with the approved surveys heretofore mentioned.

A copy of the survey of the "Bolus" as thus surveyed is herewith filed and marked B -

J. W. Mandrill

U. S. Surveyor General

Hon: Ogden Hoffman
U. S. Dist Judge
Northern District
California

U. S. Surveyor General's Office
San Francisco
June 6th 1859

No. 28.

Benas. P. Semple

vs

The United States

Statement to accompany
plat

Filed June 6, 1859.

J. W. Mandrill

Clark.

CASE 28 ND

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

Charles D. Semple } D.C. 28
 vs } L.C. 144 -
 The United States }

The said Charles D. Semple excepts to the survey of the "Colus" Ranch, claimed in the above case, as made and approved by the Surveyor General ~~in~~ ~~the above~~, for the reasons, and on the grounds, following -

1st The grant and decree of confirmation call for two square leagues, whilst the survey, now here excepted to, contains but a small fraction over one half of a league -

2nd Because the said survey deprives the said Semple of nearly three fourths of the land specified in his grant and finally confirmed to him by decree of this Hon. Court.

3rd Because the said survey is not of the land, described in the petition Grant, Map and Decree of final Confirmation.

4th Because the said Survey is not a true and correct Survey of the Rancho "Known by the name of Colus", which has been finally confirmed to the said Semple -

5th Because the said Survey was not made in accordance with the agreement between John Bidwell original Grantee of the "Colus" tract, and Thomas C. Luckin owner of the adjoining land, fixing by said agreement the dividing ~~line~~ line between them.

6th Because the said Survey is not in accordance with the agreement made between the said Semple and the present owners of the two upper leagues of the adjoining grant, agreeing and fixing the dividing line between said "Colus" tract and the said two leagues of the adjoining grant.

7th Because the land included in the said Survey is not the same land finally confirmed to the said Semple -

8th Because the said Survey was made without notice actual or constructive to the said Semple -

9th Because the said

Survey was made and forwarded to the said Surveyor General then in the city of Washington, District of Columbia, before seen or heard of by the said Semple, and was by the said Surveyor General acted on and approved in the said city of Washington.

10th Because the said Semple was practically denied a hearing upon the said Survey.

11th Because the said Survey is arbitrary, unjust and oppressive to the said Semple, being made neither in accordance with the grant, map or decree of final confirmation, and is an attempt to destroy vested rights, and deprive the said Semple of the greater part of his land.

12th Because the said Survey was not made in accordance with the directions and principles contained and specified in the Act of Congress approved March 3rd 1859 entitled "An Act to ascertain and settle ^{the} private Land claims in the State of California -

13th Because the said Survey was not made in accordance with the opinion and instructions of

the Secretary of the Interior to the said
Surveyor General in regard to the Survey
of the "Colus" Ranchos.

Thornton, Williams & Thornton
Attys for C. D. Temple

C. D. Temple

Ex. Co. No 28
Ex. Co. No 144.

The United States

Exceptions to
Survey

Filed June 22, 1859.

W. D. Cherris,
Clerk,

CASE 28 ND

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At a Special 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 Wednesday the thirty-first day of
August in the year of our Lord one thousand
eight hundred and fifty-nine,

Present:

The Honorable OGDEN HOFFMAN, District Judge.

Charles & Temple

vs.

The United States

S. C. No. 144,
D. C. No. 28.
Rancho Colusa

It appearing to the Court
that in obedience to its order, The Surveyor
General of the United States for the State
of California has returned and filed in the
Clerk's Office of this Court, his survey of
the said Rancho ~~San Francisco~~ Colusa
and that the said Charles & Temple has filed
his objections to the same, It is now hereby
ordered that the parties to the above cause
be allowed six weeks from this day, to
take further evidence in regard to the
land comprised and as to its location, and
boundaries and the correctness of said survey.

No 28,
District Court of the United States

IN AND FOR THE

Northern District of California.

United States.

vs.

Chas. D. Sample,

Order *allowing 6*
weeks time for
testimony in
Barrey.

Filed *Aug: 31,* 1859.

W. A. Cheney Clerk.

By

Deputy.

CASE 28 ND

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District Court of the United States for the Northern District of California.
Clerk's Office,
of the said Court.
I hereby Certify the foregoing to be a true copy from the Minutes

By

Deputy.

Clerk.

UNITED STATES DISTRICT COURT,
Northern District of California,

The United States
vs.
Chas. D. Semple.

San Francisco, Sept. 29, 1859,

On this day, before me, *W. A. Chambers* a
Commissioner of the United States for the _____ Districts of Cal-
ifornia, duly authorized to administer oaths, &c., &c., came
Samuel R. Smith a witness produced on behalf of the
Plaintiff —

in Case No. *28*, being an appeal from the Board of Commissioners to ascer-
tain and settle the Private Land Claims in the State of California, in Case
No. *144*, 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: *C. D. Semple in propria persona*
and J. R. Wise, Acting U. S. Atty.

QUESTIONS BY *W. Semple.*

Q 1 Please state your name age and place
of residence.

Ans 1 Samuel R. Smith, of lawful age; residence
at Knights landing, Colo Co. Cal.

Q 2 State how long you have resided there,
and your means of knowledge respecting
the surrounding country.

Ans 2 I have resided in the vicinity since Aug.

1849. My means of knowledge are derived from riding over the country and seeing some surveys made by U. S. Deputy Surveyors.

Q 3. Look at the original designs on file in the case of The U. S. v Thomas O. Larkin N^o 23. a traced copy of which is annexed marked Exhibit N^o 1. and state whether from your knowledge of the objects noted on said designs, you can name the position of the southern boundary on said designs, and what it is now called.

A. 3 The Esters, forming the southern boundary on said designs is now called Sycamore slough, which empties into the Sacramento River at Knights Landing.

Q-4 How do you know this?

A-4 Because I know the location of Mr Goodens on Cache Creek, and the Hardy grant which adjoins Goodens in the East, and knowing the distance from Hardy's north line to the mouth of the slough by the public survey made in 1852, by which the distance was ascertained as $3\frac{1}{2}$ miles or thereabouts.

Q 5 How far from Sycamore slough is it to the next slough above, on the west side of the river?

A. 5 We have always called it about 18 miles - this is the common opinion of the country. It is called Wilkins slough now.

Q 6 State the appearance of the country

forming the Estero ~~as~~ marked on Exhibit No. 1.

A. 6 The appearance of the country from the old northern or Oregon road in the spring and summer season - say until August, has the appearance of a lake from that road, lying in between the road and the Sacramento river, immediately above Knight's landing at the mouth of Sycamore slough.

Q 7 Was this the trail usually travelled up the Sacramento valley?

A. 7 Yes.

Q 8 How far did this appearance of a lake extend, and in what direction from Knight's landing?

A. 8 It commenced at a point - almost in the form of a V. - half a mile up the Sycamore slough, and extends in a westerly course up towards the foot of the low hills, and extended up from the mouth of the slough some 15 miles.

Q 9 I allude to the appearance of the lake - open water - how far did that extend.

A. 9 That open water, clear of the tules, would not extend over five or three miles.

Q 10 How far does the channel of the slough extend?

A. 10 It extends about 15 miles, ^{from the mouth} and loses itself in the heavy tute.

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Cross Ex'd by W. W. Wise.

Q 11 How do you know that the Surveyors spoken of in your 2^d answer were U. S. Deputy surveyors?

A. 11 My knowledge was obtained from themselves and from seeing them put down the township corners.

Q. 12 Do you know that the estero spoken of in your third answer is the southern boundary without reference to Exhibit No. 1?

A. 12 I cannot say that it is the southern boundary of that ranch, not knowing the boundaries of it.

Q. 13 Do you know that Sycamore slough, which empties into the Sacramento river at Knight's landing, is the same one that is shown on Exhibit No. 1?

A. 13 I do.

Q 14 How do you know it?

A. 14 By the way it is bounded and by the course of the Sacramento at that point and the location of the country around.

Q 15 Do you know this from Exhibit No. 1 or from the nature of the country; and

do you know whether Exhibit No. 1 is a correct representation of that part of the country?

A. 15 I should say that Exhibit No. 1 is as correct as any rough sketch is generally taken without the points & from the general lay of the country. I know from the Exhibit that it is Sycamore Slough.

Q. 16 Had the designs of which Exhibit No. 1 is a copy been shown you without having any writing or names upon it and without any explanation from any person, could you have told what place it was intended to represent?

A. 16, I don't think I could.

Q. 17 In your sixth answer you say the country had the appearance of a lake from the road for a certain portion of the year; was this appearance calculated to deceive persons so as to make them believe it was a lake?

A. 17 It was.

Q. 18 Would not some persons know it was not a lake, viewing it from the road?

A. 18 No; any person would have been deceived.

Q. 19 Would they have been deceived for the whole distance of fifteen miles along the road?

A. 19 They would.

Q. 20 Have you any interest in this claim?

A. 20 I have not. I own no land in Cal.

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Direct resumed.

Q. 21 Do you mean in your 17th answer to say that there was no real lake at the mouth of Sycamore slough?

A. 21 From a half a mile above the mouth up the slough there was a lake or sheet of water from November until August.

Q. 22 Do you desire your 17th answer to be as stated in your 21st answer?

A. 22 I do.

Q. 23. What section is the mouth of the Sycamore slough in with respect to the public surveys?

A. 23 According to the marks of U. S. Surveying it is in township 11. North - Range 2 east. Section 14.

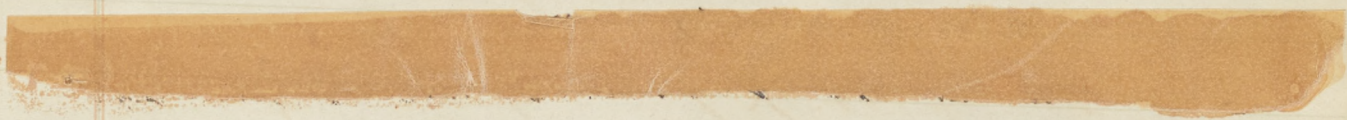
Cross Ex resumed.

Q. 24 How do you know that the township, range, and section, as given in your last answer was the United States survey?

A. 24 From conversation with men claiming to be U. S. surveyors, and seeing the marks which they put down for township and section corners.

Examination closed.

Sum to before me by
this 29th Sept 1854. J. R. Smith
H. A. Church,
N. Y. Com.



28 ND
144 B9

U. S. District Court,

The United States

v.

Charles D. Sample.

Deposition of Samuel
R. Smith for claimant.

Filed Oct. 13. 1859.

W. A. Chereau,

Clerk.

CASE 28 ND

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UNITED STATES DISTRICT COURT,
Northern District of California,

CASE 28 ND

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The United States

Chas. D. Semple, ^{vs.}

San Francisco, Sept: 29. 1859.

On this day, before me, *W. A. Chivers*, a
Commissioner of the United States for the _____ District of Cal-
ifornia, duly authorized to administer oaths, &c., &c., came _____

Stephen Cooper a witness produced on behalf of the
claimant

in Case No. *28*, being an appeal from the Board of Commissioners to ascer-
tain and settle the Private Land Claims in the State of California, in Case
No. *144* 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:

*C. D. Semple in propria persona
and Gully R. Wise acting U. S. Atty.*

QUESTIONS BY *W. Semple*.

Q 1 Please state your name, age and
residence?

A. 1 Stephen Cooper; aged 62; reside in
Colusa Co Cal.

Q 2 Look at Exhibit No. to the deposition
of said R. Smith taken this day, and
state whether from your knowledge of
the objects noted on said diens you

can name the position of the southern boundary thereon, and what it is now called.

A. 2 I would fix it at or ~~near~~ adjoining Knights Landing. It is now called the mouth of the Sycamore slough.

Q 3 Describe the Sycamore slough from its mouth upwards for three miles.

A. 3. I never meandered it, but have crossed it in the fall season three ~~xx~~ miles above, or thereabouts. The appearance of the land at that distance is low, and shows that water stands on it in the early part of the season.

Q 4 Have you passed over the trail called the Oregon trail; and if so, state what appearance the place as described in your last answer presented from that trail?

A. 4 I have passed up the road which leads up the Sacramento valley and from that road it shows to be a sheet of water in the spring season.

Q 5 Examine the discuss in this case and state whether from the noted points marked on said map where the Colus lands are, and what the place is now called?

A. 5 The Colus rancheria and the town of Colusa - being one and the same place, is on the west side of the Sacramento River and immediately west from the three peaks, or rather due west

from the highest peak of the three.
 Q. 6 What are the Indians called who lived at the Colus Rancheria?

A. 6 They call themselves Colus Indians.
 Cross Exd

Q. 7 In your second answer you say, I would fix the southern boundary at or adjoining Knight's landing; do you know that from the other objects marked there, or from the nature of the country?

A. 7 I would know that by other marks on the exhibit, together with from the nature of the country. There should have been a stream laid down - Cache Creek - running through Hardy and Gordon's ranch.

Q. 7 If the other marks on this Map are incorrect, then it would alter the position of the southern boundary, would it not?

A. 7 I considered the marks a little incorrect, but they would have to vary a great deal.

Q. 8 If the Exhibit before spoken of by you had no writing nor words upon it, and no person had told you what it was, would you know

what it was intended to represent
A 8 If Cache Creek had been laid down
I could, but without Cache Creek I
could not.

Q 9 In your 5th answer do you speak
with reference to the diseno in this
case or from the nature of the coun-
-ty?

A. 9 I judge from both the map and
my knowledge of the country.

Q 10 Do you know whether the diseno
in this case is correct or incorrect?

A. 10 I think it is generally, some of
the details may not be.

Q 11 Have you any interest in this
case?

A. 11 I have a son who purchased 80
acres from Col Semple, and a son
in law whom Col Semple is now
suing in ejectment.

Q 12 How long have you lived in that
vicinity?

A. 12 Within a mile of Colusa for 5 years.
Examination closed.

Subscribed before me this }
29 Sept ad 1859 J. Stephen Cooper
W. H. Chenevix,
N. J. Com.

U. S. District Court.

The United States

v.

Charles D. Sample

Deposition of Stephen
Cooper for claimant.

Filed Oct. 13, 1859,

W. A. Chivers,

Clerk

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UNITED STATES DISTRICT COURT,
Northern District of California,

CASE 28 ND

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The United States

vs.

Chas. D. Semple

San Francisco, Oct 5 1859

On this day, before ^{one} W. H. Chevers a
Commissioner of the United States for the _____ District of Cal-
ifornia, duly authorized to administer oaths, &c., &c., came

J. F. Gilmer

a witness produced on behalf of the

Claimant

in Case No. 28, being an appeal from the Board of Commissioners to ascer-
tain and settle the Private Land Claims in the State of California, in Case
No 144 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: C. D. Semple in person and
July R. Mice by Acting U. S. atty

QUESTIONS BY Claimant

Q 1 Please state your name, age, residence
and occupation.

A. 1 J. F. Gilmer; of lawful age; present residence
San Francisco; profession military engineer.
Capt in U. S. Army.

Q 2 Please examine the designs of the Armino grant
marked Exhibit N:1, attached to the deposition
of Samuel Smith heretofore taken in this case,

and state what ^{OR} the contents of said map in square leagues, assuming as true that by actual survey it has been ascertained to be thirty nine miles in a right line from the point marked "Etero", at the south end to Lar-kins' childrens' grant at the north end.

a. 2 I find the area in square leagues to be $19\frac{1}{2}$ approximately. (nineteen and a half)

Q 3 Please describe the process by which you calculate the contents of a map with a scale upon it, and also natural objects marked upon it, the identity of which are capable of proof.

a. 3 If there were any doubt as to the accuracy of the scale, I would determine the distance between the natural objects on the ground, and from this determined distance I could ascertain with accuracy the scale applicable to the plat, knowing this I would calculate the area of land in the usual way, that is, by the lengths of the bounding lines, considering the shape of the plat.

Examination closed

J. F. Gilmer

Sworn to before me this }
5th day Oct. 1859

W. H. Chever.

U. S. Comm.

U. S. DISTRICT COURT

U. S. DISTRICT COURT

U. S. DISTRICT COURT

U. S. District Court

The United States

v.

Charles D. Sample

Deponent of J. F. Gilmer
for claimant

Filed Oct. 13, 1859,

W. D. Chesebrough,
Clerk

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UNITED STATES DISTRICT COURT,
Northern District of California,

CASE 28 ND

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The United States

vs.

Chas D. Semples

San Francisco, Oct 5, 1859

On this day, before ^{me} *W H Chevers* a
Commissioner of the United States for the _____ District of Cal-
ifornia, duly authorized to administer oaths, &c., &c., came
Casimir Bielawski a witness produced on behalf of the
~~*Casimir Bielawski*~~ *Claimant*,
in Case No. 28, being an appeal from the Board of Commissioners to ascer-
tain and settle the Private Land Claims in the State of California, in Case
No. 44 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: *C. D. Semples in person and*
Jully R. Wise Esq, Acting U. S. Atty.

QUESTIONS BY *Claimant*

- Q 1 Please state your name, age, residence and occupation.
- A. 1 *Casimir Bielawski, of lawful age, residence San Francisco; occupation draughtsman in U. S. Surveyor General's office.*
- Q 2 Please state whether you have the custody of the official approved maps of the public lands, and also those of private lands

claims in the state of California.

A 2 I have.

Q 3 How far is it in a right line from the southeastern corner of Harkins' childrens' grant, on the Sacramento River, to the centre of section 14, Township 11 N. Range 2 E. Monte Diablo's meridian: and also how far from the last mentioned point to the northern boundary of the Harbin or Rio de Jesus Maria grant on Cache Creek, originally called the Hardy grant?

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A. 3 It is thirty nine miles from the southeastern corner of Harkins' childrens' grant to the centre of section 14, and from this point to the Harbin or Hardy ranch, due south, it is three miles and a half.
Cross Ex?

Q 4 Are you in the Surveyor General's office?

A 4 I am.

Q 5 Has the Harkins' childrens' grant on the Sacramento River been located, and has that location been finally approved?

A 5 It has.

Q 6 Has the Harbin grant been located and approved?

A. 6 It has.

Q. 7 Your calculations of distances is based upon maps in the Surveyor General's office, ~~is it~~ are they not?

A 7 They are.

Exam closed.

Sworn to before me this 5th Oct. 1859

H. A. Cheney

M. C. Coon

Casimir Bielewicz

U. S. District Court

The United States

Charles D. Semples

Deposition of Casimir
Bielawski for claimant

To wit Oct. 13, 1859,

W. A. Chereau,
Clerk,

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The U. S.

vs

D. Sample

28 ND

Objections to the ^{in this case} survey having been made, it was returned to this Court in pursuance of its order and testimony was ^{thereupon} taken in support of the exceptions — ~~Thereby~~. ~~The question~~ ~~of the~~ ~~the~~ ~~case~~ and the cause submitted ~~after arguments~~ for decision

The claim was rejected by the Board for want of definite boundaries — under the testimony which was before ~~it~~ ^{them}, was considered by the Commissioners that "the only thing which was made certain by the description was that the grant was bounded by the Sacramento River but that there was nothing to fix the place along the river

where it is located. The Board further considered that this defect was not aided by the design to which the grant refers. The cause having been appealed further testimony was taken and it appeared to this Court clear that the location of the land along the river with its depth width and length were unmistakably indicated by the delineation of the tract on the design which was drawn with more than ordinary skill - by the scale which appears on it. By the natural objects represented upon it particularly the ^{hill} mountain called Los Picos, and the Rancheria of the Cobos Indians from which the grant derives its name and the site of which it was shown

Could readily be identified
The grant was for two leagues — and Mr Bidwell
who made the survey testified that its northern boundary
was commenced one league above the rancho
mentioned — that its width
was intended to be as
represented on the survey
one league and that it
was to be extended down
the river until the quantity
granted was obtained —
This Court accordingly
confirmed the claim as described
in the grant and delineated on the survey
Under this decree a survey
has been made locating
the grant at a considerable
the distance from the Sacramento,
and nowhere bounded
by it — Altho' in the opinion
held on both by this Court
and the Board the Sacramento

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Rion was declared to be the Eastern boundary of the grant — and by the Board considered, as the "only" thing which was made "certain" by the description. The land surveyed is of the extent of 2855 acres instead of the two leagues confined to the claimant nor does any portion of it appear to be within the boundaries mentioned in the grant or delineated on the disco —

The reason assigned for so extraordinary a location and for so entire a departure from the decree of this Court, is that the land on the disco described in the grant in this case had already been granted to Manuel Jimeno — If this fact were true it is

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not easy to discover
whence the Deputy Surveyor
denied the power to give
to the claimant what he
considered perhaps an equi-
valent, in any other place.
But it is by no means
apparent that the land
was ~~so granted~~ included
in Jimeno's grant, or rather
should be embraced in
the survey of the lands
granted to him -

The grant to Jimeno was
of 11 leagues - The tract
delineated on his diseno
is by shown to be about
39 miles in extent. Its
width as appears from
the diseno is one league
As Jimeno's grant was
restricted to the quantity
of 11 leagues it is clear
that some portion of the
tract embraced within his

boundaries must be cut off - Either the width must be preserved and the length along the Sacramento river diminished or the length be preserved and the width diminished - The Surveyor relying upon some expressions in the opinion of the Supreme Court in the Jimeno case adopted the latter alternative - but the Secretary of the Interior is of opinion that the width, ^{as indicated by the diagram} should be preserved and the excess cut off at one end of the track so as if possible to satisfy that of the Excess ^{Junior} grant to the present claimant -

This point it would not perhaps be proper now to decide - For the Jimeno

grant is not superseded
 for the Court nor are its
 errors represented -

It is clear however that
 the present ^{survey} is erroneous -
 The present claimant must
 have his land if at all
 on the place indicated
 with unmistakable certainty
 by his deeds - If when the
^{Survey of the} ~~present~~ grant is presented
 for ^{approval} ~~location~~ it should
 appear that by a just loca-
 tion it will include the
 lands or any part of them
 which were subsequently
 granted to those under
 whom the present claimant
 holds - that grant will be
 so located - and the rights
 under it can be asserted
 in the ordinary trials -
 For the purposes of this present
 suit it is enough to say
 that the ^{claim} ~~grant~~ in this case

Should be located within
the boundaries called for
in the grant and delineated
on the disco -

No argument in favor of
the survey submitted returns
by the Surveyor was made
by the District Attorney
that officer seeming to acquiesce
in the validity of the objections
urged against it and to consider
that its true location was
unmistakably indicated
by the disco: and that if
the land had been previously
granted to Jimeno and should
be included within the land
surveyed to him, it was
a controversy with which
the U. S. had no concern.

My
I think therefore that the
survey approved by the
Surveyor General should

be set aside — and that
a mandate should issue
to him requiring him to
survey to the claimant
two leagues of land on
the Sacramento River at
the place and within the
boundaries designated on
the decree on file — said
tract ^{so to be surveyed} to be in length 2
leagues and in width
one league — The ~~most~~
natural location of this tract
if the decree and grant be
above regarded is to take
would be to take ^{the ancient} the
china of ^{the} the Indians as
a starting point and to ~~sur-~~
~~vey~~ run ~~an~~ equal distances
to the North & South of it
until the quantity of two
leagues be obtained —
But inasmuch as the
decree includes more than
two leagues within the town

lines delineated on it -
and as the ^{land} granted to Jimeno
lies immediately to the
south, it will be the duty
of the Surveyor so to locate
the land in the present
case as to leave as much land
as is possible to the south
that the both grants may
be satisfied - But the
sauceria of this must in
any case be taken as the
point of beginning and
the the survey be laid
off made to the north &
south of it in the same
the direction of the grantee
or his assigns, subject to
the Executive regulations
of the U. S. government and
in such a way as if possi-
ble to allow the a survey
hereafter to be made of the
lands granted to Jimeno with-
out interfering with the lands

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Review Amended to be sur-
veyed -

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<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>
<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>
<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>
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<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>
<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>
<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>	<i>[Faint handwritten notes]</i>

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N^o 28,

U. S. District Court.

The United States,

- vs -

Chas. D. Semples.

Opinion respecting
Survey approved
by Sur. General.

Filed Oct. 17, 1859,

W. A. Cheves,
Clerk

CASE 28 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
17th day of October in the year
of our Lord one thousand eight
hundred and fifty nine

Present

The Honorable Gden Hoffman
District Judge

Charles D. Simple \approx L. C. N^o 144

vs

The United States \approx L. C. N^o 28

This cause came on this day
further to be heard in regard to the
location of the land heretofore con-
firmed, by decree of this Court, to wit,
on the fifth day of July 1855 to the
said Charles D. Simple, and was
argued by counsel, and thereupon
in consideration thereof, it is ordered
adjudged and decreed as follows,
to wit, that the survey and location
of the said land as made and

approved by the Surveyor General of the United States for the State of California, a plat whereof was returned and filed in the Clerks office of the said Court under an order issued to that effect, is erroneous, and that the same be, and is hereby disapproved, annulled and set aside.

And it is further ordered adjudged and decreed that the said Surveyor General do proceed to survey the land so confirmed as aforesaid within the limits of the tract indicated on the *deseno* referred to in the original grant and the decree of confirmation measuring two leagues on the Sacramento River with an average depth of one league so as to contain two square leagues of land.

In said measurement and location the Rancheria of the Colus Indians as marked on the ^{said} *deseno* must be taken as a point of beginning, and the survey be made to the North and South of it, at the election of the Grantee or his assigns subject to the executive regulations of the

United States Government and
in such a way as, if possible, to allow
a survey hereafter to be made of the
land granted to Manuel Jimeno
without interfering with the land
herein directed to be surveyed. & it
is further ordered that a certified copy
of this ~~decree~~ ^{order} be by the Hoffman
sworn on the Surveyor / Dist. Judge
General of California

U. S. District Court

The United States

v.

Charles D. Sample

Order rejecting survey
and directing re-survey

Filed Oct. 22, 1859,

W. A. Chevers,

Clerk

CASE 28 ND

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United States }
 C. D. Temple }
 In the District Court of
 the United States for the
 Northern District of California
 In Case No 28.

Lanning B Migney being duly
 sworn deposes and says, that hereupon
 to wit on the 22nd of October last this
 Court made an order, directing the
 the United States Surveyor General for
 California, to resurvey the Ranch known
 as "Colusi," under a final decree of
 this Court, and whereas the said
 Surveyor General, has made such re-
 survey, which this deponent believes is
 erroneous, and not in accordance
 with the said decree of this Court
 Wherefore an order is asked, directing
 the U.S. Surveyor General to Return to this
 Court said resurvey.

Sworn to and subscribed

this 25. Dec. 1859. before me,

M. G. Cleverly,

N. C. Com.

L. B. Migney

No 28.

United States

vs

C D Sempke

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

Defendant of L B Moore
for Return of Survey

Filed Dec: 29, 1859.

W. A. Chivers,

Clerk.

CASE 28 ND

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CASE 28 NO
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At a 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 the day of
in the year of our Lord one thousand
eight hundred and fifty-nine.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

vs.

Charles D. Jenple.

No 28: L. C. 144

"Coler"

Upon the affidavit of L. B. Migney
that the survey made by the U. S. Surveyor General
for Cala, under the order heretofore entered directing
a resurvey, of the land finally confirmed herein,
is erroneous, filed by Mess Thornton, Williams and
Thornton, attorneys for claimants, and in pursuance
of the rule heretofore entered, it is Ordered, that
the said Surveyor General for Cala return to
this office a certified copy plat of his official
surveys of the land finally confirmed in this
case, made under the said order of Court.

San Francisco, Dec 29, 1859

H. D. Chenevix,
Clerk.

Served personally by copy on James M. Meadwith, Wm. S. Barry or General for California in the City of San Francisco this December 29. 1859
P. S. Solomon
U. S. Marshal,
By S. Lancker
Deputy

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.

No. 28,

District Court of the United States

IN AND FOR THE

Northern District of California.

The United States

vs.

Chas. W. Demphre

Order

*to return
warrants*

Filed Dec: 29. 1859.

W. A. Cherrin, Clerk.

By

..... Deputy.

CASE 28 ND

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At a *Special* 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 *Wednesday* the *22nd* day of *August* in the year of our Lord one thousand eight hundred and ~~fifty-nine~~, *sixty*.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

C. D. Sample

vs.

The United States

On this day came the the claimant, by his attorney and moved the Court to vacate the order of 29th day of December 1859, requiring the Surveyor General of the U. States to return the Survey of the "Colus Rancho" in to this Court, and thereupon it was ordered by the Court that said motion be and the same is hereby overruled and denied - And it is further ordered that the said Survey be retained for the judgment of this Court, and that claimants have leave to move for the approval of the Survey last made and approved by said Surveyor General upon three days notice to the District Attorney, and to A. C. Whitcomb counsel for the ~~conflicting~~ claimants in the conflicting claim of the United States vs. J. C. Larkin et al -

Ogden Hoffman
District Judge

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District Court of the United States

IN AND FOR THE

Northern District of California.

The United States,

vs.

C. D. Seuple.

*Order denying motion
to vacate order of
29 Dec: 1859,
etc. etc. etc.*

Filed *August 22, 1859*

H. A. Chellis, Clerk.

By

Deputy.

CASE 28 ND

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

Clerk's Office,

of the said Court.

I hereby Certify the foregoing to be a true copy from the Minutes

By

Deputy.

Clerk.

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

The United States }
 vs } Claim N^o 28
 Charles D. Temple } for "Colusa," Ranchia

Sirs: San Francisco 22nd August 1860

Please take notice that on Monday the 27th day of August, Instant, at 11 o'clock ^{A.M.} of that day or as soon thereafter as counsel can be heard, we will move the above named Court to approve the survey of said Ranchia made in obedience to a decree of said Court rendered on the 17th day of October 1859 which said survey contains 8876 ²/₁₀₀ acres, and was returned into the said Court by the United States Surveyor General for California on the 17th day of January 1860.

To Yours &c
 Calhoun Benham Esq. Thornton Williams & Thornton
 U. S. Dist Atty Attys for Claimant
 A. C. Whitecomb Esq.

I see same
 acknowledged

Benham
 U. S. Atty.

United States
vs
G. D. Sample

Notice

San Francisco Aug 22nd 1860
Received a copy of the
within this day.

A. C. Whitecomb

CASE 28 ND

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No. 28.

U. S. Dist. Court,

The United States.

vs

G. D. Sample.

Notice of motion
to confirm survey.

Filed Aug: 25. 1860.

M. D. Cheever,

Clerk.

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U. S. vs. G. D. Scuple, No. 28.

CASE 28 ND

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The Counsel for the Claimant in this
~~A motion is made in this~~
Moores for an order ^{approving}
~~Case to conform~~ a survey made
by the Surveyor in pursuance of
an order heretofore ^{entered} made, reject-
ing the original survey and di-
giving directions for a new and
and reformed survey to be made.

Before proceeding to inquire whether
the last survey is in conformity
with the directions heretofore given
a preliminary question must be
determined -

By the recent act of Congress (June 14
1860) "all cases in which proceedings
" ~~are~~ pending for the purpose of
" contesting or reopening surveys made
" and approved by the Surveyor
" General, are made subject to
" the provisions of the act."

If then in this case, ^{such} proceedings
are pending the provisions of the
act must be applied to it -
To determine whether proceedings
are pending within the meaning
of the act the nature of the
order or decree heretofore made

must be considered - If that
 decree be a final decree, the
 case ~~is~~ can no longer be said
 to be pending - and vice versa.
 It is obvious that in a large
 majority of cases no decree ^{of}
 which one survey is rejected &
 another directed to be made
 can be deemed a final decree.
 The directions contained in such
 a decree must usually be general
 and rather determine the princi-
 ple on which the new survey
 is to be made than ^{fix} the
 precise location of the lines -
 In carrying into effect such
 directions new questions not dis-
 cussed or considered may arise
 and the questions then for the
 previous discussions will naturally
 have turned rather on the cor-
 rectness of the original survey
 than on the precise locations of
 the new lines directed to be
 run -

In all such cases it is clear
 that no such decree can be
 deemed final which has not

adopted and approved some survey ^{of plat.} fixing with precision the boundary line of the claimed land.

It is argued that only one decree is spoken of in the act viz the decree determining the ^{true} location of the land, and that the order approving such location when afterwards made is merely a decretal order entered after final decree —

But from what has been said it is apparent that in many cases most important questions may arise, upon which testimony must be taken and ~~the~~ argument heard before the court can ~~be~~ finally determine to approve and adopt the survey ~~also~~ made under its first order — While such questions remain open & undetermined, the decree can not be said to be final —

It may be true therefore that the act speaks of only one decree — but if so it is the decree by which some survey pre

trously made is adopted and approved — not the futuroctory by order by which a survey is rejected and directions for the making of another ^{survey} given. The language of the act confirms this view.

The 5th § provides that "the said plot & survey so finally determined by publication order or decree as the case may be, shall have the same force effect and validity in law as if a patent for the land so surveyed had been issued by the U. S."

It is obvious that the effect & validity ^{of a patent} which is here attributed not to the decree which determines how the survey should be made, but to the plot & survey finally determined by decree or otherwise — clearly showing that ~~the~~ a plot and survey must be before the court and finally passed upon by it before the provisions of the act can apply. -44

That a decree adopting & approving some survey before the Court was, ~~set~~ previously to the passage of the act, alone considered by the Supreme Court as a final decree is evident from the Case of U.S vs Rossatt. In that case, this Court had given directions in its decree for the location of the land and had determined every question relative to the location, referred to it by the Supreme Court or raised by the parties —

But the Supreme Court refused to entertain the appeal because no survey had been made and adopted by the Court.

The act of 1860 was ~~not~~ ~~not~~ intended to ~~set~~ ~~ap~~ appeal the existing law on this subject but to define and regulate the juris dictions already possessed by this Court —

The decision of the Supreme Court is therefore as an express authority on the as to the nature

and essential elements of a final decree of this Court on the location of a land claim.

It is objected that the publication as required by the 3^d ^{section} cannot be made in this case and therefore that that provision does not apply —

This is admitted — for it is obviously too late to make that publication "before any testimony shall be taken" as that ^{section} requires —

But the important provisions of the act relative to the admission of parties to the suit — the effect of the decree of this Court and the time within which an appeal may be taken are still susceptible of easy application to this case and must be deemed to apply ^{to it} if it be a pending case — unless the provision of the 6th § by which pending cases are made subject to the provisions of the act

as wholly mandatory —
An advertisement for such parties ~~can~~ to intervene can therefore be made in analogy to the advertisement required to be made in cases initiated under the ~~case~~ act. And mutatis mutandis to suit the difference between ~~them~~ the cases

Again if this be not a pending case it will be wholly none of the provisions of the act of 1860 can apply to it — The right of appeal must then ~~be determined~~ exist, if at all under the provisions of the act of 1851 —

But the appeal hitherto taken from the decree of this Court confirming the claim, has been dismissed by consent — It may thus a doubt of doubt whether any appeal from the order or decree of this Court determining the location ^{shall be made} can be taken —
For this cause has not been ^{the cases} like ~~them~~ ^{others} confirmed, decided by

f

The Supreme Court remanded
to this Court for further pro-
ceedings.

If however an appeal will be
it may be taken at any time
during 5 years -

The practical effect therefor
of withdrawing this cause from
the operation of the act of 1860
is so inconvenient, that it
affords an argument against ad-
opting any view of the case
which would involve such a
result -

The cause is in other respects
peculiarly within the class
with regard to which Congress
intended to make new provisions
and afford new remedies.

In passing the act of 1860
Congress had in view 3 great
objects -

1. To fix and define the jurisdiction
of this Court over
our cases - by authorizing ^{it} them
within a period strictly limited
to order them before it -

2^d To permit all ^{persons} parties whose interests were involved in the ~~questions~~ to intervene in the proceeding -

3 To limit the time within which appeals were to be taken -

These important remedial provisions were by the act extended to all cases pending in this court -

In the case at bar it appears that the land as located by this court is wholly embraced within the survey and location of an adjoining rancho.

The survey of that rancho has been ordered into court and is now a pending case.

The claimant in the present ^{case} will have the right, which he will no doubt exercise, to intervene in that proceeding -

But his adversary has not had, nor if this case be held not to be a pending case

will be ever have, an opportunity to intervene in this case ~~and~~ for the protection of his interest -

The court might thus in this case ~~and~~ where only one side has been heard adopt ~~an~~ ~~arrangement~~ arrive at a conclusion wholly irreconcilable with that to which it would reach in ~~a~~ ^{the} subsequent case where ~~both~~ ^{all} parties would be heard and testimony on both sides be taken.

~~But get that both decisions should be consistent.~~

It seems thus appears that ~~this~~ ^{it is open to} case is one to which the provisions of the Act of 1860 ~~might~~ should if it be possible be applied -

As the act of 1860 prescribes a short period within which appeals may be taken it is important that no doubt should exist as to the time when the final decree of this Court is

entered — for from the date
of its entry the 6 months within
which the appeal may be
taken begins to run.

If the decree by which a ^{survey} plot
and survey actually before the
court is adopted and approved
be considered the final decree
a ^{clear} certain and uniform rule is
prescribed admitting of no mis-
apprehension — But if the
decree ^{determining} ~~directing~~ a survey to
the mode in which the survey ^{is}
to be made is to be consid-
ered final or conclusive
according as the directions
contained in it are more or
less precise, the ^{date} time from which
the 6 months are to begin to
run will be left open to
doubt and dispute —

Various other considerations
might be suggested enough
has been said to show ^{that} on
principle as well as on grounds
of convenience, no decrees of
this court ^{with respect to the location of a land claim} should be held to

be a final decree which does not approve and adopt a ^{plot} survey previously made and actually before it.

All cases therefore in which no such decree has been made are to be regarded as pending cases, and subject to the provisions of the Act of 1850.

The motion for an ^{a decree} order approving the survey made under the previous decree of this Court, in this case is denied and the cause must be ~~proceeded~~ proceeded in subject to the provisions of the Act of 1850, and the rules of this Court relative to.

A special order will be entered directing a proper order motion to issue and ~~allowing~~ allowing all parties to intervene for their interest, and ^{the cause} must be further prosecuted in conformity with the rules adopted by the Court in this class of cases.

No. 28.

U. S. Dist. Court.

The United States.

— vs —

C. D. Seple,

Opinion on
Surrender.

Filed Aug: 31. 1860,

W. A. Cheney,

clerk

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

Present:

The Honorable OGDEN HOFFMAN, District Judge.

C. D. Sample

v.

United States

No. 28.

The Motion heretofore made in this case upon part of Claimant, for approval by the Court of the Modified Survey made by the Surveyor General of the U. States of the Rancho Colusa, was this day argued, thereupon and in consideration thereof it is ordered adjudged and decreed that said Motion be and the same is hereby overruled and it is further ordered that a ^{motion} ~~petition~~ in the usual form under the rules of this Court be forthwith issued & published returnable ^{on} the 19th day of this month -

No. 28,

UNITED STATES DISTRICT COURT

Northern District of California.

Chas: D. Temple,

v.

The United States.

Order denying
motion to approve
survey, and directing
issuing of Monition.

Filed September 1, 1860.

H. A. Chivers,

Clerk.

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the CITY OF SAN FRANCISCO, on *Wednesday* the *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.

Charles D. Sample,

IN LAND CASES.

District Court No. *28,*

Land Com. No. *144*

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 *A. C. Whitcomb* Attorney for *Jackson Mission*

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 U. S. and John J. Williams in behalf of the claimant, A. C. Whitcomb appeared in behalf of George Hager, and on motion it is hereby ordered, by the Court that he be allowed to intervene in behalf of the said Hager, 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. 28

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Chas. D. Sample,

ORDER ON RETURN OF MONITION.

CASE 28 ND

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Filed

Sept. 19

1860.

M. A. Covert

Clerk.

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United States of America,)

SS.

Northern District of California.

THE UNITED STATES
IN LAND CASES.
Northern District of Calif
STATES DISTRICT

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. 28, to *Charles D. Sample* known as "*Colusa*" 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 *4th* day of *September* A. D., 1860.

H. A. Chivers

CLERK.

The within Motion was received by me on
Tuesday the 4th day
of September 1860, and in obedience thereto
I have given due notice, as therein commanded, by causing
the publication of said notice, for 2 consecutive
Wednesdays, in the San Francisco Herald, commencing
on the 3rd day of September
1860; and for 2 consecutive Saturdays, in the
Marysville Express
a paper published nearest the land, commencing on the
8th day of Septe 1860

Dated San Francisco, Sept 19th 1860

P. L. Solomon U. S. Marshal.

No. 28

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

THE UNITED STATES.

v.

Chas. D. Sample,

MONITION.

Returnable Sept. 19. 1860.

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Issued Sept. 4. 1860.

Filed Sept. 19. 1860.

W. A. Church

Clerk.

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

CASE 28 ND

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The United States

vs.

Charles D. Temple

Claimant

No. 28.

Now comes George Hagar -
by leave of the Court first had and obtained -
and intervenes in this proceeding, and excepts
to the approved Survey (containing 8876²/₁₀₀
acres) of the "Colus Rancho" filed in this case,
because it embraces land granted to Manuel
Jimeno (the grantor of said Hagar) by the
Mexican Government in the year 1844, and
before the date of the Grant of the said "Colus
Rancho". - And the said George Hagar Inter-
venor herein in support of said Exception
alleges and says that, heretofore, to wit:-
on or about the 4th day of November 1844,
Manuel Micheltoena then Governor of the
California granted to Manuel Jimeno - a
Mexican Citizen - a tract of land seven leagues
in extent on the westerly bank of the Sacramento
River according to the diseño making part of
the Expediente No. 413, on file and forming
part of the Archives of the Mexican Government
in the custody of the United States Surveyor

General for California, reference to which is here made for a more full and accurate description of the said land: -

That on or about the 30th day of August A.D. 1847. the said Manuel Jimeno & wife sold and transferred the said tract of land or Rancho to Thomas O. Larkin and John S. Morrison, by deed bearing date upon that day, and now on file in case No. 131. of the late Board of United States Land Commissioners; for a more full description of which deed reference is here made to the documents and papers in said case now in the custody of the said Surveyor General;

That on the 24th day of March 1852 in pursuance of an Act of Congress, ^{approved March 3rd 1851} creating the said Board of Land Commissioners the said Larkin and Morrison filed their petition & claim in writing to said Board praying for a confirmation of their said claim to said tract of land:

That on the 10th day of January A.D. 1853, the said Board after hearing the proofs and arguments of Counsel decreed the said claim to be a good and valid one, and confirmed the same to the extent of eleven leagues according to the said Grant and design;

That afterwards to wit, on or about the

5th day of July A.D. 1853, this Honorable Court on an appeal of said case by The United States from the decree of the said Board of Land Commissioners affirmed said decree, and confirmed said claim to the said extent of Eleven leagues:

That afterwards, to wit: on or about the 12th day of May 1856, the Supreme Court of the United States - on an appeal of said case by the said United States from the said decree of the said District Court - ratified & affirmed said decree of said District Court, and finally confirmed to the said claimants the said tract of land:

That afterwards, to wit: in the months of October and November A.D. 1857, the said Surveyor General in pursuance of the said act of Congress of March 3rd 1851, caused said claim known as the "Junero Rancho" to be surveyed, and afterwards, to wit: on or about the 4th day of November 1858, duly certified and approved a plat or survey of the said land, and transmitted the same to the General Land Office at Washington City for the issuance of a Patent thereon.

And the said Intervenor would further represent that the Survey of the "Colus Rancho" claimed in this case by Charles D. Sample

(which survey purports to contain 8876²/₁₀₀ acres, and was filed in this case on the 17th day of January 1860) lies wholly within, and is embraced by, the said survey of the "Juñero Rancho" made, duly certified and approved by the said Surveyor General as aforesaid, and that the title of the said "Juñero Rancho" is both at law and in equity Superior to, and the elder of, the title of the said "Colus Rancho". -

And the said Intervenor would further represent that he is now the legal owner and holder by good and sufficient mesne conveyances from the said Larkin and Misses - - - - - of the larger portion, to wit: more than five thousand acres, of the land so embraced as aforesaid by the said Survey of the said "Colus Rancho". -

And the said Intervenor would further represent that within the limits of the original Grant and diseño in the said case of the "Colus Rancho" claimed in this case there are lands outside of the said survey of the said "Juñero Rancho" and outside also of the said Survey of the said "Colus Rancho", which said lands are sufficient in quantity to satisfy the amount of land claimed and confirmed in this

case to the said Semple; and that a Survey of said "Colus Rancho" can be made in conformity with law in such manner and form that it will embrace the quantity confirmed without in any manner interfering or conflicting with the said approved survey of the said "Jimeno Rancho". —

Wherefore the said Intervenor prays that the said approved Survey of the said "Colus Rancho" may be annulled, rejected and set aside, and that an order or decree may be entered herein for the making and return of another survey thereof which shall not interfere or conflict with the said approved survey of the said "Jimeno Rancho". —

A. C. Whitcomb
Attorney for George Hagar intervenor.

No. 28.

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

The United States

vs.

Charles D. Semple
Claimant

Intervention of George Hagar
and Exception to Survey.

Filed Sept. 27, 1860
W. J. Cheves,
Clerk

CASE 28 ND

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A. C. Whitecomb
Atty for George Hagar

U. S. District Court.

The United States

v.

Charles D. Semple.

No. 28; L. C. 144.

"Colus".

And now comes
Calhoun Benham, U. S. atty, and excepts
to the official survey of the land finally
conformed in this case, shown by the plat
filed in this Court Jan'y 17, 1840, approved
same day by Surveyor General for California,
and purporting to contain $8876\frac{2}{100}$ acres.

And the U. S. aver:—

That said survey is not in accordance
with the final decree, grant and diseno,
in this—that the place of beginning should
have been ascertained by running a ^{straight} line
one ^{league} and three quarters in length from
the large bend in the Sacramento River,
opposite the Buttes (that is, from Post T. M.
110, as shown on plat purporting to contain
8896 acres, also filed Jan'y 17, 1840) in a north
westerly direction to the ^{west bank of the} Sacramento River,
the extremity of which line should have
been the point of beginning; thence at right-
angles with said river at that point, south-
westerly, one league; thence south easterly on

subdivision lines as near as may be one league from the river Sacramento with its meanderings, two leagues in a direct line - that is, the north west corner should have been two leagues distant, in a straight line, from the southwest corner, while the line itself should have approximated, so far as the subdivision lines would allow, with the meanderings of the river; thence, from said southwest corner, to the Sacramento River so as to include the exact quantity of two Spanish leagues. - whereas the said survey as shown by said plat of 8876 $\frac{2}{100}$ acres commences at Post C.R. 1, as shown on said last named plat, and embraces but a very small portion of the land shown on the diseno - to wit, that portion ^{a part of} on which is located the town of Colusa.

Wherefore the U. S. pray that the survey shown by plat of 8876 $\frac{2}{100}$ acres be rejected, and the surveyor General be directed to reform the plat of 8896 acres so as to conform to the location hereinbefore set forth, if upon examination it does not appear to conform thereto already.

Dated San Francisco, Sep 29, 1840,

Calvin Benham
U. S. Atty.

28

U. S. District Court

The United States

v.

Charles D. Sempfle

Exceptions by U. S.

Filed Sep 29. 1880.

W. A. Chenevix

Clerk

CASE 28 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 *Wednesday* the *28th* day of *November* in the year of our Lord one thousand eight hundred and sixty.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States.
v.
Charles D. Temple.

No. 28.

This cause coming on to be heard on the motion of Counsel for Claimant to fix a day for closing the proofs herein, and to set a day for the hearing of the said Cause, and having been argued by Mr Williams for the Claimant, and by Mr Pringle opposed, and due deliberation being had in the premises, it is now ordered by the Court that the proofs be closed on, or before the 20th December next, and that on that day either party may move the Court to set a day for the hearing of this cause on the regular notice of three days.

No 28.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States.

v.

Chas. D. Semple.

Order to close
proofs on, or before
20th Dec: next.

Filed November 28. 1860.

W. A. Cheverly.

Clerk.

CASE 28 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 5th day of January in the year of our Lord one thousand eight hundred and sixty-one.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,
v.
Chas. D. Seiple.

No. 28,

L. C. 144,

On motion of Mr Whitcomb, Counsel for the Intervenor George Hager, ordered by the Court that he have leave to withdraw from the records of the Court in this case. The petition of intervention of the said George Hager.

28.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States,

v.

C. D. Sample.

Order to return
in: of Agar.

Filed Jan 5. 1861.

W. H. Chevers.

Clerk.

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At a Sth Term of the
District Court of the United
States of America for the North-
ern District of California, held
at the Court Room in the City
of San Francisco, on Monday
the Third day of December, in
the Year of our Lord One
Thousand, Eight hundred and
Sixty ~~one~~

Present:

The Honorable Ogden Hoffman
District Judge

The United States } D. C. No. 28
vs } I. C. " 144
Charles D. Temple }

"Rancho de Colus"

This Cause coming on to be
heard upon the exceptions to the
Survey of the land heretofore confirmed,
known by the name of "Colus," duly

approved, and the plat thereof re-
turned to and filed in this court, on
the Seventeenth day of January
One thousand, eight hundred and
Sixty ~~two~~, by the Surveyor General of
the United States for the State of
California, pursuant to the decree
and order of the court, made here-
in, on the Seventeenth day of Octo-
ber, One thousand, eight hundred
and fifty nine; and having been
argued by counsel for the respective
parties, and duly submitted by them
to the court for consideration and de-
cision, and due deliberation being
had in the premises:

Now, therefore,
it is ordered, adjudged and decreed
that the said exceptions be, and the
same are hereby, overruled:

And it is further ordered, ad-
judged and decreed that the said
Survey, containing Eight thousand,
Eight hundred and Seventy six acres
and two one hundredths of an acre,

of the said land claimed and confirmed in this cause, called "Colus", the plat whereof was, by the said Surveyor General, approved, and, on the said Twentieth day of January, One Thousand, Eight hundred and Sixty, returned to and filed in this Court, &c, and the same is hereby approved, confirmed and adapted by this Court, as the true, proper and correct Survey of the said land confirmed in this cause, called "Colus", as aforesaid, and that, in accordance with the said Survey and plat thereof, the following described boundaries be, and they are and shall forever remain, the exterior boundaries of the said land so confirmed and called as aforesaid. To Wit:

Beginning at a post marked C.R. No 1, on the right bank of the Sacramento River, from which a post marked I.M. bears North $14\frac{3}{4}^{\circ}$ East. one chain 92 links; thence West $17\frac{1}{2}$ chains 44 links to a post marked C.R. No 2; thence South $17\frac{1}{3}$

Chains 89 links to a post marked C. R. No. 3; Thence East 40 Chains to a post marked C. R. No. 4; Thence South 280 chains to a post marked C. R. No. 5; Thence East 40 chains to a post marked C. R. No. 6; Thence North $73\frac{1}{4}^{\circ}$ East, 166 chains, 40 links to a post marked C. R. No. 7, at the South East corner of the town of Colusa; Thence, along the town line North 17° East, 63 chains, 74 links, to a post marked C. R. No. 8, on the right bank of the said Sacramento River, thence up and along, the right bank of said River, with the meanders thereof, according to the courses and distances mentioned on the official plat, this day approved, by this Court, to the place of beginning

It is further ordered that a copy of this decree, duly certified by the clerk of the Court be served upon the Surveyor General.

San Francisco.
February 2, 1861.

Edw Hoffman
H. S. Dist Judge

28

U. S. Dist. Court

The United States

vs

Charles D. Simple

Decree

Filed Feby 2, 1861,
W. A. Chenevix,
Clerk

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on 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.
Charles D. Sample.

D. C. No. 38,
S. C. No. 144,

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 second day of February A. D. 1861, approved, and adopted, now on motion of Calhoun Beukam, 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 that a certified transcript of the pleadings, evidence, depositions, and proceedings in said cause be sent to the Supreme Court of the United States without delay,

No. 28.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States.

v.

Chas. D. Semples.

*Order granting appeal
in behalf of the
United States.*

Filed *April 12,* 186*1.*

W. H. Chevers,
Clerk.

CASE 28 ND

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Printed and sold by the District Court of the United States for the Northern District of California, in the year of our Lord one thousand eight hundred and sixty one.

[Faint, illegible handwriting covering the right side of the page]

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 Charles D. Semple Appellant and The United
States Appellees, wherein on the second day of
February A.D. 1861, a decree was entered approving
the official survey made by the Surveyor General
as shown by plat filed in said District Court on the
17th January A.D. 1860.

No 28

~~CASE 28 ND~~

~~PAGE~~

CASE 28 ND

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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 *sixty four* 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~~ *on the motion of Mr Black of Counsel for the appellee and with the consent of Mr Attorney General Speed - it is now here ordered, adjudged and decreed by this Court that this cause be and the same is hereby dismissed.*

30 Dec.

You, therefore, are hereby commanded that such _____ 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 *Salmon P. Chase* Chief Justice of said Supreme Court, the
first Monday of *December* in the year of our Lord one thousand eight hundred
and *sixty four*.

COSTS OF _____
Clerk..... \$ _____
Attorney... \$ _____
\$ _____

Tested by

L. O. Middleton

Clerk of the Supreme Court of the United States.

No. *92* *December Term, 1864.*

No. 28
MANDATE

SUPREME COURT UNITED STATES.

U. States vs. Semple

Filed Dec. 29th 1865
Seal of the Court
By Saml. C. Miller
deputy

CASE *28* *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 The the 30th day of December in the year of our Lord one thousand eight hundred and sixty-five

Present;

The Honorable OGDEN HOFFMAN, District Judge.

United States

v.

No 28 -

Charles D. Semple -

On this day came the claimant C. D. Semple by his attorney & filed a mandate of the Supreme Court of the United States dismissing the appeal heretofore taken from the decree of this court entered on the second day of February 1861, in the above entitled cause, approving the official Survey made by the Surveyor General, as shown by the plat filed in this court on the 17th day of January 1860.

It is thereupon ordered & decreed that said claimant have leave to proceed on said Survey as final & to apply for a patent thereon, according to law, & the clerk will certify to the Surveyor General of the United States for California a copy of this order.

Ogden Hoffman
Dist Judge

United States District Court,
Northern District of California.

United States

v.

C. D. Sample

*Order filing mandate
of Supreme Court*

CASE 28 ND

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Filed *Entered Dec 30th* 1865
Geo. C. Gorham
By Dan Sullivan Clerk.
deputy

At a stated term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the City of San Francisco, on the _____ day of _____, 1865, in the year of our Lord one thousand eight hundred and sixty _____.

Charles D. Simple }
 vs } Colus Ranch
 The United States } N^o 28

The reason assigned, by the Surveyor General, for not locating the Colus Ranch in the place indicated by the map is, that the Jimeno grant covers the same ground.

This position taken by the Surveyor General made it necessary, in the preparation of this case, to introduce testimony, concerning that grant to a limited extent, to wit, to show that the said Jimeno grant was a general grant for eleven leagues within a territory containing nineteen and a half leagues without any occupation or Juridical survey by which the title of Jimeno could attach to any particular part of said territory.

The facts of the case as shown by the title papers and the proof are, that in 1844 Jimeno solicited all the land within his accompanying sketch on the Sacramento River:

The Governor granted him eleven leagues of it. No Juridical Survey was ever made by Mexican authority.

It is now shown, by actual survey, and evidence, which is not controverted that there are more than nineteen leagues within the exterior limits of the desino.

Afterwards in 1845 John Bidwell solicited certain lands known as the "Colus lands," consisting of two leagues within the same territory out of which Jimena's land was to be taken. The certificate of the local Alcalde, and also the proof in the cause, shows, that, at that time the whole territory was unoccupied. Both these grants have been confirmed; and in 1856 they were surveyed upon the same identical ground to the extent of two leagues - thus extinguishing the title to one or the other to that extent. These surveys were sent on to Washington and were set aside by the Secretary of the Interior; and the Surveyor General was instructed to give each a

Separate location if he should find enough land within the exterior limits of both maps. (see Secretary's instructions on file). In ^{October} 1858 other surveys were made and approved by which all the land in the Lealus Sketch was included in the Jimeno Survey as before, and the Lealus Survey seems to be located somewhere in Township fifteen, supposed to be in the tule marshes; and is reported to contain some 2800 acres.

To set aside this last Survey and to have one made in accordance with justice this Hon Court is now appealed to.

The decrees of this Court, as to quantity, are conditional - If the maximum granted be found, by actual Survey, to be contained within the maps then it is all confirmed, if less, then less is confirmed.

First: does the Jimeno map contain more than eleven leagues? It is manifest that the Surveyor cannot proceed a single step under

the decree until he goes upon the ground, and by actual survey, and by taking proof of the identity of natural objects marked upon the map, fixes all the exterior lines and determines the contents—on rather this is inevitably the first step.

If the contents exceed the quantity granted, then the question of cutting off the surplus arises.

We will now examine the evidence by which we show that there is a surplus of eight and a half leagues in the Limeno Sketch which ought to be cut off at the North end leaving the Colus lands undisturbed.

The depositions of Cooper, Smith, Huls and Balaski show that the "Estero," marked as the South end of the map, is identical with the lower part or mouth of the Sycamore Slough at Knights Landing. The space on the sketch between "Estero," and the Hardy grant, is, by the scale about one and a half leagues. Balaski states it is $3\frac{1}{2}$ miles—nearly correct. Smith, Cooper and Huls state that the

first Slough above the Sycamore Slough is the Wilkins Slough, and that this last is, ^{about,} eighteen miles above. The public Surveys show the distance to be fifteen and a half miles in a right line. The sketch shows this estero to be a wide sheet of water and extending about one league from the River. The witnesses describe a lake at the mouth of the Sycamore Slough and no other in the vicinity.

These facts alone, in the absence of any opposing testimony would seem to be conclusive of the Southern boundary.

From this point to the Northern boundary, at Sarthins Childrens grant, is shown, by the public Surveys (see Balaskis deposition) to be thirty nine miles; and upon this assumption Capt Gilmer of the U.S. Topographical Corps, in his deposition, gives the contents at nineteen and a half leagues. The area being found to be too great, the question arises, where shall the surplus be cut off? The Surveyor General, by his action, says it must be trimmed a little on the West next to the tule, and all the

residue taken off the south end, notwithstanding the Secretary's instructions that it may be taken off "one or both ends,". The Supreme Court, by way of argument, seem to indicate that it may all be cut off the West Side. The Court say (18th Howard p 561) "Three sides are given and the quantity will guide the surveyor in closing the lines by running the fourth,". Upon full argument Secretary Thompson decided that this was argumentative, and not directive; and directed that the surplus be cut off "at one or both ends,".

When we consider that there was no surveying done in California before the conquest, and that there were rude sketches or designs were the only notice to subsequent petitioners for land, it would seem that the Secretary's mode was the only just one, that is, that the reduced map or survey by the U.S. Government must be in the same shape as the sketch. It seems that in the absence of all controlling circumstances the proper rule would be to locate all

grants by their centres—maintaining, in the new map, the same locality indicated, in the old one, by the natural objects or land-marks noted thereon. But it is clear that this rule is relaxed by the 6th Section of the act of Congress of the 3rd March 1831 adopted by the act of 1851. This relaxation was found necessary by our Government to enable it, to fulfill all its obligations justly and generously, in cases where the former Government, through inadvertence had granted lands interfering by their descriptive boundaries. Congress, in the act above referred to, in effect, declare that it would be bad faith to force a conflict between grantees by cutting off the surplus at the sides opposite the lines of conflict, and thus profiting by the ignorance or carelessness of the former Government, and in effect, taking back, by indirection, land once solemnly granted to a citizen.

Not only is the discretion of the Surveyor General curtailed by the act of Congress above referred to, but

the Supreme Court in Freeman's case page 558, in effect, say that the whole extent of Jimeno's claim, legal or moral, against our Government is, that eleven leagues shall be laid off to him somewhere within his sketch by a public officer whose acts are now under the supervision of this Hon Court. ~~Whereas~~ his claim would be completely discharged by locating his land in the south end of his sketch whereas Bidwell's claim could not be satisfied by giving him any other than the locus land, which was granted to him by name and therefore he could not take land any where else.

Having shown that to cut the surplus off one end of this grant would be productive of results honorable to the Government, it may, nevertheless, be necessary to show the absurdity of any other theory. Suppose we take the language of the Supreme Court above quoted (18th Howard 561) as directory and going to the conclusion of the Judgment there could be no surplus, the final decree of this Court confirming

eleven leagues on condition that that quantity be found within the sketch, would be ~~foolish~~ nugatory. There could not possibly be less than eleven leagues in it, for if it were found by measurement to be only one mile from the "Estero," to Sarthius childrens grant, then the back line must be extended to the Coast Range on the Pacific Ocean, for quantity. On the contrary if these points were found to be 100 miles apart then the new survey would be a mere shoe string on the River; and in either case would be very unlike the the old sketch which was intended as notice to other grantees. Either the final decree, or this sliding line doctrine must go to the wall.

It may be insisted that the Jimeno grant is older than the Bolus, and therefore the claimant has a right to choose his land in any part of the territory reserved for him. But this power to choose is distinctly denied to him in the Freeman case page 558 and again

at page . The Court say, in substance, that the Government locating officer may survey a general grant anywhere within the territory without regard to the wishes of the claimant; and that if such officer should locate this general grant upon that of a junior grant, ^{with specific bounds} to this extent it would be void. Whatever might be the result, in a suit between a junior grantee holding a patent for specific land and one holding a patent under a senior general grant, it seems clear that the Government is bound to give the former a location if he seeks it before the latter asks for his; more especially when it is shown that there is sufficient land left for the general grantee and a great surplus over. The locus in question is now before this Court for location, and we might have relied upon the rule of this Court - that Calaudante could not be heard - and asked for a survey according to our

map, entirely ignoring the existence of any other grant; but we have thought proper rather to meet every point which could possibly be raised against us. We will suppose that Limeno were before the Court and that we were trying the strength of titles, is the latter grant a specific one within the meaning of Freeman's Case page ~~558~~ 558?

The Court use the words "Specific boundaries," and "Specific land," as synonymous terms; and they distinctly assert the right of the Mexican Government to make grants of specified parts of the same territory out of which Alvarado was to take his land, at any time before he should choose (by judicial survey) what particular part he wanted. Now, conceding this right to the Government, how is it to avoid doing injustice to some of its grantees? The answer is plain. It must specify, in all the subsequent grants, what particular part is granted; so that

The locating officer may go upon the ground and find the land specified in the subsequent grants and afterwards locate the general grant without needing any other guide but the quantity. To illustrate: we will suppose that after the grant to Alvarado, the Governor had granted to John Doe the land called the "agua fria," lands containing one square league according to a sketch accompanying, and in the centre of this sketch was the representation of a large spring; and four black lines drawn around it each one league long by the scale. If the spring could be identified surely the surveyor could not fail to carry out the will of the grantor. The exterior lines, though drawn with a pen to suit the size of the sheet of paper, are fixed and their locality known by the scale. The rule of law is, that whatever can be made certain shall be considered certain. If I sell a tract of land beginning twenty

miles due East from this Court room, running thence certain courses and distances around to the Beginning the Surveyor can as certainly find the place of beginning as if I had described it on a whole page of fool's cap. It is true that if the Surveyor should go upon the ground and find two or more cold Springs called aqua freo then John Doe would loose his land for ambiguity, as laid down by the Supreme Court in 19th Howard page 363; but it is incumbent upon the opposite party to show the facts out of which this ambiguity arises.

So of the locus grant; the Indian village "Locus" is identified beyond controversy; and it must be specific land because no Surveyor with the map in his hand could possibly commit an error in carrying out the intentions and expectations of both the grantor and grantee.

But it is needless for us to

urge farther the specific nature of the locus grant, since this Hon court, in its decision confirming it, addressed itself particularly to this point.

Recapitulation

1st

Regarding this suit as a controversy only between the United States and G. D. Sample, a glance at the desino and the map returned by the Surveyor General marked A will show that the survey is in the wrong place; and that whereas we once had two leagues of land on the Sacramento River we now have 2,000 acres supposed to be somewhere in the tule marshes.

2nd

Supposing that this Court chose to consider the interest of Jimeno, then we have shown that we are only seeking our own, and not endeavouring to injure him or to lessen his claim against the United States.

3rd

The dates of the grants will show that Jimeno had nearly a year in which to choose (by juridical survey) his land, before Bidwell's grant

was made but that he neglected to do so; and by such neglect it was clear that he either considered all the land in the Territory of equal value, and therefore was indifferent which part he got, or, that he was endeavouring to hold a large amount of the public domain and prevent its settlement.

4th That Jimeno, after fifteen years delay, has no right by law to choose any portion of the Territory which may have become the most valuable by the labor and capital of others.

Note The sketch on tracing paper accompanying this brief exhibits the localities spoken of by the witnesses. The map marked B is a survey ordered by some of the parties in interest with a view to a settlement of the controversy which was never effected. We are satisfied with it.

C. L. Venable

At a Stated Term of the
District Court of the United
States of America for the Northern
District of California, held at the
Court Room in the City of San
Francisco, on Monday the Third
day of December, in the year
of Our Lord One thousand, Eight
Hundred and Sixty,

Present:

The Honorable Ogden Hoffman
District Judge,

The United States } D.C. No 28.
 } I.C. " 144.
Charles D. Sample }
 } ^{vs.}

"Rancho de Colus"

This cause coming on to be heard
upon the exceptions to the Survey of
the land heretofore confirmed known
by the name of "Colus", duly approved,
and the plat whereof returned to and
filed in this Court, on the seventeenth
day of January One thousand, eight
Hundred and sixty by the Surveyor

General of the United States for the State of California, pursuant to the decree and order of the Court, made herein, on the seventeenth day of October, one thousand, eight hundred and fifty nine; and having been argued by counsel for the respective parties, and duly submitted by them to the Court for consideration and decision, and due deliberation being had in the premises:

Now, therefore, it is ordered, adjudged and decreed that the said exceptions be, and the same are hereby, overruled:

And it is further ordered, adjudged and decreed that the said Survey, containing Eight thousand, Eight hundred and seventy six acres and two one hundredths of an acre, of the said land claimed and enforced in this cause called "Colius", the plat whereof was, by the said Surveyor General approved, and, on the said seventeenth day of January, one thousand, Eight hundred and sixty, returned to and filed in this Court, be and the same is hereby approved, confirmed and

adopted by this Court; as the true, proper and correct Survey of the said land confirmed in this cause called "Colusa" as aforesaid, and that, in accordance with the said Survey and plat thereof, the following described boundaries be, and they are hereby shall be forever remain, the exterior boundaries of the said land as confirmed and called as aforesaid - To wit: Beginning at a post marked C.R. No. 1, on the right bank of the Sacramento River, from which a post marked L.M. bears North $14\frac{3}{4}^{\circ}$ East one chain 93 links; thence West 172 chains 44 links to a post marked C.R. No. 2; thence South 173 chains 89 links to a post marked C.R. No. 3; thence East 40 chains to a post marked C.R. No. 4; thence South 280 chains to a post marked C.R. No. 5; thence East 40 chains to a post marked C.R. No. 6; thence North $73\frac{1}{4}^{\circ}$ East, 166 chains, 40 links to a post marked C.R. No. 7, at the South East corner of the town of Colusa; thence along the town line North 17° East 63 chains, 74 links, to a post marked C.R. No. 8, on the right bank of the

said Sacramento River, thence up and along, the right bank of said River, with the meanders thereof - according to the courses and distances mentioned on the official plat this day approved, by this Court, to the place of beginning.

It is further ordered that a copy of this decree, duly certified by the Clerk of the Court be served upon the Surveyor General.

Edwin Hoffman
 U. S. Dist Judge
 San Francisco
 February 2, 1861

(Embraced)

Filed February 2, 1861,
 W. W. Chivers

Clerk -

I, GEORGE E. WHITNEY, Clerk of the Circuit Court of the United States for the District of California, and ex-officio Clerk of the District Court of the United States in and for said District, hereby certify that the foregoing is a full and true copy of *the Plat of the Colusa Rancho filed on the 14th day of January 1860 and Decree*

on the *14th* day of *February* A. D. 1861 in the above entitled action, filed in my office

Attest my hand and the seal of said District Court this *21st* day of *August* A. D. 1868,

GEO. E. WHITNEY, Clerk.

By *W. F. Gardner* -

Deputy Clerk.

No 28 ND.
144139

U. S. Dist Court,

The United States

- 55 -

Chas. D. Sample

CASE 28 ND

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sent

U. S. District Court,

The United States

v.

3728

Charles D. Temple

In the opinion of the Court rejecting the survey, the following language is used:

"It is clear, however, that the present survey is erroneous. The present claimant must have his land, if at all, on the place indicated with unmistakable certainty by his diseno."

"For the purposes of this suit it is enough to say, that the claim should be located within the boundaries called for in the grant and delineated on the diseno."

In this view the U. S. find their position strongly expressed, and it only remains to ascertain by the light of the grant and diseno where the land lies.

The grant donates the tract of land named "Colus" situated

on the bank of the River Sacramento, which is (the River) to the North East, as shown by the diseño.

The diseño indicates the land granted so plainly, that no difficulty arises ^{in determining} ~~to determine~~ the location, if the plain calls of the sketch be followed, undisturbed by any reference to the Jimeno grant.

The diseño shows the three peaks, or Buttes, which lie to the east of the River - it shows a section of the River enclosing with three arbitrary lines the land solicited and granted. This portion of the river is Northwest in its general direction, governed by the points of the compass on the diseño, consequently the river itself is the northeastern boundary of the land. Another notable natural object is the large bend in the river immediately west from the Buttes. The Raucher's Colus is also shown on the diseño, and in the absence of better proof it must be taken to have existed where it is shown.

It seems evident that the diseño contemplated a tract of land one league in width from the river and two leagues in length on the river, with

the ~~Ranch~~ ^{Rancheria} Colus situated on the river about midway of the tract.

A reference to Lewis' plat containing 8896 acres, in connection with the diseño, shows the general accuracy of the latter. By the plat the Buttes are shown with reference to the big bend in the river, - the course of that portion of the Sacramento is shown to be north easterly; and it is plain that, determined by the natural objects, the Rancheria must have existed very near "Post d. M. 97."

This plat then would seem to locate the granted land with great accuracy, and therefore should be adopted.

The Jimeno case has nothing to do with the location of the land confirmed in this - because
 1st - The Colus grant must be located with reference only to the diseño - if it conflicts with the future location of the Jimeno, ~~that~~ ^{such} conflict must be

Copy.

CASE 28 ND

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Department of the Interior

Sir,

Washington, June 29th 1858.

I have carefully considered the report of the Surveyor General of California, of the 19th February last in the matter of the location of the Private Land Claims, called "Jimeno" and "Colis" and numbered 131 and 144 on the docket of the Land Commissioners.

These claims have both been confirmed pursuant to the act of Congress of March 3^d 1851 - and the Surveyor General has been called upon to make and return the surveys pursuant to law. Surveys have been made by a deputy which have not been officially approved by the Surveyor General, but he has submitted a plat of said surveys, for the advice of your office.

You have proposed instructions of the 30th April last, and from these the parties of interest under the "Colis" claim have appealed to this Department, and the appeal is submitted with your report of the 18th ultimo.

Should the proposed surveys be approved and patented, the respective confirmees would hold adverse titles, for the same land, to the extent of nearly two square leagues.

After careful consideration of the case, I am of the opinion that the surveys which have been submitted, ought not to be approved. The "Jimeno" claimants, have by their confirmation a vested right to eleven square leagues of land, if so much be contained within the boundaries indicated by the sketch or plan, which was before the Court, - but if there be less within those boundaries, then they have right only to such less quantity.

If there be more than said quantity of eleven square leagues within the boundaries, said quantity of eleven leagues may be surveyed to the claimants, in a compact form within those boundaries.

The "Colis" claimants have right to two square leagues, if that quantity is contained within the boundaries indicated by the sketch or map, - and if not, then to the less quantity. If there be more, then two square leagues may be surveyed to the claimants, in a compact form within the limits of their sketch.

The confirmations are now both before the Surveyor General for location, and it is his duty to give effect to both if it can properly be done.

From his report and the other papers in the case, and from statements of Counsel, it is evident that the respective sketches or designs each indicate a greater quantity of land than has been confirmed to the claimants, - and should the Surveyor General find the area indicated by the exterior non-interfering lines of the two maps or sketches, to be greater than thirteen square leagues, - the aggregate of the maximum of both confirmations, - he should endeavor to give both claims a location according to the general principles and instructions applicable, so that each may have its maximum of land within the proper sketch, or as near its maximum as the respective designs will justify, and there be no interference of the lines of survey. If this be impossible, the interference should be as slight as practicable.

After the careful examination which I have

given to this case, I deem it proper to say that the surveys by the deputy now before me, independent of any conflict between the two, appear to be objectionable from having too great an extent of front on the Sacramento river.

As under the Mexican Government, the grantor was not at liberty, when taking his survey to give what form he pleased to his land, - but this authority was exercised by the officer of the government, so in locating a quantity confirmed, which is less than the area included within the limits given for finding the land, the Surveyor General of California, should in his official action look to the public interest, whilst he endeavors fairly and justly to act upon private rights.

In a climate like that of the Sacramento Valley, a proper regard to the convenience and development of the adjoining public lands, and circumstances tending to enhance or diminish their value, and conformity to the regulation requiring compactness of form, should, unless obstacles not now perceived intervene, lead the Surveyor General, if the parties ask the river on one side, to extend their land back to the opposite line of their respective sketches, and to throw off the excess at one or both ends, - for I regard each of the lines of the surveys, in the two confirmed claims under discussion as of equal dignity and authority with the other lines of the same sketch.

You will therefore, be pleased be pleased to instruct the Surveyor General of California, to apply

the principles of this decision in his official action
under the decrees of Confirmation of the two claims
to which his report of the 19th February last
refers.

The papers which accompanied your report,
and those since filed here, are now enclosed to your
Office.

Very Respectfully

Your Obedt. Servant

J. Thompson

Secretary

(Signed)

The Commissioner
of the
General Land Office.

Charles J Lemple }

vs

vs. vs Decece

The United States } stated term July 5th 1855

Appeal from the final decision
of the Commissioners to ascertain &
settle private Land Claims in California

This Cause coming on this day to be heard
upon the Certified Transcript of the proceedings
and decision of the Board of Commissioners of private
Land Claims in California and of the papers and
evidence on which the same are founded, the
pleadings and further evidence taken by order of
this Court and the Counsel of both parties being
present,

In consideration whereof the Court is of opinion
that the decision of said Board of Commissioners
rejecting this Claim is erroneous and the same is
hereby reversed.

And this Court does adjudge order & decree
that the Claim of the Petitioner to the tract of
Land known as Colus is valid and the same
is hereby confirmed to him to the extent of
two square leagues and for no more, being the
same land described in the grant, and in the Maps
and espediente referred to therein - Provided that
the said quantity of land granted and now here
confirmed be contained within the boundaries
called for in the said Grant and Map to
which the grant refers: and if there be less
than the said above named quantity within the
said bounds, than that less quantity is hereby con-
firmed, it being apparent that the said quantity

exceeds the minimum of two hundred Varas
square as prescribed by the ordinance of the
21st of November 1828, of the Mexican
Government.

(signed) M. Hall McAllister
Circuit Judge

(") Sydney Hoffman Jr.
Duty Judge

28
Dec-11

CASE 28 ND

AGE 198

Office of the Board of Commissioners,

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

San Francisco, Aug. 5. 1854

John A. Manroe 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. 144 on the Docket of the said Board, wherein

Charles W. Sample is the Claimant against the United States, for the place known by the name of Coluz

and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

Geo. Fisher.

Sig.

At a Sited 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
30th day of May in the
year of our Lord one thou-
sand eight hundred and
fifty nine.

Present:

The Honorable Ogden Hoffman
District Judge.

Charles D. Temple

vs

The United States

N^o. 28 D. C.

vs. 144, D. C.

Upon motion
of the said Claimant by his attorney
it is ordered that the Surveyor
General of the United States for the
State of California return into this
Court the survey by him made
and approved of the Rancho
"Calus" claimed in the above case.

Endorsed

Filed May 30th 1859

H. H. Cheever

Clerk

S. H. W. Chevers Clerk of the
District Court of the United States
for the Northern District of California
do hereby certify the foregoing to be
a full true and correct copy of the
original now on file and remaining
on record in my office.



In testimony whereof
I have hereunto set
my hand and affixed
the seal of said Court
this 5th day of September
A. D. 1859
S. H. W. Chevers,
Clerk.

~~28~~
MD

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2 leagues on the bank
by a canal land

Stipulated clause shows the
 extent boundaries con-
 tained more than 2 leagues

If there is more than
 2 leagues it must be
 by the river's left bank
 to the east. But if it be
 placed to the east it is
 pursuant to the diseno;
 and in reconciling the re-
 pugnancy - in following
 up to the river the back
 line must come along -

I will change you to
put you where you belong.

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1845
Oct.

Titulo to John Bidwell.

CASE 28 ND
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Two leagues on the bank,
bounded by the river, and
vacant land, as delineated
by the diseno - the passage
"Colus".

Diseno contains more
than two leagues.

No survey or jud. pps.

No settlement ~~of~~
~~any kind~~. Bidwell
built a corral in 1849,
and a puebo with Larkin
to take his land next to L's
children. Rancheria Colus
within the tract.

Bidwell is a sur-
veyor of a very accurate
man & his ^{diseno} ~~survey~~ there-
fore expected to be ac-
curate. He used a compass.
The diseno verified by
the official survey.

Seane Wigner
 saw the Rancheria
Calus on the land in Dec.
 1849 & a corral about
 200 yds below it.

Dr Wozencraft says the
Rancheria was within 150
 yds of the town of Calus
 on a mound. Sycamore slough
 about 8 miles below & a small
 slough above.

Decree is for two leagues
 within his diseño.

Feb 1853 Bidwell
 There is a noted object -
 a mound - the site of the
Rancheria Calus. The Nov.
boundary begins a league above this
 mound & runs back at right
 angles from the river one
 league - down the river far
 enough to take in two leagues.
 The tract was intended to be
two leagues long and one
wide. In point of fact the fi-

from on the basis by its scale
does not embrace more than
~~two~~ leagues. The map shows
2 leagues x one league.

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Situation of the case.

June

1859

June 9

Survey returned.

Oct 22

Set aside - see decree.
see opinion of that date.

Dec. 28.

Affidavit of Nigrier &
prayer for order of re-
turn of survey.

" 29

order to return 2nd survey.

1860

Aug. 22

Motion for approval of 2nd survey
denied.

Sep. 1

Motion under late act
ordered

" 19

Motion ret? parties in court.

1861

Jan 5.

Intervention of Hager by writ
cont withdrawn -

The decree of Oct 22, 1859.
is ~~annulled~~ annulled by the
late act of Congress! 4 June 1860.
If not, it is only interlocutory,
& may be disrescinded, as it ought to be

for error.

Drif.

The true location is a tract to be laid off as follows: ^{a point on a line north of} commence at the ~~point~~ ^{ground} where the rancharia Colusa was situated - about 150 yds from the Steamboat landing of 1855 in Colusa.

thence ~~west~~ ^{westerly} at right angles to the general course of the river in that immediate vicinity that is to say for two leagues down the same one league

thence southerly along the parallel ^{as near as possible} with the Salt river two leagues;

thence easterly to the river;

The river being the Easterly boundary.

The error consists in the departure from this.

The Pisero does not
seem when tested by the scale to
contain more than two leagues
of land & I do not believe
it does. ~~Certainly~~

Certainly when in-
terpreted by the testimony
it does not.

Bidwell says it repre-
sents a two league tract
was intended to do so. This
is clear too. The north line
is shorter than a league
the south line is shorter
than a league - the back
line is two leagues - the
bends of the river are sweeps
to the east - these sweeps
seems to have been allowed
for by the length of the N.
& S. lines. Simple is es-
tablished by Bidwell's tes-
timony.

Colno is in the middle
by its delineation & by
Bidwell's description
& location of the Corral.

28 HD
Colum.

Temple

May