

CASE NO.

213

NORTHERN DISTRICT

YERBA BUENA

O' SOCAYRE GRANT

ANTONIO CHABOYA

CLAIMANT

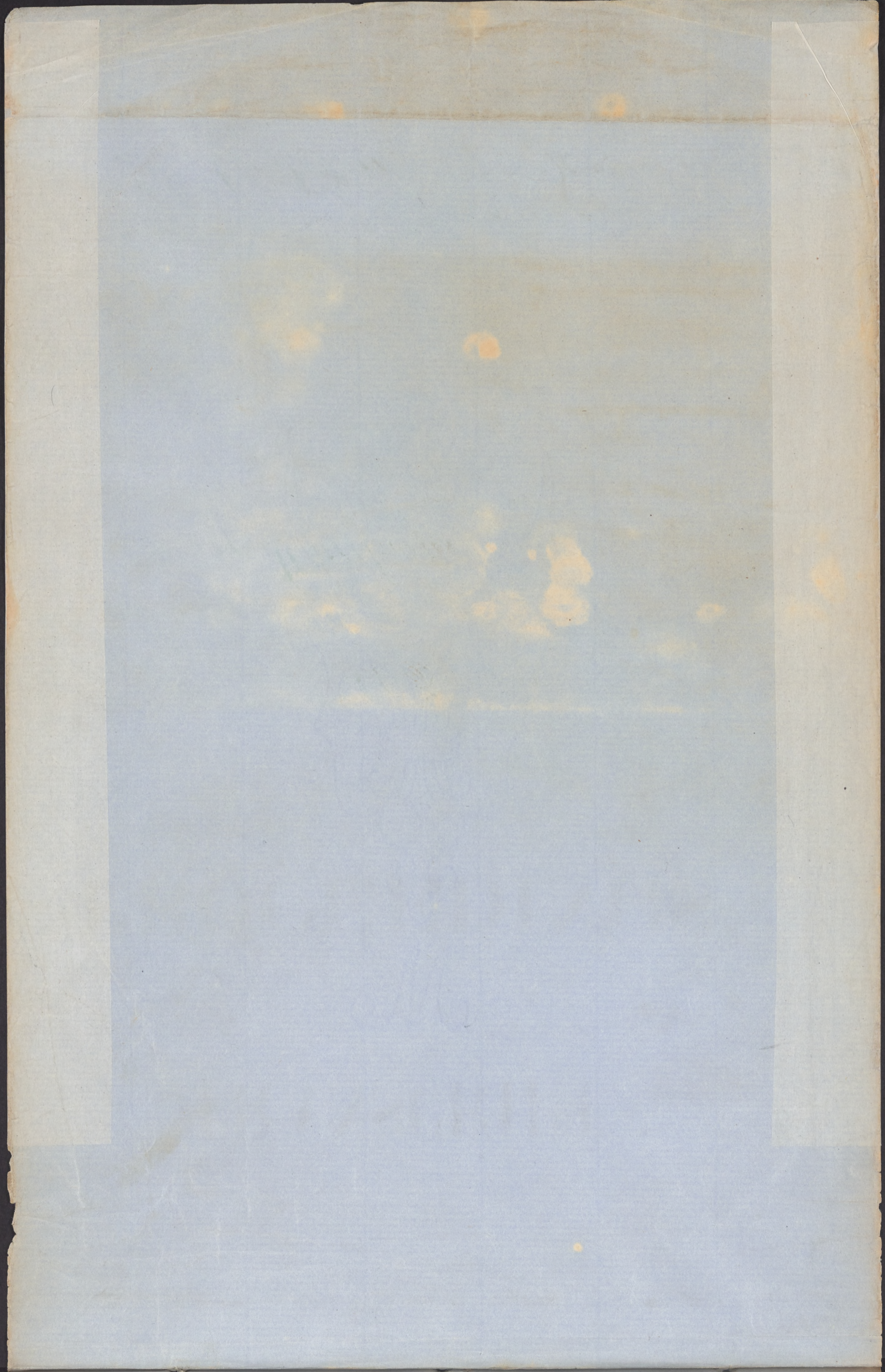
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LAND CASE 213 ND. 136 PAGES

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93



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PAGE 1

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 93

Antonio Chuboya

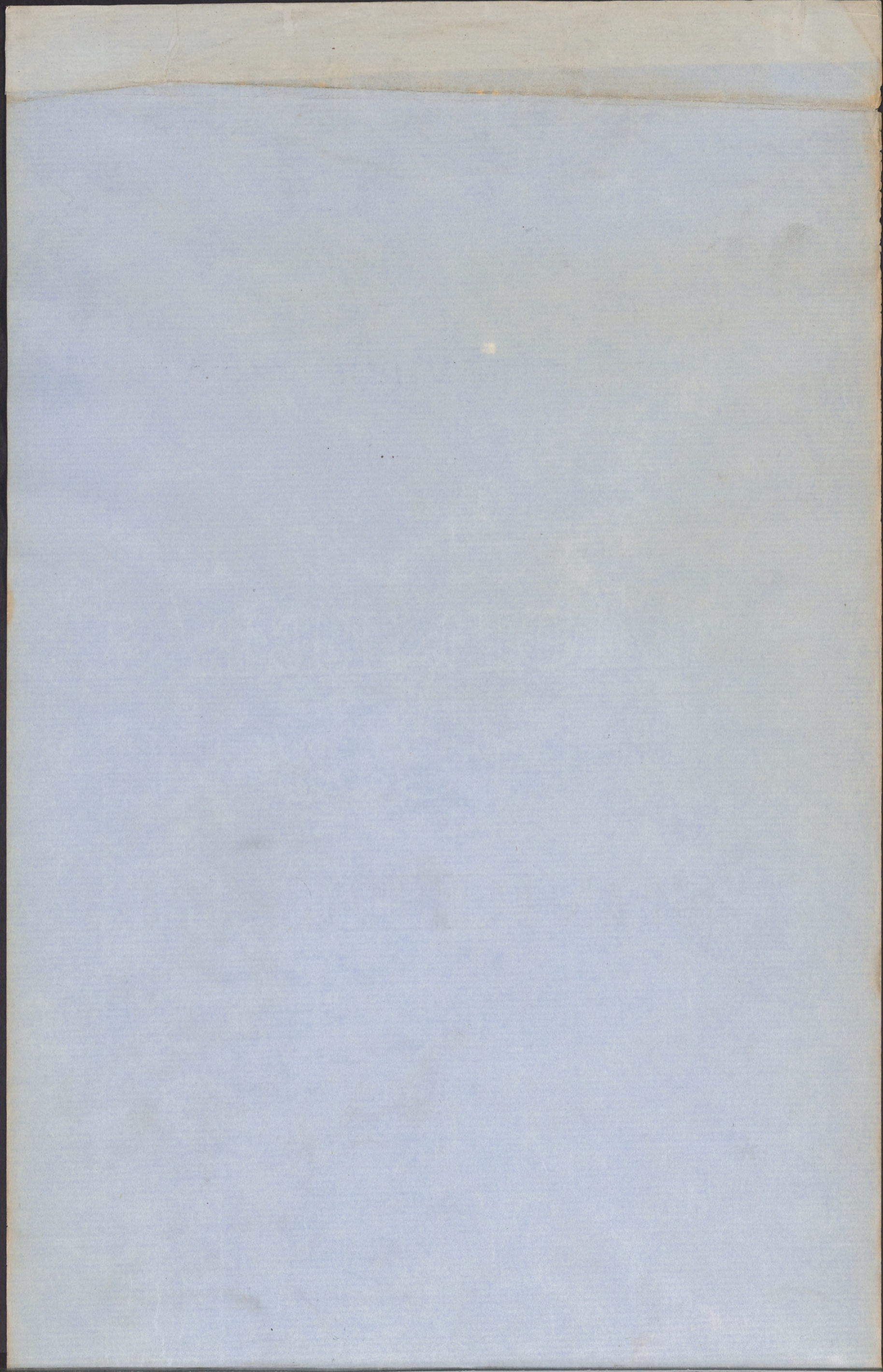
CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

Yerba Buena o Socayre



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, that on this *March Ninth*,
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;

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The Petition of *Antonio Chaboya*,
for the Place named
"*Terba Buena o Socayre*,"
was presented, and ordered to be filed and docketed with No. 93, and
is as follows, to wit;

(Vide page 3 of this Transcript.)

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

San Francisco, February 14 1853.

In Case no. 93, Antonio Chaboya for the place named
"Terba Buena o Socayre," the deposition of Juan
Soto, a witness in behalf of the claimant, taken
before Commissioner Harry J. Thornton, was filed;

(Vide page 7 of this Transcript.)

San Francisco December 10 1853.

In the same Case the deposition of Juan B. Alvarado,
a witness in behalf of the claimant, taken before
Commissioner Thompson Campbell, with arguments
marked "D. C. no. 1 + A. D. C." annexed thereto was
filed;

(Vide page 5 of this Transcript.)

San Francisco, December 31 1853.

In the same Case the deposition of Jose Ramon Mora,
a witness in behalf of the claimant, taken before

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Commissioner Thompson Campbell, was filed:
(Vide page 6 of this Transcript.)

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San Francisco January 4' 1854.
In the same case the deposition of Antonio Maria Pico, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed:
(Vide page 11 of this Transcript.)

San Francisco October 10' 1854,
Case no. 93 was submitted without argument and taken under advisement.

San Francisco Oct. 19' 1854,
In the same case Commissioner Alpheus Felch delivered the opinion of the Board confirming the claim;

(Vide page 47 of this Transcript.)
and the following order was made, to wit:
(Vide page 48 of this Transcript.)

4.

San Francisco October 24' 1854.
In the same case the counsel for the claimant filed the following Affidavit, to wit:
(Vide page 42 of this Transcript.)
Ordered, That the record be amended and that the said deposition be filed in case no. 93 in accordance with the affidavit.

Before the Honourable the Commission to ascertain and settle Private Land Claims in the State of California Antonio Chaboya, a citizen of said State gives notice that he claims a tract of Land therein, situated in the County of Santa Clara with the boundaries shown in the annexed map or plan and known by the name of Terba Buena of Tocupe.

The claimant went into possession of said Land in the year _____ by permission of the authorities of the Municipality of San Jose de Guadalupe, to the commons of which town it was supposed to belong; and on the 25th of November 1833, his right to the same was recognized, and a decree to give him full title thereto, given in his behalf by Don Jose Figueroa Potezal Chief or Governor of California, and as such authorized to make said decree and the claimant has ever since lived on, occupied and possessed said Land uncontested.

The original of the papers before mentioned exist in the Archives of the former governments of California. A copy of the certified copy of said decree which was furnished to the claimant by the then Governor Figueroa, with a translation of the same and a copy of a map or plan of said land are herewith presented marked "A"

The claimant relies on the documentary testimony above referred to, and on such other testimony as he may obtain -

There is no conflicting party to said land or to any part thereof in the knowledge of the claimant

Jones Tompkins & Strode

Attorneys for claimant

Filed in office March 9th 1852

Geo. Fisher

Secy

Recorded Journal Vol. I Pages 339

Geo. Fisher Secy

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Dep. of Ocean Office of the U.S. Bureau of Land Commission
13 Alameda San Francisco Dec 10th 1880

5-
Dep. of Juan
B Alvarado

Office of the U.S. Board of Land Commissioners &c
San Francisco Decr 10th 1853

This day before Commissioner Thompson Campbell came
Juan B Alvarado a witness on behalf of the Claimant
Antonio Chaboya Petition No. 93, and being duly sworn
his evidence being given in Spanish was interpreted by
the Secretary as follows

1 Question. What is your name age and place of resi-
dence.

Answer. My name is Juan B Alvarado I am forty four
years of age and reside in Contra Costa County

2 Question. Look on the document now shown you and
marked A. F. C. and annexed to this deposition, and state
whether you are acquainted with the hand writing of
Alvarado, Castillo, Manuel Jimeno and Jose Castillo
and also state your means of knowledge, and whether
their signatures, when they appear on said docu-
ment are in their proper hand writing.

Ans. I have examined said document and am ac-
quainted with the hand writing and signatures of the persons
therein named, having seen them all frequently write and
sign their names, and recognize their signatures where
ever they occur on said document as their genuine signa-
tures, and that of Alvarado is my own signature I
signed the said paper in two places, at the respective
dates as they appear on said document, as the Governor
of California

3 Question. How long has the Claimant Occupied the prem-
ises in this case?

Ans. I was never on the premises myself but was satis-
fied officially from the reports that he was for some
time in the occupancy at the time the grant was made
Examined by Associated Land Agents

Question. Do you recollect the reason why you did not
give the Claimant in this case a title in the ordinary
form?

Ans. Because the party did not ask for a formal
title, and he was satisfied with the decree as made
This is what I now believe to be the case, after an
examination of the papers. In some cases the parties were
satisfied with a title in this form, and never returned
the Expediente to have their title formally issued, and I
believe this was the case with the grantee in this case

Examined by Claimant's Counsel

1 Question. Did you know officially from information taken

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of the existence of a grant or permission to settle and occupy the lands now claimed made by Jose Figueroa Governor anterior to the date of your decree of Concepcion Ans. I did know officially of the existence of such a grant.

Quest. Look on the paper now shown you and marked T.C. No 1 annexed to this deposition and state whether you are acquainted with the name writing of Augustin V. Lamorano, and if so state your means of knowledge, and whether his name where it appears on said paper is written in his hand writing?

Ans. I have examined the said paper and I am acquainted with the signature of Augustin V. Lamorano having frequently seen him write and sign his name and I recognize the signature on said paper as being his genuine signature - At the date of this document Lamorano was Secretary of the Government of California -

Shown to and subscribed Juan B. Alvarado before me this 10th day of December A.D. 1853 - Thompson Campbell Comr.

Filed in Office Decr 10th 1853

Geo. Fisher Secy

Recorded in Ev. B Vol 3 p 505 - Geo. Fisher Secy of Office of the U.S. Board of Land Commissioners to be San Francisco Dec. 31. 1853

Dep. of Jose R. Mesa

This day before Commissioner ^{Thompson} Campbell came Jose Ramon Mesa, a witness on behalf of Claimant Antonio Chaboya Petition No. 93 and being sworn his evidence being given in Spanish was interpreted by the Secretary as follows -

Quest. What is your name age & place of residence Ans. My name is Jose Ramon Mesa, I am thirty two years of age and I reside in the County of Contra Costa

Quest. Are you acquainted with the Rancho called Yuba Blanca & Socayre claimed by Antonio Chaboya and if so how long have you known it and state all you know in regard to its occupation

Ans. I have known ever since I was a small boy, and since I have known it Antonio Chaboya has been on it with his family, having his sheep and cattle on it and cultivating the lands - At first he had wooden houses, I don't know what kind of a house he has at the present time.

3 Question. Are you acquainted with the boundaries of this Rancho and if so describe them -

Ans. On the North it is bounded by the Rancho of Higueras, and the Punta del Roblar del Cayote, on the East by the Mountain on the South by the Rancho of Abues, and the Porlezuela de los Animas and on the West by the Rancho de la Birmoles called Santa Teresa -

4 Quest. How much land is embraced within the limits you have described

Ans. They embrace about three leagues -

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Associated with Ague present
Sworn & subscribed Jose Ramon X Mesero
before me this 31st day of
of December A.D. 1853 Thompson Campbell Com^r
Filed in Office Dec. 31. 1853 Geo. Fishers Secy.
Recorded in Ch. B Vol 3 p 580 Geo. Fishers Secy

San Francisco Feb. 17. 1853

Dep. of Juan Soto

On this day before me J. Thornton came Juan Soto a witness in behalf of the Claimant Antonio Chaloyra petition No 93 and was duly sworn his evidence being interpreted by the Secretary -

Testimony by deponent

Question 1st. What is your name age & place of residence

Ans. My name is Juan Soto age 66 years, living in San Jose

Quest 2nd - Do you know the Rancho yuba Buena and anything of its possession?

Ans. I have known Antonio Chaloyra the claimant to have had a house there on it, and to have occupied this place ever since 1821 or thereabouts with horses & cattle and trees there to this day -

Quest. 3. If you know the boundaries of this Rancho please state them

Ans. On the ... is the little arroyo of Socayre up to the Interoceano de los Animas, thence a line along the foot of the Sierra as far as the little stream called arroyo de las Alcasas, along the side of the canal and marsh and a small lagoon near the Pueblo of San Jose. The western boundary is the top of the hill along which at the base the arroyo Socayre runs.

Question. Do you know whether these boundaries were forced by whom and when

Ans. These boundaries were forced by the Alcaide of San Jose Salvo Pacheco -
Juan Soto

U. S. Law Agent present -
Sworn to & subscribed before me this 17th of Feb'y 1853
by Making his mark Harry J. Thurston Com
Filed in Office Feb'y 17. 1853

Geo. Fisher Secy
Recorded in Vol. B Vol. 587 Geo. Fisher Secy
Office of the S. Board of Land Commissioners &c &c
San Francisco January 3rd 1854

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Dep of Jose
Noriega

This day before Commissioner Alpheus Felch came Jose
Noriega a witness in behalf of claimant Juan
Jose Castro Petition No 96 and after being duly sworn
deposed his evidence being in Spanish was interpreted
by the Secretary as follows

Question by Judge Success Attorney for the Claimant
1. Question. What are your name, age and place of residence
Answer. My name is Jose Noriega my age is fifty six
years I reside in the Pueblo of ^{San} Jose where I have
resided twenty years

2. Question. Do you know the Rancho known by the
name of Yerba Buena or Locaya Occupied by
Antonio Chaboya? if you know how long have you known
it what are its boundaries, during what time and
in what manner has it been Occupied by Success
Chaboya

X
Answer. I know that Rancho and have been
acquainted with it about nineteen years. It is
situated about a league and a half or more from
the Pueblo of San Jose. It is bounded by the Ran-
cho of Louquin Segura on one side, Seguras
Rancho is called Rancho de Pala, on another side
it is bounded by a range of mountains called Sierra
de Pala which separate this Rancho from another
called Rancho de la Canada de Pala belonging to
the Barrios and Castros on another side the same
mountains continue to the Palozuelo which is the
boundary. The Laguna Seca is also the boundary on
the same side and below that it is bounded by the
Rancho called Santa Teresa belonging to the
Bernales and the Arroyo de Coyote which extends
to the point of beginning in the line of the Rancho
de la Pala. The Arroyo de Coyote separates the Rancho
Yerba Buena from the lands used by the Pueblo
de San Jose. The Rancho de Pala is divided
from the Rancho Yerba Buena by the Arroyo de
de las Alamos. Ever since I have known the Rancho

these boundaries have been recognized by the neighbors as the boundaries of it -
 When I first knew the Rancho Yuba Bienes Saca Chaboya was living on it with his family and had horses and cattle there and was cultivating enough of the land for the support of his family - The house which he lived in then had on the place and in which he lived seemed to have been built several years before. He had a large family of about twenty children all of whom I believe were born on that Rancho - About ten of them are now living - He has continued to occupy the place from the time I first knew it, and to live on it without interruption to the present time - and is still living in the same house He has occupied it ever since I knew it claiming it to be his own, and it has always been recognized as such by the citizens

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3 Question. Please look on the map now here presented to you being part of Document Matrices "A" filed in Office March 9th 1852 Geo. Fisher Secy heretofore filed in this case and state whether the objects and boundaries designated thereon are familiar to you or not? and whether you could do and point them out on the ground without any difficulty -

Answer. I have looked on the map. With the exception of the mouth of the Arroyo de los Alisos, the objects and boundaries laid down on the map are all familiar to me, and I could go at midnight and point them out. I do not know whether the mouth of Saca Arroyo is on the Rancho or not or whether it is on the line of said Rancho or not The Arroyo spreads out on the plain and does not run into any other stream -

4 Question - Have you during your residence in San Jose officiated in the capacity of Alcalde or other Municipal Offices? If you please state whether during the whole period that you have known Saca Rancho it has or not been recognized by the Municipal Authorities of said Pueblo and the vecinos thereof as the rightful property of Antonio Chaboya Answer. I was Alcalde three months or in the year 1839 - It has always been so known and recognized by the Municipal Authorities and vecinos The inhabitants of the Pueblo very much brought their

stock down to a certain place, and they were prohibited
 by the Municipal authorities from entering on said Rancho
 Mr. Greenhow Associate Law Jose Noriega
 Agent was present at the taking of this deposition but
 declined to propound any questions to the witness —
 Subscribed and sworn to before me this third day of
 January A. D. 1854 Alfonso Felch Comisario
 Filed in Office January 3rd A. D. 1854
Geo. Fishu Secy

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Recorded in Ev. B. Vol 3rd p 387 Geo. Fishu Secy

Dep. of Am Pico

San Francisco

Jan. 4th 1854

Office of the U.S. Board of Land Commissioners &c
 Questions. by Mr. James Attorney for Claimant
 Question. What are your Name Age & place of residence
 This day before answer. My name is Antonio Miquel Pico my age is
 born. Alfonso July 2nd and I reside at San Jose in California I have
 Felch came a witness there near since 1831.
 Question. Are you acquainted with the Rancho known
 witness on behalf of the name of Yuba Buena or Socaye, and its
 of the Claimant boundaries? if yes, please state where it is situated
 Antonio Choboya what are its boundaries and if the map now
 Patent No 93 has shown to you, being a part of document marked
 who being duly "Exhibit A with the initials 'J C' annexed to the
 shown, has been a deposition of Juan B Alvarado heretofore taken
 being in Spanish and filed in this case contains a correct designa
 been interpreted term of said boundaries or not
 by the Secretary Answer. I am acquainted with said Rancho and its
 boundaries. I have known it since 1833. I have
 looked on said map and I believe it contains
 a correct designation of the boundaries of said
 Rancho. The same is situated near the Pueblo of
 San Jose a league and a half more or less from
 said Pueblo. The boundaries of said Rancho
 are as follows. It is bounded on the North side
 by the Arroyo de los Alisos, which divides this land
 from the Rancho of Joaquin Higueras. This Arroyo
 was assigned by me as the boundary when I gave the
 Judicial possession of said Higueras Rancho to
 him. On the East it is bounded by the Sierra de La
 Cañada de Pola, which divides it from the Rancho
 of the Bernales and Castas called Rancho de
 La Cañada de Pola. On the South it is bounded
 by the Portezuelo and the Rancho of the Bernales
 On the West it is bounded by the Arroyo del Coyote.
 These boundaries have been recognized as the bounda
 ries

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of said Rancho was since I knew the place which was in 1833. and I as one of the Municipal Authorities of San Jose have always so recognized them. I have held an Office there was since 1835 down to 1849 -

3. Question. Please state what you know of the Occupancy of said Rancho by said Antonio Chaboya

Answer. Said Chaboya was on the place before 1835 - In 1835 I was on the place and said Chaboya was living upon it with his family and was cultivating a sufficient portion of the same for the use of his family and had about three thousand head of Cattle and about one hundred brood mares and have broken to success - He occupied the place as owner and it was generally recognized as his. I as one of the Municipal Authorities so recognized it. From the time I first knew of his occupying it as above mentioned he has had a house on it and has lived there with his family continuously and without interruption and still continues to live on and cultivate the premises. He has had about twenty children of whom about ten are living who were born on said Rancho

Antonio Ma Pico

Mr Greenhow Associate
Said Agent was present at
the taking of this deposition
but proposed no questions
Subscribed and sworn to before me this fourth
day of January A.D. 1854

Alpheus Fish Commissioner

Filed in Office January 4th 1854
Geo. Fish Secy

Recorded in E. B. Vol. 3 p. 588
Geo. Fish Secy

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Exhib. A.
J. C.

Expediente promovido por D^o Antonio
Chabaya en pretencion del paraje llamado
Yerba Buena. en la demarcacion del
Pueblo de San José Guadalupe.

Año de 1840.

transcribed to Deposition
of Juan B. Alvarado
December 10th 1853.

Geo. Fisher.

Secy.

Sello tercero de los Reales.

Rehabilitado provisionalmente por la Aduana
maritima del puerto de Monterrey en el Depart-
amento de las Californias, para los años de mil
ochocientos cuarenta y mil ochocientos cuarenta
y uno.

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(Real.) Jimeno.
Mont.º En.º 5. de 1840.
Ynf.º el Sr. Prefecto del 1.º
Distrito lo que le parezca
conveniente sobre el contenido
de esta instancia.

Alvarado.

Desde el año de 1833 vengo el parage nombrado
la Yerba Buena situado en la jurisdiccion de dicho
Pueblo conforme con la concesion que me hizo en
25 de Abo del mismo año el Sr. General Don José
Figueroa Jefe Sup.º Político y Comandante General del
territorio como consta por los documentos que a V. E.
acompañan y teniendo dicha concesion el caracter
de provisional con condiciones gravosas que perjud-
ican notablemente mis intereses a la vez que ya he
fabricado casa hecho labores y puesto mis bienes
de campo, he de merecer de V. E. se digna conceder
me en propiedad el mencionado parage de Yerba
Buena en estension de seis sitios de ganado Mayor
colindando por el Sur por el Portezuelo de las Cui-
mas, por el Norte con el terreno de D.º Joaquin
Nigueron y con la Laguna Seca del mismo Pueblo
por el Este con la cuchilla de la Sierra inmediata
y por el Oeste con el Rancho de los BERNALES y punta
del Noblar en las sercanias del arrollo del Colote
un terreno no pertenece a los egidos del Pueblo.

P. A. A. V. E. Suplico se sirva tomar en consideracion
mi pedido, lo necesito me en propiedad el referido
terreno de que recibiré gracia y justicia.

Monterrey, Enero 4. de 1840.

Antonio Chaboya.

Sr. Gobernador.

La Prefectura de mi cargo han examinado det-
enidamente la presente Solicitud y existiendo lo que
el escrito todo lo que espone en ella el ciudadano
Antonio Chaboya sobre que por algunos años
ha poseido el parage nombrado la Yerba Buena

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los límites que señala en su petición, así que no pertenece á particular ni pueblo por que al de San José Guadalupe, no tiene aun señalados ejidos con arreglo á las leyes, es de parecer que V. E. de suya Sello Cuarto una Cuartilla.

Habilitado provisionalmente por la Aduanas Marítimas del puerto de Monterrey, en el Departamento de las Californias para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

Alvarado.

Antonio María Osio.

Concederle en propiedad al mismo Sr. Chaboya los seis sitios de granado Mayor que pretende designarse á los límites que expresa en su misma instancia.

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Pueblo de San Juan de Castro.

Febrero 17 de 1840.

José Castro.

Monterrey Feb. 24 de 1840.

Vista la petición presente solicitando los documentos que corresponden con las impresas, practicadas y todo lo demás que se tuvo presente concedido en propiedad al ciudadano Antonio Chaboya el paraje nombrado Punta Buena situado en la jurisdicción del Pueblo de San José Guadalupe en la extensión de seis sitios de granado Mayor por lo menos ó menos de que tiene ya tanada posesión conforme los límites que expresa en su solicitud.

Juan B. Alvarado.

(Sello)

Monterrey. Noviembre 35. de 1833. = En vista de este expediente y del informe que antecede al Ayuntamiento de San José, librese orden al Alcalde de aquel pueblo para que permita que el vecino Antonio Chavolla fabrique casa, cultive el terreno que pueda y sembrar sus graneros en el paraje nombrado La Sierra; buena perteneciente a los ejidos o fincas legal de dicho pueblo, circunscribiéndose esta concesión, sin perjuicio del común en cuanto al goce de pastos, aguas, maderas lena de y sujeto á las condiciones existentes y que subsiguientemente se imponieren. Hagasele saber á la parte, y librese testimonio de este decreto para su cumplimiento, ordenándose el expediente.

El Señor Jefe Superior Político del Territorio D. José Figueroa, así lo mandó decretó y proveyó de que doy fe. = José Figueroa. =

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Agustin V. Humorno. Secretario.

Concuerda con su original que existe en el expediente que obra en la Secretaria de Gobierno que esta a mi cargo. Ya peticion del vecino Antonio Chabolla de agosto a 6 de abril de 1839.

Manuel Jimeno.

Monte 20 de Mayo. 1839.

Sr. Prefecto.

Conserve este representacion Antonio Chaboya en su poder hasta que se arregle las ejidas del Pueblo V.S. como mas haya de su benecidad.

D. Castro.

de Noviembre del año 1833 me fue concedido un terreno nombrado Searque y Yerba Buena, como consta por el documento que acompaño, en cuyo sitio existe el numero de mas de cuatrocientas cabegas de ganado mayor de mi pertenencia y poseendo algunas otras tierras, necesito la posesion arreglada al citado documento.

Este terreno esta situado al oriente del Pueblo de S. José y tendrá en su mayor estension seis sitios de ganado mayor, colindando por el Norte con el Rancho de Pala, por el Oriente con la Ejida de las Animas y S. Felipe, por el Sur con el Rancho de Sta Teresa y al Oeste con las ejidas del Pueblo de San José.

Por lo que respetivamente suplico se dignen mandar de me de la posesion que pido en lo que me fuere gracio.

Pueblo de S. José y Mayo 10 de 1839.

Antonio Chaboya.

Here following map or plan.

Filed in Office Dec. 10th 1853
Geo. Fisher, Secy.

Heads

Monterey November 25th 1833

In view of this Expediente and the informe of the Ayuntamiento of San Jose which precedes let order be issued to the Alcalde of this Pueblo that he permit the Citizen Antonio Chevalle to build a house, cultivate the Land, which he can, and maintain his Cattle in the place called Yububuna pertaining to the Ejeas or finca legal of the said Pueblo, this grant being understood to be without prejudice to the Comun so far as regards the enjoyment of the Pasturage, woods, timber, fuel &c. (Pastos, aguas, maderas &c) and subject to the Conditions existing and which may be successively imposed. Make it known to the party and give Simplification (testimonio) of this decree for his security Archiving the Expediente. The Junta Superior Policial Chief of the Territory San Jose I give you this Ordinance decreed and signed which I authenticate Augustin Zamorano Jose Figueroa

mp 1
 Translation of Grant & Expediente

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Secretary

It agrees with the Original which exists in the Expediente that is found (obra) in the Secretaryship of Government under my charge, and upon petition of the Citizen Antonio Chevalle I give this 6th of April 1839 (Signed) Manuel Jimeno (rubricado)

Junta Prefecta; Antonio Charoyra Native of this Country before your Honor in the form most suitable in Law (Como mas haya lugar en derecho) present myself and say that on the 25th November 1833 a (trace of) Land was granted to me named Soe arpe Yububuna as is evidenced by the document accompanying in which sitio exists the number of more than four hundred head of horned cattle (ganado Mayor) belonging to me, and desiring to secure the said property, it is necessary that I have the possession given conformably to (as regards) to the said Agreement. This Land is situated at the East of the Pueblo of San Jose and may have in its utmost extent six sitios of ganado Mayor, bounded on the North by the Rancho of Pala on the East by the Canada de las Animas and San Felipe, on the South by the Rancho of Santa Teresa, and on the East by the Ejeas of the Pueblo of San Jose

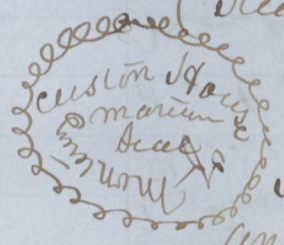
Wherefore I humbly beseech you be pleased to order
that the possession be given me which I ask in the
which I shall receive favor &
Pueblo of San Jose May 14 1839
Mon. 20 May 1839 -

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Keep in your possession this representation until the
Orders of the Pueblo of your residence be regulated
(Signed) J. Castro

Three Stamp Two Reals

Substituted provisionally by the Maritime Custom
House of the Port of Monterey in the Department of the
Californias for the years One thousand Eight hundred
and forty One & One thousand Eight hundred & forty one
Ximeno Antonio Maria Ocho
(Rubrica) (Rubrica)



Most Excellent Señora Governor

I Antonio Chavella a native of this Department
and citizen of the Pueblo of San Jose Guadalupe
before your Excellency respectfully say, that since the
year 1833 I have been occupying the place named
Yubee beena situated in the jurisdiction of said
Pueblo in conformity with the Concepcion which Don
Jose Figueroa Governor and Commandant General of
the Territory made to me on the 25th of November of
the same year as appears from the documents which
I annex hereto, and the said Concepcion having the
character of a provisional one, with burdensome
conditions which are notably prejudicial to my
interests, while I have been a house, cultivated and
put on my stock (breeds de campo) I have to solicit
that your Excellency will grant me the refusal of place
Yubee beena in property to the extent of six square leagues
or six sitios de ganaderia Maya bounded on the
South by the Porloquello (Narrow pass between mountains)
de las Animas on the North by the Lane of Mr. Joaquin
Figueroa with the dry lagoon of the said Pueblo
on the East by the tops (Chuchilla) of the adjoining
hills and on the West by the Rancho of the Bornales
and the points of the del Roblar (Oak point) on the
vicinity of Coyote Creek which Lane does not
pertain to the Common of the Pueblo - Therefore I
supplicate your Excellency that you be pleased to
take into consideration my petition granting me the
said Lane in property which I shall receive favor

19

and justice. Monterey January 4. 1840

(Signed) Antonio Chaboyes x

(Marginal decree)

Monterey Jan. 5. 1840. Let the Town Prefect of the first District inform what he may see proper upon the contents of this petition (Signed) Alvarado

Most Excellent Town Governor

The Prefecture of my charge has cautiously examined the present solicitation, and it being made to appear to this Prefecture that all which the Citizen Antonio Chaboyes set forth in it is true, Above his having possessed the place called Yuba Buena for some years, the limits which he designates in his petition, as well as that it does not belong to any individual or pueblo, although the pueblo of San Jose Guadalupe no common has yet been approved according to the laws (this Prefecture may) is of opinion that your Excellency may if pleased grant in property to the said San Chaboyes the six sitios de ganados Mayor which he applies to be subject to the town agraves which he expresses in his said application Pueblo de San Juan de los Rios Feby 17. 1840

(Signed) Jose Castro

Monterey Feb. 24. 1840

In view of the present solicitation and the documents accompanying it, with the reports here thereon and all the rest which was presented I grant in property to the Citizen Antonio Chaboyes the place called Yuba Buena situated in the jurisdiction of the Pueblo of San Jose Guadalupe to the extent of six leagues (Six sitios de ganados Mayor) a little more or less of which he has already taken possession according to the limits which he expresses in his application

(Signed) Juan B Alvarado

I George Fisher Secretary to the Board of the U.S. Land Commissioners do hereby certify that the foregoing is a true full and correct translation of a Spanish document of the purport as above

Filed in Office Dec. 10th 1853

Geo. Fisher Secy

Set forth marked "Exhibit A. J. C." Exhibited and filed in Case No. 93 on the docket of the said Board now in this office - Office of the Secretary of said Commission - San Francisco this 11th day of October 1854

Geo Fisher Secy

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Vello Tercero Dos Reales:

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterey para los años de mil ochocientos treinta y tres y mil ochocientos treinta y cuatro.

Segueroa José Rafael Gonzalez
Monterey Noviembre veinte y cinco de mil ochocientos treinta y tres.

Verba Buena En vista de este Expediente y del informe que antecede del Ayuntamiento de San José, libese orden al Alcalde de aquel pueblo para que permita que al vecino Antonio

Exhibit. L. Chaboya fabrique e cosa cultive el terreno que N.º 1 anexo: pueda y mantenga sus ganados en el paraje to Depo: of nombrado la Verba Buena perteneciente a los señores B. Alvarado a fundo legal de dicho pueblo, entendiendose esta concecion sin perjuicio del comun en cuanto

Loo Fisher al gozo de pasto, aguas, maderas leña &c. y sugeto a las condiciones existentes y que subsistieren.

Se eny

Hagasele valer a la parte y libese testimonio de este decreto para su resguardo archivandose el expediente. El Dot. Jefe superior politico del Territorio Dr. José Segueroa asi lo mandò, decreto y firmò de que doy fe.
José Segueroa.

Agustin. Vicente Zamorano. Secretario
Convenida a la letra con su Original del que bise sacar este Testimonio para resguardo del interesado.

Monterey veinte y seis de Nov.º de mil ochocientos treinta y tres.

Agustin. V. Zamorano

Filed in Office March 15th 1853

Geo. Fisher Secy

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Third Seal Two Reals

Provisionally provided by the administration of the
 Marine Department of Monterey for the years 1833 & 1834
 Figueroa Jose Rafael Gonzalez

Monterey the 25th November 1833 -

Upon this despatch and the foregoing report of the Provincial
 Council (Ayuntamiento) of San Jose, let an order be passed to
 the Alcaldes of that Town to permit that the Citizen Antonio
 Charvay may build a house wherever what land he
 is able, and continue feeding his cattle on the place
 called La "Yuba Blanca" belonging to the tenants or legal

Translation of allotment of the said Town. This concession to be under
 Grant Exh. - Stove as without prejudice to the public as far as
 but T. C. No. 1 requires the use of pasture water lumber firewood &c
 annexed to the land subject to the existing conditions and those which
 deposition may be hereafter imposed. Let this be known to the party
 of Juan B. interested and a copy of this decree be given to him for
 Alvarado. his safety. The record being archived -

The Annals the Superior Political Chief of the Territory
 Don Jose Figueroa, thus ordered, decreed and signed -
 which I testify - Jose Figueroa
 Augustin Vicente Zamorano Secy

This is an exact copy of the Original, from which
 I caused the same to be made for the safety of the
 party interested. Monterey the 26th of November 1833

Augustin V. Zamorano

Filed in Office March 19th 1853

Geo. Fisher

Secy

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Petition for
Rehearing
25-

No. 93.

Case before the Board of U. S. Land
Commissioners.

A. Chabolla

vs
The United States

map 2

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This petition of the Defendant respectfully
shows to this Board that since the decision
herein, certain facts have come to the knowledge
of the Agents of the Government of which they
were wholly unaware at the time said case
was submitted to the Board for adjudica-
tion, a part of which facts are exhibited in
papers marked A. B. C. D. E. & F. annexed to
the affidavit of J. H. McKune, another fact is
stated in an affidavit filed herein to the
effect that the Land Confirmed contains
about seven leagues of Land. Your pete-
tioner represents that all the persons whose
names appear in the Document marked
A. J. C. filed herein are living except Manuel
Jimeno and it is believed his name therein
written is a forgery and that if this case
be again restored to the Docket for further
testimony by granting the prayer of this Petitioner
this forgery can be made to appear by compe-
tent Testimony.

This petition charges that the
above mentioned facts taken in connection with
the suspicious character of the said paper
marked A establish the conclusion that the
said Document is forged and simulated
and should be set aside and held for
naught.

Your petitioner asks that the Decree
of Confirmation entered herein and the Order
submitting the Case be vacated and set
aside, and that the Case be restored to the
Docket for further testimony.

J. H. McKune U. S. Law Agent

Filed in Office Jan 16. 1855. Geo. Fisher Secy

No 93.
A Chabolla Blamant.

J. H. McKune says on oath that he has examined the name of Manuel Jimeno as it appears in the paper marked Exhibit A annexed to the deposition of Juan B Alvarado and compared it with the signatures of Jimeno former Secretary under the Social Government of California as they appear in various documents filed in this Commission and upon such comparison his opinion is the signature in said Exhibit A was not written by the same person as most other authenticated signatures of that officer in this Commission. That he has submitted said signature in Exhibit "A" to J. B. Crockett Esq who informed Affiant he had seen said Jimeno former Secretary sign his name, and after comparing said last mentioned signature with one which said Crockett said Jimeno wrote he expressed the opinion that the signature in said Exhibit A was not genuine.

Affiant says that if this case shall be again opened for further testimony he believes he can establish by the evidence of said Crockett and other competent witnesses that the said signature appearing in Exhibit A is a forgery.

Affiant when this case was submitted had no knowledge of the facts which have since been brought to his notice inducing a suspicion of the simulated character of said Exhibit A.

J. H. McKune
U. S. Law Agent

Subscribed and
sworn to and
filed before me
Jan. 16. 1855

R. Aug. Thompson
Filed in Office Aug. 16. 1855

Geo. Fisher Secy

Case 27
No. 93

Antonio Chabolla }
vs } Before the Board of
The United States } Land Commissioners

Appearance of
P. O. Mina

Peter O. Mina being duly sworn deposes and says, that he has been a resident of the County of Santa Clara State of California since November 1849, that he has occupied and yet does a portion of the Land being within the limits of the so called Yerleso Reina Rancho, confirmed by Saine Board to Antonio Chabolla and that he has lived upon and occupied the same for more than two years past.

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PAGE 23

Exhibit A.
annexed to
the deposition
of J. H. McKune

That I was induced to settle upon said place by the representations of several Old Citizens of San Jose declaring to me it was public land and that the only title Chabolla had was that of the Governor & Ayuntamiento (or City Council) of San Jose to occupy about a league of Saine Land for grazing & agricultural purposes, and that I was not aware until recently that there was an existing valid title upon the same, and I do expect it could proceed, that the title upon which Saine Board granted a Confirmation was a fraudulent one and give for such belief the following reasons 1st. That Messrs. Wallace & Ryland Attorneys of this place who were the Attys employed by Saine Chabolla in presenting the just claim to Saine Board, have declared to me (that is M. C. T. Ryland) that when Chabolla first showed them his title papers, they informed him they were of little account, and distinct by asking him if they were all he had or held and that he informed them they were all the papers he had (and which are as I am informed believe at the permit of the Saine Governor & Ayuntamiento now on file with the Secretary of Saine Board) and I further depose and say that I have been since informed by the Saine Ryland that he knew nothing of any other title papers of the Saine Chabolla nor were any others presented by them to Saine Board than the Saine permit, and that they knew nothing

of the titles & titles papers presented to the Board some time in December last 1853 —
 Affiant further states that he requested of the said Pylance an Affidavit of the facts herein and that he declined giving it upon the ground of having been employed as Attorney for said Chabolle, but would attend before the Board if required, them and give his testimony
 Affiant further expects to prove by the Evidence of Don Antonio Senol who has resided in the County of Mono more than thirty years and of Julian Hanks who has resided here for about twelve years that they never heard or were aware until lately that the said Chabolle ever had any other papers or title except the one (permit) granted him by the Governor or Ayuntamiento of the City of Pueblo de San Jose, and believing that the title upon which said Board decreed a Confirmation is a false or forged one he asks that the said decree may be rescinded, & that the Evidence of the said McAllister, Pylance Senol & Hanks may be heard before you and such action here in the matter as may be right. Affiant further states that on the 22nd day of October 1853 the said Chabolle took up upon said premises, and the place he now resides upon, and upon which he has for many years resided a preemption claim under the Law of the State of California, in which he makes oath that there is no existing title upon the same and which preemption claim is embraced within the limits of said Confirmation, and Affiant further says that he expects to prove by the Evidence of the said persons & others that the title papers upon which said Confirmation was made are false & fraudulent

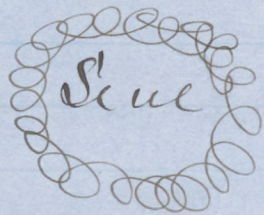
State of California. County of Santa Clara
 On this first day of December A.D. 1854 personally appeared before me the County Clerk in & for the said County, J. O. Mann whose name is subscribed to the foregoing Affidavit, and being by me duly

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Sworn says the matters and facts stated in the same are true to the best of his knowledge and belief

J. A. Minor

Sworn to before me this 1st day of December A. D. 1854 as witness my hand with the Seal of the County Court of Texas



John B. Stinson Clerk
By Levi P. Peck D. C.

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Filed in Office Jan. 16. 1854

Geo. Fisher Secy

No. 93. Antonio Chabocow Claimt.

Appearance of
J. A. McKune

J. A. McKune says on Oath that he is informed and believes that the Land claimed in this Case and for which a decree of Confirmation has been rendered is of the extent of Seven Square Leagues. That at the time the Case was submitted he had no such information, and was only so informed since the decision of the Board. That if the decree of Confirmation shall be set aside he believes he can procure the necessary evidence to prove the facts as stated on information and belief in time to submit the Case again at an early day.

Sealed and sworn to before me this 27th day of December 1854

Alpheus Fleck
Commissioner

Filed in Office Dec. 27. 1854

Geo. Fisher
Secy

Case No. 93 Before the U. S. Board of
Land Commissioners

Antonio Chabolla }
vs }
The United States }

Affidavit of
J. H. McKune

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J. H. McKune U. S. Law Agent says on oath
that since the decision of the Board confirm-
ing the claim in the above entitled case
he has received the papers Marked A. B
C. D. E and F here by referred to and made
a part here of. That previous to the time when
said case was decided, he did not know
any of the facts set out in said Exhibits
and believes the Appellate Law Agents
Especially unaware of said facts & that if
the decree of Confirmation in this case
shall be set aside and the case restored
to the docket he believes he can procure
said facts in such a form that they can
be used as testimony in the case

J. H. McKune

Motion

Upon the foregoing affidavit and upon
the papers in the case motion is made
that the decree of Confirmation entered herein
be set aside & that the case be restored to
the docket for further testimony

J. H. McKune
U. S. Law Agent

Sworn to and subscribed

before me Dec. 26. 1854

R. A. Thompson

Filed in Office Dec. 26. 1854

Geo. Fisher
Secy

A Chebolea Claimant

J. M. McKune says on oath that he has examined the name Manuel Jimeno as it appears in the paper marked Exhibit A annexed to the deposition of Juan B. Alvarado and compared it with the signatures of Jimeno former Secretary under the local government of California as they appear in various documents filed in this Commission and upon such comparison his opinion is the signature in said Exhibit A was not written by the same person as most other authenticated signatures of that Office in this Commission.

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That he has submitted the said signature in Exhibit "A" to J. B. Crocker Esq. who informed Affiant that he had seen said Jimeno former Secretary sign his name, and after comparing said last mentioned signature with one which said Crocker said Jimeno wrote, he expressed the opinion that the signature in said Exhibit A was not genuine.

Affiant says that if this case shall be again opened for further testimony he believes he can establish by the evidence of said Crocker, and other competent witnesses, that said signature appearing in Exhibit A is a forgery.

Affiant when this case was submitted had no knowledge of the facts which have since been brought to his notice inducing a suspicion of the simulated character of said Exhibit A.

J. M. McKune
Sworn to & subscribed
before me Jan 16. 1855
R. Aug. Thompson

Filed in Office Jan 16. 1855
Geo. Fisher Secy
Recorded in Journal Vol 4 page 176
Geo. Fisher Secy

33 Exhibit B

Antonio Chabolla

ann'd. to aff'd.
of J. S. M. Keene

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Know all men by these presents that I the undersigned Antonio Chabolla have taken up a piece or parcel of Land for the purpose of Pre-empting and improving and cultivating the same, said Land is situated about six miles Easterly from the City of San Jose in Santa Clara County and State of California described as follows: To wit: Commencing at a Stake near a living Spring (said Stake bears S 42° 00' 00" W 66 links from an Oak tree marked A thence running S 58° 20' 00" W (true Course) 47.75 Chains to a Stake thence S 31° 40' 00" E (true Course) 33.50 Chains to a Stake, thence N 58° 20' 00" E (true Course) 47.75 Chains to a Stake, thence N 31° 40' 00" W (true Course) 33.50 Chains to the place of beginning - Containing 160 Acres - as surveyed on 31st day of Oct 1853 by L. B. Healy Esq: Deputy County Surveyor of Santa Clara County -

1st The Land as marked and described does not contain more than One hundred and sixty Acres, and to the best of my knowledge and belief the same is not claimed under any Existing title.

2nd My intention is to Comply with the requisites of the Law so as to enable me to hold a Pre-emption on the same.

3rd I have taken up no other claim under the under the Act of the Legislature of California approved April 20th A.D. 1853 entitled "An act prescribing the mode of maintaining and defending pre-emption actions on the Public Lands in this State."

Witness my hand and seal this 22nd day of October 1853
 Witness J. O. Houghton _____ Antonio Chabolla
 mark

State of California }
 County of Santa Clara } S.S.

On this 22nd day of October A.D. 1853 personally came before me Richard W. ... and for the County aforesaid, Antonio Chabolla who having been by me duly sworn through a Competent and Sworn Interpreter, declared that he executed the same freely and voluntarily and

for the uses and purposes therein expressed, and that the facts set forth therein are true to the best of his knowledge & belief

~~Seal~~
Seal

Given under my hand and private seal (No official seal having yet been procured) the day and year last above written

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S.A. Clark County Recorder

Filed for record at 10 1/2 O'clock
A.M. October 22nd A.D. 1853

S.A. Clark Recorder
by F Lewis Deputy

County Recorder's Office, County of Santa Clara
State of California.

I hereby certify that the above and foregoing is a full true and correct copy of an instrument of writing (Antonio Chabolla's Notice of Pre-emption Claim now on Record in Book "C" of Claims pages 10 and 11 in this Office) Witness my hand and official ^{seal} hereunto affixed this the 19th of December A.D. 1854

~~Seal~~
Seal

S.A. Clark County Recorder
By F Lewis Deputy -

Filed in Office Jan 16. 1855

Geo. Fisher
Clerk

Exhibit C annex

Antonio Chavolla to Manuel Casto

to the affe. of
J. S. McKee213 ND
PAGE 30Recorded at the
request of Ml.
Casto.J. A. Clark
Recorded by
F. Lewis
Deputy

This Indenture made this 26th day of January 1854 by and between Antonio Chavolla of the County of Santa Clara and State of California of the first part, and Manuel Casto of the County of Monterey and State of California of the second part: Witnesseth That the said party of the first part for and in Consideration of the sum of One thousand five hundred dollars to him in hand paid by the said party of the second part, the receipt of which is hereby acknowledged and confessed, hath this day granted bargained and sold and doth by these presents grant bargain and sell unto the said party of the second part and unto his heirs and assigns forever the following described piece of land lying and being in the County of Santa Clara and State of California and more particularly described as follows: To wit Commencing at a point on the Rancho known as the "Yuba Reina" Rancho granted to me by the Governor of the Department of Upper California on the 24th day of February 1840 which said point is called "Polezqueta de las Animas" thence running in a line so as to pass through the Laguna Seca to the outside boundary of my Rancho "Yuba Reina" thence to the Coyote Creek, thence down said Creek and as far as the boundary as now known of the Rancho Santa Teresa, thence with line of my Rancho to the place of Beginning - Containing two leagues of land being one third of my Rancho.

To have and to hold the aforesaid land unto him the said party of the second part, and to his heirs and assigns forever free from the claim or claims of any and all persons claiming by through or under me. In witness whereof I have hereunto set my hand and affixed my seal the day and year date first above written -

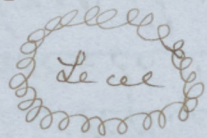
Attest
A. C. CampbellAntonio ^{his} Chavolla
maker

State of California }
County of Santa Clara } ss

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On this Jan 26th 1854 personally appeared before me a Notary Public in and for said County Antonio Chaboya known to me to be the person described in and who executed the foregoing deed of conveyance who acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

Witness my hand and Notarial Seal at said County the day and year above written



S. Archer

Filed for Record at Notary Public
2 3/60 O'clock P.M. January
27th A.D. 1854

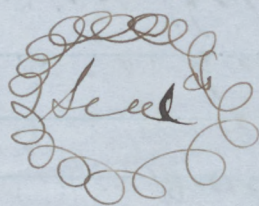
S. A. Clark Recorder

By J. Lewis Deputy

County Recorder's Office }
County of Santa Clara }
State of California. }

I hereby certify that the above foregoing is a full, true & correct copy of an instrument of writing (Antonio Chaboya deed to Manuel Leasto) now on record in Book "G" of Deeds pages 174 & 175 in this Office -

Witness my hand & Official Seal hereto affixed this the 19th day of Dec^r A.D. 1854.



S. A. Clark County Recorder
By J. Lewis Deputy

Filed in Office Jan 16 1855

Geo. Fisher Secy

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Exhibite D. annex.
to App of J. A
McKeune

Anto. Chabolla and Wm J Wallace & Others
Agent etc.

Recorded at
request of Wallace
& Ryland.

J.M. Murphy

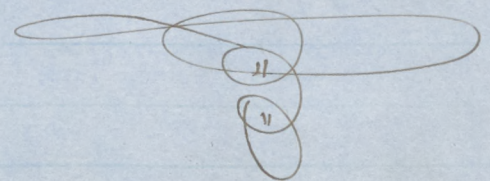
Recorded by
F Lewis Deputy

Memorandum of an Agreement made on the 6th
day of July 1853 between Antonio Chabolla
of the first part and William Wallace, William
Ryland and Lewis J Ryland of the
second part - All of the County of Santa
Barbara and State of California

That the said party of the first part hath
granted this day sold unto the said party of
the second part and their heirs and assigns
forever the One Equal undivided One third
of a Rancho situated in Santa Barbara County lying
in a South Easterly direction from the City of
San Jose, and South of the Rancho de la
Palma, and called Yerba Buena being the
same which was granted to the party of the
first part by Governor Figueroa about the year
1832 - and the said party of the first part
undertakes and agrees - that he will on demand
make conveyance to the said party of the
second part and to their heirs and assigns a
good and sufficient title to the said land
legally sold with proper Condonations -

The Consideration of the foregoing sale is the sum
of One dollar in hand paid to the said party
of the first part by the said party of the second
part the receipt whereof is hereby acknowledged
and the agreement made by the said
William Wallace & C. J. Ryland who are
Attorneys at Law that they will attend to the
claim for the said Land now pending and
presented in favor of the party of the first part
before the Land Commission of the United
States at the City of San Francisco

Antonio Chabolla
Witness to the Signature of Antonio Chabolla
who cannot write his name here signed by
a mark.

J. H. Swain


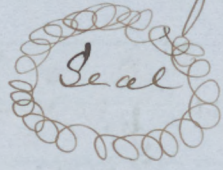
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State of California }
County of Santa Clara } Dist.

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On this 6th day of July A. D. 1853 personally
came before me Recorder in and for said
County Antonio Chabolla to me personally
known to be the person described in and who
executed the foregoing instrument of writing
who acknowledged to me that he executed
* the same freely and voluntarily for the uses
and purposes therein mentioned

Given under
my hand and private Seal (there being no
Seal of Office yet provided) this day and
year last before written.



J. M. Murphy
County Recorder
By S. O. Soughton Deputy

Filed for Record
at 9 1/4 o'clock A.M. July 6. A. D. 1853

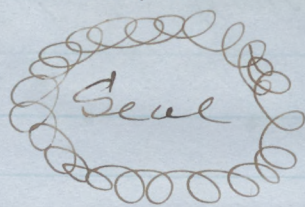
J. M. Murphy, Recorder
By S. O. Soughton Deputy

Recorded by F Lewis Deputy.

County Recorder's Office }
County of Santa Clara }
State of California }

I hereby certify that
the above and foregoing is a full true and
Correct Copy of an instrument of writing (Agree-
ment between Ant. Chabolla and M. C. Williams-
M. J. Wallace & G. T. Ryland) now on Record
in Book 'F' of Deeds pages 252 & 253 in this
Office.

Witness my hand and Official Seal
hereto affixed, this the 19th day of Dec-
1854



S. A. Clark County Recorder
By F Lewis Deputy

Filed in office Jan. 16. 1855

Geo. Fisher Secy

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Exhibit E. Connors
to affl. of J. H.
McKane

R. Haley to S. M. Hart

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PAGE 34

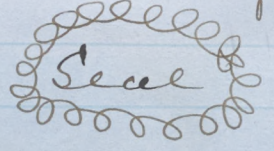
This Indenture made this _____ day of December
A. D. Eighteen hundred & fifty four between
Robert Haley of the County of San Francisco
U. States of the One part and Samuel Hart of
the City of Cincinnati State of Ohio of the Other
part WITNESSETH. That the said Robert Haley
for and in Consideration of the Sum of Seven
Thousand dollars to him in hand paid by
the said Saml M Hart the receipt whereof
is hereby acknowledged hath granted bargained
sold conveyed and confirmed by these prese-
nts doth bargain sell convey & confirm unto
the said Samuel M Hart his heirs and assigns
forever the right title and interest that the
said Robert Haley has or may acquire of in
to three trees a piece of Land lying and
being in the County of Santa Clara in the
State of California known & distinguished
by being part of the Rancho Yuba Buena
granted to one Antonio Chaboya by the Govern-
or of California the 24th day of February Eighteen
hundred and forty and bounded and described
as follows by beginning at a point two hundred
yards South of an Oak tree situated from one
to two miles South of the Northern boundary
of said Rancho and about some distance
from the Laguna Seca & one hundred and
forty three feet North Westly from an Oak
with its limbs cut off, and is first Westly
from a small house about two hundred yards,
and the said tree was marked by L. B. Hart
and Jacob A. Morehouse on the 29th day of
November A. D. 1854 with three cuts on the
Westly side of the tree & three on the Southly
side - Thence running Eastly on a direct line
to a point two hundred yards North of a
Sycamore's house, situated Southly from the
residence of the said Chaboya: and it is
the first house after passing the two small
houses next to said Chaboya's residence
and occupied by his family or part of them:
As you travel Southly from Chaboya's house

on the brow of the Mountain - thence in a direct line continued from the point first started from Eastaly to the Eastern boundary line of Saeed Rancho this being the first line bounding the Northern part of the Land hereby conveyed - Now to finish the boundaries of the Land hereby conveyed you must come back to the point first started from, and then continue the line direct Westaly until it intersects the Eastern line of the Lands conveyed by Saeed Chaboya to Manuel Acosta - Thence running Southaly along the line of said Acosta's Land or there conveyed to Acosta by Saeed Chaboya one Spanish League, thence Eastaly parallel with the first line direct to the Eastern boundary line of said Rancho - thence Northaly along the Eastern boundary line of said Rancho until it intersects the first line herein described reserving however to the Saeed Antonio Chaboya his heirs and assigns, one undivided half of the Silver Mine on the Lands hereby conveyed which were denounced according to the Mexican Law by the Saeed Antonio Chaboya together with the appurtenant Lands connected with said Mine to work the same. Together with all improvements & appurtenances whatsoever to the same belonging or in anywise appertaining unto him the Saeed Samuel M. Hunt his heirs and assigns forever.

To have and to hold the aforesaid conveyed Lands tenements & hereditaments unto him the Saeed Samuel M. Hunt his heirs and assigns forever in as full and ample a manner as the Saeed Robert Haley might choose or ought to convey the same -

This conveyance however is subject to a Mortgage executed by the Saeed Robert Haley to Antonio Chaboya and dated to day

In Witness whereof the Saeed Robert Haley hath hereunto set his hand & seal at the City of San Francisco California this 2nd day of December A.D. 1854

Robert Haley 

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Executed in presence of A. G. Randall

State of California United States }
County of San Francisco } ss

This 3rd day of December A.D. 1854 personally appeared before me ~~in~~ a Notary Public in and for the City and County aforesaid Robert Haley known to me to be the individual named in & who executed the foregoing instrument and acknowledged to me that he executed the same voluntarily and for the uses and purposes therein contained

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

A. G. Randall
Notary Public

Filed for Record at request of J. B. Hunt at 4²⁰/₆₀ O'clock P.M. December 5th A.D. 1854

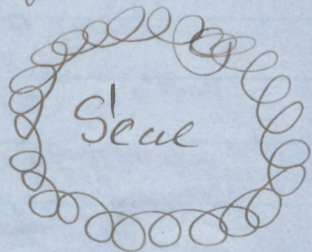
J. A. Clark Recorder.

Recorded by J Lewis Deputy

County Records Office }
County of Santa Clara }
State of California }

I hereby certify that the above and foregoing page (Numbered 1-2-3-44) contain a full true and correct copy of an instrument of conveyance made to J. B. Hunt (now on record in Book 4 of Deeds on pages 432 & 433 in this Office

Witness my hand and official seal hereunto affixed this 19th day of December A.D. 1854



J. A. Clark County Recorder
By J Lewis Deputy

Filed in Office Jan. 16. 1855

Geo. Fisher
Secy

213 ND
PAGE 36

Before the U.S. Board of Land Commis-
sioners for California

affidavit of John Deighton
in case No 93

in place called *Yuba* *Sumner* *Locay* or
County of *Yuba* *Francisco*

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PAGE 37

Horace Barnes
being duly sworn depose that according to
recollection in this case he produced as
evidence *John Deighton* whose deposition
was taken before *Commissioner Felch*
January 2nd 1854 but by mistake said
deposition was taken in case 96
to which it had no application whatever

Deponent is and
was at the time of taking said deposition
also sworn for *Commissioner* in said case
96 and suppose that the said mistake
occurred in consequence of the fact that depo-
sitions were being taken in both cases on
the same day and that the papers in both
were being written together for the *Commissioner*
at the same time

Deponent wishes
that the said deposition might be added to
the files and properly returned in this case
93 where it belongs

Horace Barnes
Sworn and subscribed
before me October 24th 1854

S. B. Farwell
Commissioner
Filed in Office October 24th 1854

Geo. Fisher
Surf
Recorded in *Journal* vol 4 page 86
Geo. Fisher
Surf

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Exhibit Fanned
to the offl. of
J. S. McKune

A. Chaboyu To R. Haley

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PAGE 38

This Indenture made this first day of December A.D. Eighteen hundred and fifty four between Antonio Chaboyu of the County of Santa Clara in the State of California United States of the One part & Robert Haley of the County & City of San Francisco California of the Other part Witnesseth. That the said Antonio Chaboyu for and in Consideration of the Sum of Seven thousand Dollars to him in hand paid by the said Robert Haley the receipt whereof is hereby acknowledged, hath granted bargained sold conveyed and confirmed & by these presents doth bargain sell convey & confirm unto the said Robert Haley his heirs and assigns forever the right title and interest that the said Chaboyu has or may acquire of or in and to that tract or parcels of Land lying and being in the County of Santa Clara in the State of California known and distinguished by being part of the Rancho Yalco Reina granted to said Chaboyu by the Govern of California the 24th day of February Eighteen hundred & forty. & bounded and described by beginning at a point two hundred yards South of the Northern boundary of said Rancho, and about same distance from the Laguna Seca & One hundred and fifty three feet North Westward from an Oak tree with limbs cut off & is just Westward from a small house about two hundred yards - and the said tree was marked by J. B. Kane & Jacob A. Moran about on the 29th day of November A.D. 1854 with three cuts on the Westward side of the tree and three on the Southward side - thence running Eastward in a direct line to a point two hundred yards North of a Squatters house situate Southward from the residence of the said Chaboyu & is the first house after passing the two small houses next to said Chaboyu's residence & occupied by his family or part of them - as you travel Southward from Chaboyu's house on the brow of the mountains thence in a direct line continued from the point

first started from Eastaly to the Eastern boundary line of said Rancho. This being the first ^{one} bound along the Northern part of the Land hereby conveyed

Now to finish the boundaries of the Land hereby conveyed you must come back to the point first started from & then continue that line Westaly until it intersects the Eastaly line of the Lands conveyed by said Chaboya to Manuel Casto. Thence running Southaly along the line of said Casto's land or Lot conveyed to Casto by said Chaboya, One Spanish League thence Eastaly parallel with the first line direct to the Eastern boundary line of said Rancho, thence Northaly along the Eastern boundary line of said Rancho, until it intersects the first line herein described, reserving however to the said Antonio Chaboya his heirs and assigns One undivided half of the Silver mine on the Lands hereby conveyed which were denounced according to the Mexican Law by the said Antonio Chaboya together with successive Lanzas connected with said mine to make the same. Together with all improvements and appurtenances whatsoever to the same belonging or in anywise appertaining unto him the said Robert Staley his heirs & assigns forever

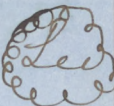
To have and to hold the aforesaid conveyed Lanzas tenements and hereditaments unto him the said Robert Staley his heirs & assigns forever in as full and ample a manner as the said Antonio Chaboya might exercise or ought to convey the same and the said Antonio Chaboya Contracts that he has not in any manner encumbered or conveyed said Lanzas hereby conveyed and that he and his heirs well and truly warrant the said Lanzas to the said Robert Staley his heirs & assigns forever against the claim or claims of all persons claiming by or through him the said Antonio Chaboya and further the said Antonio Chaboya Contracts that upon the Patent issuing to him from the Government of the United States for

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for the Lands hereby Comenced, the title which he may acquire from the U.S. of the lands hereby Comenced shall inure to the benefit of the said Robert Haley his heirs and assigns forever -

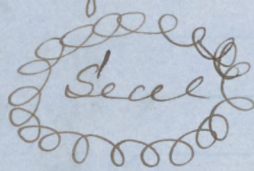
In witness whereof the said Antonio Chaboye hath hereunto set his hand & seal at the City of San Francisco California this ~~unnd~~ day of December A D 1854.

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Signe & sealed by Antonio ^{his} Chaboye 
delivered in presence of
Testes. Michael Costio, J. B. Hunt.

State of California
United States
City & County of San Francisco, Cal.

December 2. A D 1854. Then personally appeared before me G. J. Hubert Sanders a Notary Public in and for the City & County of said Antonio Chaboye, known to me to be the person described in & who executed the foregoing instrument and I translated the same to him in the Spanish language, and then he acknowledged to me that he understood the same and that he executed the ^{same} voluntarily and for the uses and purposes therein mentioned. In witness whereof I have hereunto set my hand and affixed my seal, the day and year last above written

 G. J. Hubert Sanders
Notary Public

Filed for Record (at request of J. B. Hunt) at 4 1/4 O'clock P.M.
December 5th A D 1854

S. A. Clark Recorder
Recorded by
J. Lewis Deputy

County Records Office

County of Santa Clara

State of California

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I hereby certify that the above and foregoing pages numbered 1-2-3 & 4) contain a full true and correct copy of an instrument of writing (Deed from Antonio Chuboyu to Robert Haley of part of the Rancho "Yerles Buena" now on Record in Book "G" of Deeds on pages 430-431 & 432 in this Office Witness my hand and Official Seal hereof this the 19th day of December A.D. 1854

J. A. Clark Recorder
By F. Lewis Deputy—

Filed in Office Jan 16. 1854

Geo. Fisher
Secy

47

93 Antonio Cheboyas
vs.
The United States

For the place called Yuba Buena
Socage in Santa Clara County

Opinion

The proof shows that the claimant has lived upon cultivated and improved the premises claimed during more than twenty years. In 1833 he applied to Governor Sequoia and obtained a decree giving him the right to build a house, cultivate the land and continue the pasturage of his stock &c, under certain limitations and restrictions. In February 1840 he applied to Governor Alvarado for a grant of the place in full property and the following document was issued and delivered to him

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PAGE 42

Montreux February 24. 1840

The present solicitude being seen and the documents accompanying it, with the informes practices, and all the rest which was presented - I grant in property to the Citizen Antonio Cheboyas the place called Yuba Buena situated in the jurisdiction of the Pueblo of San Jose Guadalupe to the extent of six leagues (Ligas de ganada Mayor) a little more or less, of which he has already taken possession, according to the limits which he expresses in his application

(Signed) Juan B Alvarado

This document and the Original papers accompanying it and produced by the claimant with proof of the genuineness are given in Evidence - They are sufficient to establish the petitioner's Equitable right to the premises - The Land granted is defined with sufficient certainty in the title papers, and is represented on the map attached to them - The quantity included in the boundaries, although stated in the grant at six leagues it seems from the testimony is only about three

The claim is meritorious and will be confirmed

Confirmed

Filed in Office Dec. 17. 1854

Geo. Fisher
Secy

93. Antonio Cheboya }
 } ^{vs}
 } The United States }

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

Decree

The Land of which Confirmation is hereby made is that on which said Antonio Cheboya resides, known by the name of Yuba Buma or Tocaya situated in Santa Clara County and bounded and described as follows to wit - Bounded on the South by the Patosuelo de las Animas, on the North by the Land of Mr. Joaquin Herrera and the Dry Lagoon of the Pueblo of San Jose de Guadalupe; on the East by the top (Cuchilla) of the adjoining hills, and on the West by the Rancho of the Bonales and the Punta del Roble in the vicinity of the Coyote Creek; reference for more particular description to be had to the grant and the map thereto attached on file in this case

Alpheus Felch }
R. McCoy Thompson }
S. B. Fawcett }
 } Commission

Filed in Office Oct. 17. 1854
Geo. Fisher Secy

And it appearing to the satisfaction of the Board that the Land hereby adjudicated is situated in the Northern District of California it is hereby ordered that two transcripts of the Proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded be made out and duly certified by the Secretary, one of which transcripts shall be filed with the Clerk of the United States District Court for the Northern District of California and the other transmitted to the Attorney General of the United States

Office of the Board of Commissioners,

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

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J. 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 *Forty eight* pages, numbered from
1 to 48, both inclusive, to contain a true, correct and full Tran-
script of the Record of the Proceedings and of the Decision of the
said Board, of the Documentary Evidence and of the Testimony
of the Witnesses, upon which the same is founded, on file in this
Office, in Case No. 93 on the Docket of the said Board,
wherein *Antonio Chabrera* is
the Claimant against the United States, for the place known by
the name of *Yerba Buena o' Socayre*.

In Testimony Whereof, I hereunto set my hand
and affix my private Seal (not having a Seal
of Office) at San Francisco, California, this
Twenty fifth day of *May*
A. D. 1855, and of the Independence of the
United States of America the seventy-ninth.

J. G. Fisher
J. G. Fisher



U. S. DISTRICT COURT,
Northern District of California.

No. *213* - **213**
THE UNITED STATES,

vs.

ND

Antonio Chabaya.

TRANSCRIPT OF THE RECORD
FROM THE
BOARD OF U. S. LAND COMMISSIONERS,
In Case No. *93*.

Filed, *June 2^d 1858*
John A. Moore
clerk

9608

Office of the Attorney General of the United States,

Washington, June 13th 1855.

93. Yerba Buena o' Soayre -

Antonio Chaboya, Claimant.

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 9th day of April 1855 the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

Very Respectfully,
Cushing

Attorney General.

No. 213 —

one

U. S. District Court
Southern Dist of Cal^a.

United States

vs

Antonio Chaboya,

Notice of Appeal
in Case no. 93.

Filed July 17, 1855,
by Chevers
Deputy

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one

one

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

The United States
Appellants
vs.
Antonio Chubaya
No. 14000

The Petition of the United States by their
attorney represents: that this cause is
an application for a review of the
decision of the Board of Commissioners
whereby the claim of the said appellee
was confirmed as appears by reference
to the records in the case: That a
transcript of the said Records was filed
in this court on the 1st day of May 1855.
; that a notice of appeal was filed
on the 1st day of May 1855 and that the
land claimed lies in the said District.

That the said claim is invalid.
Wherefore Appellants pray that the said
decision of the Board be reversed
and that this Court decree the said
title to be invalid. Respectfully
S. W. Inge
U. S. Dist. Atty

two

U. S. Dist. Court
No 213

1855

The U States
v
Antonio Chabaya

Petition

Lid. Nov. 30, 1855,
by Charles
Deputy.

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A. Russell
two

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of
The United States
Appellants
vs
Antonio Chaboya
Appellee & Claimant

District Court of the
United States Northern
District of California

Antonio Chaboya Appellee and Claimant
in the above entitled cause in answer
to the petition therein filed, avers and
says that his title to the land therein
claimed is valid

He therefore prays that the decision of
the Board of Land Commissioners be
affirmed and the title of the said Claimant
be decreed valid

O. B. Hart Atty
for Claimant.

No 213 ^{Three}

In the District Court
of the United States for
N. D. of California

Antonio Chaboya

vs

The United States

Answer of defendant

Filed Nov: 30, 1885,

J. Chaves
Deputy

L. P. Hart

Atty for defendant

Three

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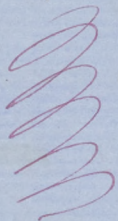
United States District Court
Northern District of California

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San Francisco

January 12th 1856.

On this day before George P. Johnston
a Commissioner of the United States for the
Districts of California, duly authorized, to adminis-
ter oaths to come Antonio Chabolla, a witness
produced on behalf of the United States in
Case No. 213. - being an appeal from the Board
of Commissioners to ascertain and settle the
Private Land Claims in the State of California,
in Case No. 93. in the Docket of the said Board
of Commissioners, and was duly sworn and
testified as follows - his evidence being inter-
preted by Robert Simpson Esq. a sworn in-
terpreter;



United States of America

vs Case No 213 - Dist Court & Case No. 93. Land Commission Appeals

Antonio Chabolla

Present: A. H. Giffell,

Acting U. S. Atty. in behalf of the United States
The claimant himself being present and there being
no attorney of record on his behalf. -

Question by U.S. Att'y.- What is your name, age and place of residence? My name is Antonio Chabolla - I don't know my age, and I live at the Pueblo of San José.- Do you know in what year you were born? I do not know.- I think I am an old man - I have a daughter married who has one child.- Are you the claimant of a Rancho, in Santa Clara County? I ~~do~~ ^{do} own ~~some~~ ~~land~~ land in that County.- To whom did you deliver the documents relating to the Rancho where you now live? I delivered some of them to Carey Jones who was my lawyer and some of them to Mr Jones's partner at Mr J's request - Did you ever have any other papers relating to that land other than those you delivered to Mr Jones and those delivered to his partner at Mr J's request? I never had any other.- What is the name of the Rancho in which you now live? It is called "Yerba Buena O' Socayre".- Is there any other person of your name who now does or ever did live on that Rancho? The only other person who ever lived there of my name is a little boy, a nephew of mine named José Antonio Chabolla.- Was there ever any other person of your name who ever claimed a com-

cession of the Rancho on which you now live?

There never was.

Sworn to & subscribed, *Antonio*^{his} *Chabolla*_{marks}

before me this 12th day
of January A.D. 1856

Geo. P. Johnston
U.S. Commissioner

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No 213 - four
U. S. District Court
North District of Cal^a

The United States
vs
Antonio Chabolla

Deposition of Antonio Chabolla
in behalf of the United
States.

Subscribed and sworn to
and signed
by
Chas. J. Cheever,
Deputy.

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four

UNITED STATES OF AMERICA,
STATE OF CALIFORNIA.

COUNTY OF SAN FRANCISCO.

213 ND
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District In the ~~Circuit~~ Court of the United States for the *Northern* Districts of California.

The United States

vs.

Antonio Chabolla

The President of the United States of America,

To

S. C. Hastings

GREETING:

You are hereby required, That all and singular business and excuses being set aside, you appear and attend before ^{the} ~~the~~ ^{San Francisco} ~~Circuit Court~~ of the United States for the Districts of California, ~~to be held~~ at the Court House in the City of San Francisco, on the ^{3rd} day of *April* A.D., 1856, at ³ ~~2~~ ^{District} o'clock, P. M., then and there to testify in the above stated cause now pending in said ~~Circuit~~ Court, on the part of the above named *United States*. And for a failure to attend you will be deemed guilty of a contempt of Court, and liable to pay all loss and damages sustained thereby to the party aggrieved.

my hand & seal of the Circuit Court
Witness, ~~The Hon. ROGER B. TANEY, CHIEF JUSTICE OF THE SUPREME COURT OF THE UNITED STATES OF AMERICA,~~ this ^{3rd} day of *April*

in the year of our Lord, one thousand eight hundred and fifty-*six* and of our Independence the *eightieth*.

Attest,

Geo. P. Johnston

Clerk,

U.S. Commissioner

By

Dep. Clerk

Original

213

District

Circuit Court of the United States

FOR THE Northern

Districts of California.

The United States

vs.

Antonio Chabolla

SUBPOENA.

for
S. C. Hastings

Filed, 8th

day of

April

1856.

Geo. A. Johnston
Clerk.

213 ND

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I hereby certify that I served this
Subpoena in person by copy on
S. C. Hastings this 3rd day of April
1856 at 1 1/2 o'clock P.M.

J. S. McDuffie U.S. Atty
By J. C. Lawrence
Dep

Don Antonio Chevoya ha puesto
en mis manos un Documento
~~español~~ en idioma Español titulado
Expediente promovido por Antonio
Chevoya en pretension del paraje
nombrado Yerba Buena en la de-
marcacion del Pueblo de San Jose
Guachipe. Año de 1840

San Francisco 9bre 4 de 1853 W. J. Jones
Witness
Horace Hawes

Recd of Antonio Chevoya the
Document entitled as in the
preceding and I am responsa-
ble for its safe keeping. Nov. 4. 1853
Witness
Horace Hawes

11

Exhibit A1

G. P. I

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U. S. District Court
Northern District of California

M. J.

The United States

vs ³Case No. 213. - Dist Court: Case No. 93. Land Comm^{rs}

Antonio Chaboyas

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San Francisco

February 27th A.D. 1856

On this day before me, Geo. Pen. Johnston
a Commissioner of the United States for the
Districts of California, duly authorized, to admin-
ister oaths to & to came Antonio Chabella, a
witness produced, on behalf of Claimant, in
Case No. 213., being an appeal from the Board
of Commissioners to ascertain and settle the
Private Land Claims in the State of Cali-
fornia, in Case No. 93., on the Docket of the
said Board of Commissioners, and was duly sworn
and testified as follows - his evidence being in-
terpreted by W. H. Davis Esq a sworn Interpreter

Present:

The U. S. District Attorney on behalf of
the United States Appellants and J. B. Hart Esq
& Scumden & Steplum on behalf of Claimant and
Appellees. - Questions by Atty for Claimant & Appellees.
"What is your name age and place of residence?"

"My name is Antonio Chabolla, my age is fifty three years, and my place of residence is the County of Santa Clara." "How many titles have you to your Ranch?" "I have two."

"What have you done with them?" "One of the titles I gave to Wm Carey Jones - the other I gave to H. P. Jones and Horace Hawes."

"Which title did you give to Wm Carey Jones?"

"The one I got from Figueroa." (Here a receipt purporting to be signed by H. P. Jones - witnessed by Horace Hawes written in Spanish & English is offered by Claimant's Atty to be attached to this deposition and it not being objected to is accordingly attached marked (Exhibit "A" G. P. J.)

"What title did you give to Jones & Hawes for which you have produced the receipt above described?" "The title from J. B. Alvarado is the one I gave to H. P. Jones, for which he gave me the receipt."

(As to the interest of the witness in this cause - and to the sufficiency of the notice for the taking of this deposition also to the fact of the witness being the party Claimant - the U. S. Dist Atty waives all objection.)

Seen to & Subscribed before me this 7th day of February A. D. 1855

Antonio ^{his} Chabolla
marks
Geo. P. Johnston, U. S. Commissioner

U. S. District Court ^{five}
Northⁿ District of California

No. 213

The United States

ⁿ

Antonio Chabaya

Deponent of Antonio Cha-
baya, witness produced,
in behalf of Claimant

Filed August 20, 1886.
Chenard,
Deputy.

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five

UNITED STATES DISTRICT COURT,
Northern District of California.

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San Francisco, Nov 12th 1856

ON this day, before Geo. Pen. Johnston a
Commissioner of the United States for the Northern District of California, duly
authorized to administer oaths, &c., &c., came S. O. Houghton
a witness produced on behalf of the
United States

in Case No. 213, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 93 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: The U.S. Dist Atty on behalf of the U.S.
S. B. Hart Esqr on behalf of the Claimant

Direct Examination.

QUESTIONS BY The U.S. Dist Atty

Ques. 1. — "What is your name, age, and place of residence?"

Ans. 1. — "My name is S. O. Houghton, I am twenty-seven years of age, and I reside at the City of San Jose, Cal."

Ques. 2. — "Do you know Antonio Chaboya, the claimant in this case?"

Ans. 2. — "I know him personally."

Ques. 3. — "Do you know the land on which Antonio Chaboya lives?"

Ans. 3. — "I do."

Ques. 4. "Is the land on which he lives, the same, land claimed, in this case?"

Ans. 4. "I believe it is, the ranch on which he lives is called Yerba Buena. -"

Ques. 5. "Did you ever have any conversation with Antonio Charoya concerning his title to that land?"

Ans. 5. "Yes. My impression is that it was in 1851, just after the establishment of the Board of Land Commission. I was conversing with him & another Californian about their titles to their Ranches; I had been looking over the title of ^{Jose} Maria Alviso, at Alviso's house, Charoya was present; I had explained to them the object of the creation of the Board of Land Commission. Considerable conversation occurred between them about their land titles. Charoya then told me what kind of title he had;

(Objection by Claimant's Atty as to any question about the character of the Claimant's title)

He ^{called} said it was a prestamo title. I did not understand what that was and I asked him to explain it to me. He and Alviso together did explain it to me. The explanation they gave of it was, that it was a title given by the Authorities of the Pueblo of San Jose, granting Charoya permission to occupy the land. Charoya in the course of the conversation asked deponent what he thought it. I asked him if the Prestamo was all the title he had

and he said it was: he did not show me

and he said it was:-- he did not show me the title at that time,-- we were talking of the Prestamo or titles.--

Ques. 6. "Did he show you the Prestamo or title at any time afterwards?"

(The Atty for the Claimant here objects to this interrogatory.)

Ans. 6. "He did show me afterwards that which he called the Prestamo title,--

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I think he showed it to me the next year 1852, but it might have been later, I am not positive about the time.--

Ques. 7. "Would you know the paper if you were to see it?"

Ans. 7. "I think that I should know it."

(A paper is here shown the witness on page 23 of the Transcript from the Board of Commissioners in this case, purporting to be a translation of the original title and the witness is asked)--

Ques. 8. "Is the paper now shown you a correct translation and of the same tenor, as the paper shown you by Antonio Chabaya?"

Ans. 8. "The paper is of the same tenor as the one shown me by Antonio Chabaya, but I cannot tell anything

about the correctness of the translation without comparing it with the original.

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Ques. 9. - "Was the paper Charoya showed you, a grant of land or permission to occupy land?"

(Objected to by Claimants Atty)

answ 9. "It was a permission to occupy land called Yerba Buena."

Ques 10. "Do you understand Spanish?"

answ. 10. "I do."

Ques. 11. "At this time did Charoya say he had any other title or not?"

answ. 11. "He said he had no other title than the one he showed me."

Ques 12. "Do you whether at this time, he had presented his claim to the Land Commission?"

answ 12. "He told me he had not then presented his claim to the Board."

"This conversation took place in the street at San Jose. At Charoya's request he ^{went} with him to the office of Wallace & Ryland, Attys at San Jose to make terms with them to present his claim to the Board, and Deponent then translated this paper now spoken of, to Wallace & Ryland. Charoya was asked by Wallace & Ryland, through Deponent, as interpreter, whether this was all the title he had and he said it was."

Cross-Examined by Claimants Atty

Cross-Examined by Claimts Atty

Ques 13. "When did you first know Charoya?"

Ans 13. "It was either in the latter part of 1849 or first of 1850."

Ques 14. "What were his circumstances at that time?"

Ans 14. "He was living on this place at that time, grazing cattle; the house seemed to have been there some time."

Ques 15. "Do you know whether Charoya can read and write either in Spanish or English?"

Ans 15. "I do not."

Ques 16. "Is Charoya an ignorant man?"

Ans 16. "He is."

Ques 17. "At whose instance are you now being examined?"

Ans 17. "Since I have been in attendance on the Circuit Court Frederick Hall of San Jose told me that he wanted my testimony in this case, and I am now testifying at his instance, and at that of the Dist Atty - Mr Hall is an Atty at Law at San Jose - several months ago I told Mr Hall of my conversation with Antonio Chabaya - I think Mr Hall is employed by the squatters to contest the title of the Claimant in this case - I have no interest what-

ever in the result of this litigation - I
learned the Spanish language at
first from books, and perfected my
knowledge of it, in this country. -
Sworn to and subscribed by S. O. Houghton
before me this 12th day
of November A. D. 1856. 3

Geo. Pen. Johnston
U. S. Commissioner

United States District
Court Northern Dis-
trict of California,
No. 213. *July*

The United States

vs
Antonio Chaboya

Deposition of S. O. Houghton
a witness produced
before me in behalf of the
United States.

Filed Nov: 17. 1856.
N. A. Chenevix
Deputy

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July

United States

No. 213.

213 ND

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Antonio Chaboya

In the District Court of the
United States for the Northern
District of California
On making & filing affidavit of J. B. Hast,
Ordered by the Court that
the United States who is the
Appellant in the above cause
have fourteen days from this
date in which to offer
further testimony on which
day it is further hereby ordered
that the proofs on both sides
shall be closed.

February 16. 1857.

No. ^{eight} 213.

U. S. Dist. Court.

The United States.

vs

Aut. Chabaya,

Order allowing
14 days time to close
testimony.

Filed Feby 16. 1857.

W. D. Cheves,

Deputy.

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eight

United States

Antonio Chaboya

No. 213. Claim

for Yerba Buena

y Socayes

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

Personally appeared Jose B. Hart
who made oath that he is the attorney
of record for the Claimant in the above
entitled cause. That it is now about
nine months since the said cause
was regularly called in its order on
the Docket. That at the time the same
was reached and called, the Claimant was
ready and offered to argue and submit the
same; that the District Attorney of the
United States said he was not ready, and
gave a reason that he wished to take
further testimony in the cause.

That the said claim is a most meritorious
one; that Claimant is an old man, that
he has been in possession of the land claimed
since the year 1824 & still is in actual
possession of a small portion of it about his
house, that a large portion of it has been
and is in possession of squatters, that the
Claimant and those claiming under him are
obliged to pay the taxes on the said land,
and that the products of the same which
are enormous, are all enjoyed by the squatters
that the said claim has been confirmed by

the said Commission, that after the said
confirmation, the cause was sought to be
reopened before the Commission on the
application of the Law Agent of the
Government under the pretence of fraud;
that the allegations of the affidavits which
were the foundation of said application were
never sustained by any proof whatever tending
to prove the same and that thereafter said
application was denied; that the District
Attorney declined to submit the said cause
in this Court when it was called. That although
nine months have elapsed since the date
of the calling of the said cause no proof
whatever in any tending to prove the said
allegations has been adduced by the government;
that the charge of fraud was made to continue
said cause in Court indefinitely as I believe and
made at the instance of for the benefit of the
squatters to enable them to keep possession
of the land & enjoy the same, in violation
of justice & common honesty & to the irreparable
injury & ruin of the claimants.

Subscribed and sworn
to before me this 9th day of
February A.D. 1857.
F. J. Thibault
Notary Public

J. P. Hart

United States No. 213.

Antonio Chaboya In the District
Court of the United
States for the
Northern District

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William Blandry Esq
Sir.

Take notice
that on Monday morning the 16th
Instant at the Opening of the Court or
as soon thereafter as counsel can be heard
the Plaintiff and appellee in the
above cause will move the Court
to close the proofs in said cause
unless the Government shall show
cause against the same, said application
will be made on the accompanying affidavit
and papers in the cause

Launders & Hebburn
for complainant

Seven
No 213.

United States
Antonio Chaboya

Affidavit of J. B. Hart
& notice of motion

Service accepted.
Feb. 10 1857

Wm Blanding
Dist. Atty.

Filed Feby 16. 1857
W. H. Chew,
Deputy.
Seven

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United States App^{ts} } U. S. District Court
as. } Northern District,
Antonio Chabolla, No 213. } State of California

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Frederic Hall being duly sworn says; that he verily believes, from conversations with the above mentioned Chabolla and other persons, that the Grant filed in the above entitled cause is a fraudulent one; that evidence can be obtained in the course of a few weeks sufficient to show that said grant ~~was~~ made since the year A. D. 1830; that this affiant is now endeavoring to find certain persons by whom, he has reason to believe, he will be able to defeat said grant, and whom it will require several weeks to procure here. And further, that one Hastings, Attorney and Counsellor at Law, stated to this affiant, that he said Hastings filed before the Board of Land Commissioners, the grant aforesaid, and that since that time he the said Hastings, stated to this affiant, that from information received by him, since the filing thereof as aforesaid, he believed said grant to be a fraudulent one. Also one Horace Haws, Attorney and Counsellor at Law, stated to this affiant that he said Haws argued said case before said Commissioners, for and in behalf of said Chabolla, and that from information received by him since the argument thereof, that he had reasons to believe that said grant was a fraudulent one. And further, this affiant declares that this affidavit is not made for the purpose of delay, but in order that justice may be done in the premises.

Sworn to and subscribed Frederic Hall.

before me this Feby 28, 1887,

= Cutler McElister

U. S. Commissioner

On reading, and filing the foregoing Affidavit
and on motion of the Dist. Attorney, ordered
that three weeks further time be allowed
both parties to close proofs, and submit
Cause,

March 2, 1857.

Vol. 13,
Name
U. S. Dist. Court,
The United States,

vs
Antonio Chabaya,
affiant of Hall,
vs an extending time
21 days,

Filed March 2, 1857.
W. H. Chewers,
Deputy.

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Name

UNITED STATES DISTRICT COURT,
Northern District of California.

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San Francisco, July 28 1857.

ON this day, before *Butler McAllister* a
Commissioner of the United States for the Northern District of California, duly
authorized to administer oaths, &c., &c., came _____

Julian Hanks a witness produced on behalf of the
United States

in Case No. 213, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 99 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: *Mr Hark for claimant and
the U.S. Dist Atty*

QUESTIONS BY *U.S. Dist Atty*

- name*
Ques 1 — State your age, place of residence, and occupation —
Ans 1 — My name is *Julian Hanks* — I am forty nine, I reside in *San Jose* — I am at present a miller —
Ques 2^d Are you acquainted with one *Antonio Chaboya* —
Ans 2^d I am —
Ques 3 Where does he reside —
Ans 3 He resides in *San Jose*, that is about 8 miles from the town of *San Jose* — in the County of *Santa Clara* —
Ques 4 Do you or not know any other person of the same name residing in *Santa Clara* County —

Ans 4- I do not -

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Ques 5, Did you or not ever having any conversation with Antonio Chaboya in relation to land claimed by him in the County of Santa Clara, if so state when, where, and what that conversation was - (Objected to by Atty for Claimant on the ground of incompetency)

Ans 5 I had a conversation with Antonio Chaboya once with regard to land he claimed in Santa Clara County - it took place in the fall of the year 1852, this conversation occurred in the town of San Jose.

He proposed to sell me a piece of land in a place he claimed as his farm, called Yerba Buena, of a thousand varas square, I told him I would purchase provided he would show me his papers, and they were satisfactory.

He said very well, if I would go over to his house, he would show me the papers, I went over, he showed me the papers, and told me they were all he had, he also pointed out to me the boundaries of the place he claimed -

Ques 6 After he showed me the boundaries I left -

Ques 6 Did he or not state and designate to you what the boundaries to the land he then claimed were -

(Objected to by Atty for Claimant)

Ans 6 He did, he stood at his house, and pointed out the boundaries -

Ques 7 State what the boundaries were that he then pointed out to you -

(Objected to by Atty for Claimant)

Aug 7. He pointed out an Arroyo at the back of the house up in the hills, in a north easterly direction from his house, which he called Arroyo del Alamo. He pointed out on the south west side from his house, an old adobe building, as near as I can recollect about a mile distant from his house. He pointed with his hand round the ridge on the south east side from his house, and called it Hucon Yader, (or poison oak), and pointing round the ridge he came back to the head of this Arroyo del Alamo. He said there was about ~~that~~^{two} leagues of it, more or less. That was all that he said in relation to boundaries at that time that I recollect.

Quess 8. From your best judgement how much land do you think there was within the boundaries designated (objected to by Atty for Claimant)

Ans 8. About two leagues I should think, less if anything.

Quess 9. At the time you had a conversation with Antonio Chaboye, relative to purchasing from him as before stated. What did you state to him at that time relative to the title, and his reply to you.

(Objected to by Atty for Claimant).
Ans 9. I went up there, and had no further conversation relative to the papers until afterwards.

Aug 10 What conversation did you afterwards have with him in relation to the grant - title -
(objected to by Atty for Claimant)

Aug 10 I told him I could not think of purchasing if he had no other title than what he showed me, it was not satisfactory - I had a great many conversations with the old gentleman & stated to ^{me} ~~him~~ at one time that Salvo Pacheco was an enemy of his and he always prevented him from getting a grant -

Aug 11 Did he or not show you a paper calling it his title, and saying at the same time that it was the only title he ^{was} had, and the reason that he could not get a grant was because Salvo Pacheco was his enemy -
(objected to by Atty for Claimant, as being leading and inadmissible)

Aug 11 I think I have ^{ready} ~~already~~ answered this question - He did show me papers saying it was all he ever had, and he told me that he could not get a grant because Pacheco was his enemy, I do not recollect whether he told me this at the time he showed me the papers or not -

Aug 12 Do you or not recollect whether the paper you saw called for a particular quantity of land or not -
(objected to by Atty for Claimant, because it is leading and in regard to ^{the contents of} a paper which is not produced here)

of of producing which no notice has been given) -

Ans 12 I did not -

Ques 13 State how long you have resided in Santa Clara County -

Ans 13. Since 1845 -

Ques 14 How long have you been acquainted with Antonio Chaboya -

Ans 14 Since 1845 -

Ques 15. Do you recollect any signatures to the paper he show Antonio Chaboya showed you, describe if you can ~~those~~ ^{the} papers (objected to by Atty for claimant, because the papers are not produced here nor notice given to have them produced and the question is touching the contents of a written document)

Ans 15. I don't recollect the signature, if had one, it was a sheet of common Mexican paper, with a Mexican stamp on it, one half of the page had writing on it - that is all I recollect about that paper -

Ques 16 State if you before 1852 at any time heard him claim any greater tract of land than what he designated to you -

(objected to by Atty for claimant)
Ans 16 I never did -

Ques 17 State whether you have been intimate or not with Antonio Chaboya

Ans 17 I have -

Ques 18 State whether or not you have any interest at all in the land claimed

by Antonio Chaboya -

Aug 18

I have not

Ques 19

State whether or not you have not always been, and are not now friendly to Antonio Chaboya -

Aug 19

I always have been friendly to him and am so now

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Cross Examination -

Questions by J. B. Hart for Plaintiff

Ques 7th

When Chaboya exhibited to you his title at his house did he show you a document signed by Jose Figueroa dated Monterey Nov^r 25th 1833, a copy of which is contained in the record page 15 now before you -

Aug 1st

He did not -

Ques 9th

Is not Antonio Chaboya a simple illiterate man -

Aug 2nd

He is illiterate enough, he is rather inclined to be simple -

Ques 3rd

Who called upon you first to inquire whether you knew anything of Chaboya's titles -

Aug 3

I don't recollect -

Ques 4

To whom did you first communicate the intelligence that you have detailed in this deposition -

Aug 4

I don't recollect -

Ques 5

When did Mr Hall request you to visit San Francisco to give your deposition if you are now here, at his request -

Aug 5

It is not long since, I think it was day before yesterday -

Ques 6

For whom does Mr Hall act in

this Controversy -

Ans 6

I don't know anything about it
sworn to and subscribed
before me this 28 Feb'y A.D. 1857.

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Julian Hanks

Butler McAllister
Commissioner

United States District
Court Northern District
of California

No 213 ND

Ten

The United States

vs

Antonio Chaboya

Deposition of Julian
Hanks a witness produced
on behalf of the United States

Filed March 17 1887
W. H. Cheverie,
Deputy.

Ten

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U. S. District Court.
N. District Cal.

The United States

v.

Antonio Chaboya

D. C. 213: L. C. 93.

San Francisco, Oct 07 1858.

In pursuance of notice received from the United States Attorney General it is hereby stipulated and agreed that no further appeal herein be taken on the part of the United States, and that claimant have leave to proceed under the decree heretofore entered in this Court as under Final Decree.

P. Della Torre

U. S. atty.

J. P. Hart
Atty for Claimant
Antonio Chaboya.

213.

U. S. District Court

The United States

v.

Antonia Chaboya

Stipulation

Filed Oct. 8, 1858,

J. H. Chenevix,
Clerk,

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

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v.

Antonio Chaboya

D. C. 213; d. C. 93.

In this case, a stipulation
having been entered into between the U. S. Attorney
and the attorney for the claimant that no further
appeal will be taken on the part of the United
States; on motion of P. Della Torre, Esq. U. S.
attorney, it is ordered that claimant have
leave to proceed under the decree of this Court
heretofore rendered in his favor, as under Final
Decree.

Ogden Hoffman
U. S. Dist. Judge

UNITED STATES DISTRICT COURT,
Northern District of California.

The United States

vs.

Antonio Chaboya.

*Order making decree
final.*

Filed *October 8,* 1858,

W. A. Chaves

CLERK.

By

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DEPUTY.

United States
vs. Antonio Chaboya } N^o 213 Claim for Yerba Buena of
Loaysa

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

Personally appeared Jose B. Hart who made oath that he is the attorney of record for the claimant in the above entitled cause. That it is now about some months since the said cause was regularly called in its order in the Docket. That at the time the same was reached and called, the claimant was ready and offered to sign and submit the same: that the District attorney of the United States said he was not ready and gave ^{as} a reason that he wished to take further testimony in the cause.

That the said claim is a most meritorious one; that claimant is an old man, that he has been in possession of the land claimed since the year 1824 and still is in actual possession of a small portion of it about his house; that a large portion of it has been and is in possession of squatters, that the claimant and those claiming under him are obliged to pay the taxes on the said land and that the products of the same, which are enormous, are all enjoyed by the squatters, that the said claim has been confirmed by the land Commission; that after the said confirmation, the cause was sought to be reopened before the Commission on the application of the Law Agent of the Government under the pretence of fraud: that the allegations of the affidavits which were the foundation

of said application were never sustained by any proof whatever
tending to prove the same and that thereafter said application
was denied: that the District Attorney declined to submit the said
cause in this Court when it was called. that although some
months have elapsed since the date of the calling of the said
cause no proof whatever in any ^{way} tending to prove the said allegations
has been adduced by the government; that the charge of fraud was
made to continue said cause in Court indefinitely as I believe and
made at the instance and for the benefit of the squatters to
enable them to keep possession of the land and enjoy the same,
in violation of justice and common honesty and to the irreparable
injury and ruin of the claimant.

Subscribed and sworn to (signed) J. B. Hart
before me this 9th day of
February A. D. 1857
J. J. Thibault
Notary Public

United States No 213.
v.
Antonio Chabizo In the District Court of the
United States for the Northern District

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William Standing Esq
for

Take notice that on Monday morning
the 16th Instant at the Opening of the Court or as soon
thereafter as counsel can be heard the claimant and appellee in
the above cause will move the Court to close the proofs in said
cause unless the Government shall show cause against the same.
said application will be made on the accompanying affidavit
and papers in the cause.

(Signed) Saunders & Stephens
for claimant

no 213.

United States.

W.

Antonio Chabry

Officer of J.B. Hunt

Notice of Arrest

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

Respondent's Brief

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United States
vs
Antonio Chaboy

This claim was confirmed by the Board. The Petition was filed March 9th 1852, and claims the land, averring a grant from Figueroa, dated November 25th 1833.

This grant was duly proved, and its genuineness is not questioned.

Another grant from Alvarado, dated February 1840, was also proved and put in evidence. Both of these grants were supported by uncontradicted proof of continuous and uninterrupted possession for thirty years. On this evidence the Board confirmed the claim Oct 17. 1854.

On the 16th of January, 1855, the United States, by its law agents, petitioned the Board to vacate the decree, on the ground that the grant of 1840 was a fraud. This is the first time the accusation was made, and, although three years have elapsed since, without the production of a particle of proof to

support it, the charge is still persisted in.

The prayer of the petition to vacate the decree was accompanied with an offer to establish the fraud by proving the signature of Manuel Jimeno a forgery. This, if it be a forgery, could easily be proved, for his signature is well and widely known, and yet not a witness has been called to question it, during a period of three years, through out the whole of which time every effort that could be made by the squatters has been made: Mr. Lockett, one of the witnesses who was to impeach the signature, being every day on hand to give his evidence. Could affirmative evidence of the genuineness of the signature be stronger than this?

But to put an end to cavil on this point the Court is requested to compare the signature of Manuel Jimeno in this case with his signature in Expediente one hundred and twenty two. (172) The former was made April 6th, 1839; the latter was made April 17, 1839, within eleven days of each other. The Court will see that they are exactly the same; they each bear a cachet particulier, and resemble one another, comme deux gouttes d'eau, making it quite out of the question that they were written by different persons. (The documents

will be shown to the Court by Mr. Hopkins at the Archives room, and would be sent with this were it permitted to remove them from the files.*

Next comes the affidavit of P. O. Minor, a squatter on the Rancho, who makes oath December 1, 1834, that he believes the grant of 1840 was fraudulent, and that he can prove by Wallace and Ryland and Antonio Sumol that Chaboye told them he had no other than the Figueroa Grant. Not one of these persons has been called! A man, named Nanks, is then called, and he swears that Antonio Chaboye offered to sell him a part of his land in 1832 and showed him (Nanks) his title, saying it was all he had, and that he (Nanks) refused to buy for the reason that the title was not satisfactory. In what respect the title was ~~not~~ satisfactory he does not tell us; what the title was he does not tell us; whether or not it had a good signature he does not tell us; all he knows was that it was a sheet of common Mexican paper, with a Mexican stamp on it. One half of the page

* Since writing the above Mr. Hopkins has kindly offered to attend with the papers at the Judges Chambers at such time as His Honor, the Judge, may appoint.

had writing on it. That is all I
recollect about the paper!

On his cross examination this
Witness says that the title shown to
him was not signed by Figueroa,
leaving the necessary inference that it
must have been the grant made
by Alvarado.

This is the substance of Hanks'
testimony, who is relied on by the
Council for the Squatters as a prin-
cipal witness to establish that the grant
of 1840 is a fraud!

Next the Squatters produced
a certain S. O. Houghton, who swears
that in 1837 Chaboyo told him he
had only a prestamo title, and that
he explained this to mean a title from
the authorities of the town of San
Jose to occupy the land; further,
that Chaboyo afterwards showed him
the Figueroa title and that he said
in his presence and the presence of
Hallaue and Ryland, that it was all
he had. Neither Hallaue or Ryland
have acted as Counsel for Chaboyo,
and they are therefore both of them
competent witnesses to corroborate this
witness, yet neither of them have been
called! The reason is obvious.

This witness undertakes to remember
what Chaboyo said in 1837, and yet
he don't know whether Chaboyo can

read and write, although in 1833 he figures as a stimp when Chaboye, alarmed and misled by the Squatters, took up a pre-emption and made his mark! (See page 33 of Transcript)

No Grant can stand if parole evidence of admissions by the claimant can overthrow it. In the Estudillo case, where the Grant was lost, two depositions were read to the effect that Estudillo said he had no Grant, and that he actually produced one which was not signed; but the Court, the Grant having been proved by Alvarado, who made it, and the claimant being in possession, paid no attention whatever to the depositions.

The only remaining evidence is the testimony of Chaboye himself. His first deposition was taken by the Government; the Squatters, of course, bringing him to the stand: this was on the 14th of January 1836. Chaboye, at that time, had an Attorney of record, S. B. Hartley, who, on the 30th of November, 1835, filed his answer to the appeal. Chaboye is not only ignorant but he is foolish and even silly; to use the language of Hanks "he is inclined to be simple". Such a man as this, who says, in his deposition, he "dont know how old he is, but he thinks he is an old man", is brought on the stand,

how? without any notice to his counsel,
his place being supplied thus -
"Present A. G. Glassell, acting U.S.
Attorney, on behalf of the United States;
the claimant himself being present,
and there being no attorney afre-
cord on his behalf".

The first act of a rascal is
to go to his lawyer when his rascality
is in question; but Chaboye, though
a fool was an honest fool and he
went alone and without fear. What
does he swear to? That he "delivered
some of his papers to Carey Jones, who
was his lawyer, and some of them to
Mr Jones' partner ~~at~~ Mr Jones' request,
and that he had no others". On
the 20: of August following he explains
that he gave the Figueroa title to
Carey Jones and the Alvarado title
to Carey Jones' brother, and for the
delivery of the latter he produces a
receipt, which is filed. There is,
therefore, no inconsistency, notwith-
standing the effort which has been
made to establish one.

The foregoing is all the evidence
to impeach the Grant and amounts
literally to nothing at all. The im-
becility of Chaboye, in not giving all
his papers to his lawyers in the be-
ginning is the real explanation of this
cry of fraud. To anyone who

Knows the man this is a circumstance of no weight, but to the Squatters, who were to profit by it, it was full of meaning. They had never heard of such a thing, not they; no sensible man would do so, not he. Probably not. Yet that was the way in which an American lawyer acted when he presented the claim of Maria Concepcion Valencia for San Gregorio; as the court remembers very well there were two grants in that case. One from Victoria, and one from Alvarado, but, as here, only one was noticed in the petition; which affords a Yankee parallel to the stolidity of Chabozo, credible to the court, though incredible to the Squatters.

The complaint that the Alvarado Grant was on paper habilitated with printed and not with written headings, is frivolous. A thorough examination of the Archives by Mr Hopkins shows that there were two classes of stamped paper for the year 1840. to wit: One class habilitated by written headings for the years 1839 and '40. and another class habilitated by printed headings for the years 1840 and '41. Both of these classes of stamped paper were used in the year 1840, and the reason why the Alvarado Grant was ^{written} ~~printed~~ on a printed instead of a ~~printed~~

habilitation was simply that he used the stamped paper of 1840 3/41, instead of 1839 and '40. For such trifles the court is seriously asked to declare that Alvarado has fabricated a false Grant; that he perjured himself in giving his testimony; (on which occasion he was cross examined by the United States, although the contrary is stated in Appellants Brief) that Jose Castro assisted in this crime - and that they or their confederates forged the signature of Manuel Jimeno; All this too without motive, for we maintain that the Figueroa title is of itself sufficient to entitle Chaboy to a confirmation of his claim. This indeed seems to be the opinion of the Council for the Government judging from his brief, in which all his efforts are directed against the Alvarado title, hoping that, if he can overturn the latter, the former would fall with it.

By the way we are at a loss to understand upon what principles of law the assertion of a fraudulent title by the owner of a tract of land divests, by way of punishment, his valid and true title, as is asserted by the Council.

The sufficiency of the Figueroa title is a very strong argument in

favor of the validity of the act, for why commit a gratuitous fraud?

Moreover, if the Alvarado title is a fraud, why was it not made in the shape of a formal Grant? The Alvarado title is a decree. Chaboya had already a decree from Figueroa. It would have been just as easy to make a formal Grant as a decree, and, if a fraud had been committed at the time charged by the counsel, a formal Grant would have been produced instead of a decree, as being more likely in those days of strict construction of Spanish titles to obtain a confirmation.

The principal reason of Chaboya, in his petition to Alvarado, was to free his land from the easements in favor of the inhabitants of the Pueblo in respect to wood, water, and pasture, imposed by Figueroa, and having obtained a favorable decree from Alvarado he rests satisfied.

The testimony shows that for many years Chaboya had exclusive occupation and enjoyment of his land, with the approbation of the authorities and people of the Pueblo. Besides when the Americans regained the country ^{the Pueblo} lost the pastoral features it had under

the Mexicans, and no inconvenience could arise from such an easement. Is it probable that Chaboya would have laid so much stress on being rid of the easement if his petition has been fabricated, as charged by the Council, at a time when the easement had been lost by disuse and abandonment of claim to it?

It is said sneeringly on the other side that the Figueroa title is merely a permission to occupy the land. Now as there is no time mentioned when the occupation is to cease, and as Chaboya has never been disturbed in his occupation, except by Squatters, and had been in occupation many years before Figueroa made the decree, this "mere permission to occupy" has all the appearance, accompaniments and requisites of a title. A permission to occupy, forever, a tract of land is the equivalent, in substance, ~~to~~ a deed in fee simple.

Chaboya had no need of any permission to occupy the land. He had been in possession already for several years prior to Figueroa's decree; as shown by the deposition, in this case, of Basé Noriega, who was Alcalde of San Jose in the

Year 1839, who proves he prohibited the inhabitants from entering Chaboya's land, Ramon Mesa, Antonio Maria Pico, and Juan Soto; the last named witness proved that Chaboya had occupied this land since 1821. Figueroa not only gives him permission to occupy the land without any limit to the time during which he may occupy it, but he goes farther and, in addition, gives Chaboya all the beneficial rights over the land that an owner can possess as fully as if he had, in the most technical language, declared him the owner of it. He decrees that Chaboya may build houses on the land, cultivate as much as he can and maintain his cattle upon it. What greater dominion can be exercised over land than to occupy it forever, build on, and cultivate it, and maintain cattle on it?

Figueroa styles his decree a Concession in the words "Entiendose esta Concession" &c, showing clearly that he meant it to be a title to the land; and that it was so considered by the Public Authorities, and the adjoining proprietors, abundantly appears by official documents, as well as by the testimony in the cause.

Antonio Maria Pico testifies (page of transcript) that in 1833, as Alcalde

of the Pueblo, she gave juridical possession to the Pala Rancho, granted to Joaquin Niguera and that Antonio Chaboya, as owner of this land ~~land~~ and Colindante (adjoining Proprietor) of Niguera, was present. The act of possession is to be found in the case of Joaquin Niguera. No 377 L. C. No. D. C.

It appears in this document that Antonio Chaboya was summoned and was present on account of his being the Colindante (adjoining Proprietor) of Niguera. The Pala Rancho adjoins Chaboyas land on the North.

In the case of the claim of the City of San José vs United States L. C. No. 286. D. C. No. is filed a copy of a map found in the Archives, being part of the Expediente of the Pueblo, set up for the purpose of having Ejidas assigned to it. (Expediente No. 339.) In the Expediente Governor Alvarado authorizes the Pueblo authorities to appoint Commissioners to make this map, but required them, among other things, to designate the lands which had been granted to individuals - According to the Commissioners have located on the map this Rancho by drawing on it a figure of a house and

writing over it Casa de Antonio

writing over it "Casa de Antonio Chaboya" in like manner as "Casa de Bernal", "Casa de Joaquin Niquera", "Casa de Justos Sarios", "Casa de Berriosa", and all the houses of the grantees of Ranchos are to be found in the map in their respective Ranchos.

Pedro Chaboya's house was then built, but was not marked on the map because he did not get his title until after the map was made. In his case No 401. S.C. No 192 D.C. now under advisement by the court, On the 19th page of the transcript taken in that case to the District court, appears the petition of Pedro Chaboya to Alvarado for the land claimed by him. The petition is dated "May 30th 1839". He describes his land as bounded by the lands of Antonio Chaboya on one side. In the same case the deposition of Antonio Sunol, and other witnesses, prove that the Coyote was then the boundary between the lands of Antonio and Pedro Chaboya. It appears by the Expediente of Augustin Bernal for Santa Teresa, No 102 in the Archives, that in 1834 Pedro Chaboya was Alcalde of San Jose, as he made the informes ^{on Bernal's petition} to the Governor in that capacity, which adds weight

And with the same reservations, was confirmed by the Assembly the title of Aguirre - for part of the land originally ^{granted} to Bernal as will appear by the Expediente. Figueroa in the Grant, dated July 11, 1834, after reciting the approval by the Departmental Assembly proceeds in these words, as translated in the case before the Land Commission. "I confer upon him (Bernal) said estate declaring it to be his

to his recognition of Antonio's title. From the foregoing it will be seen that on four distinct occasions the title of Antonio Chaboya, as owner of his ranch, has been recognized by the government authorities of the Pueblo and the adjoining proprietors.

The reservation of the right of common and the right to tax in favor of the Pueblo for lands within its civil jurisdiction seems to have been a customary clause in titles granted by Figueroa.

In the case of Augustin Bernal No 376 L. C. No. D. C. for the Rancho Santa Teresa, a Rancho adjoining Antonio Chaboya's, the decree and formal title of Figueroa both contain the same reservations in favor of the Pueblo as are contained in the decree of Antonio Chaboya.

The title of Bernal, subject to the same reservations was confirmed by the Departmental Assembly, and in the same manner. ~~Figueroa~~ in the Grant dated July 11, 1834, after reciting the approval by the Departmental Assembly, proceeds in these words, as translated in the case of the Land Commission. "I confer upon him (Bernal) said estate, declaring it to be his

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property by these presents without prejudice to the public benefit as regards pasturage, wood, water, timber &c. of the inhabitants of the Pueblo of San Jose Guadalupe, and liable to pay such sum as may be assessed, in case it should turn out to belong to the inhabitants of said Pueblo when its boundaries are regulated" &c.

It appears from the Expediente of Niguera for the Pala Rancho that he held the Rancho until 1833 under a decree from Governor Sola, dated June 6: 1822, written at the foot of letter from Niguera to him on the subject. The decree reads "He may construct his house in the place which the enclosed in this letter solicits without prejudice to the charges to which he may be liable as (Vecino) neighbor of the Pueblo of San Jose, and for this he will show this to Sergeant Luis Peralta,"

Niguera, in his petition to Gov. Sola for a formal title, relies on that decree, and Castro, before issuing the grant, required Niguera to declare under oath who wrote the memorial referred to by Sola, and whether Sola was acquainted with the handwriting.

We have given our views of

the meritorious character of this claim and the want of foundation of the charges against it.

We do not wonder that those who occupy the land have brought these charges. They had the consciousness that they needed some accusation against the title of Chaboya to his rancho in order to palliate their treatment of him.

On a recent occasion one of the undersigned visited the old man. In the center of the rancho are the ruins of the old adobe house in which the Chaboyas had lived in Mexican times one of the most prosperous men of his day, his possession of the Rancho undisturbed and his right to it unquestioned. While his cause has been pending in this court the adobe house has been burned, he says by design, and the next day, according to Chaboyas account, the squatters commenced to build along side of the ruins and took possession of the lands. The old man retreated to another house on the mountain side, where his herds men formerly lived, and where he is now glad to find shelter. He is safe there, for neither the house nor the land are worth the trouble of

"jumping". He had not much to

"sumping". He had not much to take with him. His cattle had long before disappeared. They were Spanish stock and made the American cattle, ^{of the squatters} mild, and so they killed them, and to pay themselves for the butchering they sold or ate the beef. He has remaining only two yoke of cattle, with which he cultivates the wretched bench of mountain land he is allowed to retain in his hopefing.

At the time of the visit just mentioned, two of the daughters of the old man were holding the ploughs and seemed to be his only assistants in his farming labors. Nearby stood and chimed two of his grand children, bareheaded, bare legged and bare footed that bleak December day, with no other covering than the cotton shirt worn by negro children on the plantations during Summer.

The old man, who is as pure in heart and guiltless as an infant, with child like simplicity told the story of his troubles, and when informed that they would soon be over, as his case would be decided in a month or two, he received the news with tears and exclamations of thanks to God. No wonder, for from a poverty so abject that he

accepts alms, by a patent he
will be secured in the possession
of a large portion of his Ranch,
and will collect the mortgages due
to him on portions sold, payable
as is usual in such cases when the
patent is obtained, and then he
and his children will be again
prosperous and happy.

H P Stephenson &
Henry Melkins for
claimant &
appellee.

Note - ^{Motion by} The petition of the Land Agent, Mr.
McKune against this claim was argued by
him, and deliberately considered and over-
ruled by the Land Commissioners. as appears
by entries on pages 97, 106 and 114 of
Volume 2 Journal of the Commissioners

Dated

The W. States

- vs -

Antonio Chabrya

Appellus
Receipts Prif -

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

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Antonio Chabolla,
Appellee, No. 213, U.S.D. Court.
Agt.
The United States,
Appellants, No. 93, L. Court.

Statement of the Case.

On the 9th day of March, A.D. 1852,
the appellee filed his claim before the Board
of Land Commissioners, for a tract of land
called Yerba Buena o' Socage, situate in the
County of Santa Clara, and State of California.
The appellee set forth in his petition
that, he entered into the possession of said
land in — year, and that on the 25th day of
November, A.D. 1833, his right thereto, was re-
cognized and a decree given in his behalf,
by Don José Figueroa, Political Chief and
Governor of California; and that a copy of said
decree and a map of the land are filed in the
case.

It is further alleged in said petition that
the claimant relies on the documentary testimony
above referred to, and such other testimony as
he may obtain. The petition is signed by Jones
Tompkins, & Strode, as Attorneys for Claimant.

The decree made by Gov. Figueroa as aforesaid, contains the following language:
"In view of the expediente and the informe of the Ayuntamiento of San Jose, which proceeds, let an order be issued to the Alcalde of the Pueblo that he permit the citizen Antonio Chabolla to build a house, cultivate the land which he can, and maintain his cattle in the place called Yerba Buena pertaining to the Egidias or fundas legal of the said Pueblo, this grant being understood to be without prejudice to the Common so far as it regards the enjoyment of the pasturage, waters, timber, fuel, &c."

It appears that no action was taken by the Board of Commissioners in said document, and it is apparent that the attorney for the claimant was of opinion that he was not entitled to a confirmation thereof, inasmuch as the document showed upon its face that it was nothing more than a (Prestamo) loan or right to occupy, which right certainly ceased at the time the territory of California was ceded to the United States.

Subsequently, another document appeared in the case, purporting to be in the nature of a grant made by Gov. Alvarado, bearing date February A.D. 1840, and marked filed Dec. 10th, A.D. 1833; which pretended grant calls for the place known as Yerba Buena o Socage, containing six leagues more or less. This document bears suspicion of fraud on its ^{face}. The endorsement thereon would lead any

one to believe that it was not made in the year 1800. The ink looks too fresh. Another fact, the Court will observe by comparing the original pretended grant aforesaid, with genuine grants made in the months of January and February, of the year 1800, which is this, that the said document filed in this case is upon stamped paper, printed at the head, whereas, other grants made in said months and year last aforesaid, were made upon paper not stamped, but with written headings, and containing a statement that such paper was used, on account of there being no stamped paper in the Country. There are several grants made a few days preceding the date of the aforesaid pretended grant, and some made a few days subsequent thereto, which will show the fact beyond a reasonable doubt, that the paper upon which said pretended ^{grant} is made, was not in the Country at the date thereof. This pretended grant is not made in the usual form.

Gov. Alvarado appeared as a witness for the Claimant, and stated that, he executed said pretended grant, at the time it bears date.

Several other witnesses were sworn on behalf of the Claimant, and testified as to the possession of the land by Claimant. One of them, Jose Ramon Mesa, stated that the tract of land contained about three leagues, and that it was bounded on the West by the Rancho of the Bernals, called Santa Teresita.

Another of them, Antonio Pico, said that the land was bounded on the West by the Arroyo de Coyote.

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The map filed, does not call for the Arroyo de Cayote as a boundary line. Pico also said, that the land was a league and a half from the Pueblo of San José, when in truth and fact, the Arroyo de Cayote is only a mile and a quarter from the center of said Pueblo. It shows that the statements of Pico are conflicting as to the boundaries, and in fact, it is doubtful from the testimony of Claimant's witnesses, what are the true boundaries which he claims.

It seems that no witnesses were introduced on behalf of the United States, and that Gov. Alvarado was not even re-examined.

The case being submitted upon the foregoing documents and testimony, the Board of Commissioners rendered a decision therein, on the 17th day of October, A.D. 1854, confirming said claim.

From which decision, the United States appealed to this Court; since which, testimony has been ~~adduced~~ introduced by the appellants, that presents the case in a very different light, and shows beyond a doubt, that the statements aforesaid, of Alvarado, are untrue, and that said pretended grant was made subsequent to the filing of the petition of Claimant by his attorney, in 1852.

In January, A.D. 1856, the appellee was introduced as a witness for the appellants, and testified that he delivered some of his papers relative to said land to Mr. Cary Jones, and some of them to Mr. Jones's partner, at the request of Mr. Jones, (this meaning the attorney who filed his petition;) and that he never had any other papers relating

to that land, but the ones delivered as aforesaid. That the land he referred to, was called Yerba Buena o Socage.

Afterward, to wit, February 27th, 1836, the appellee was called as a witness on his own behalf by his attorneys, (the objection that he was a party in interest being waived by the U.S. Attorney) and stated that he had two titles, the one signed by Gov. Figueroa he said he gave to Mr. Cay Jones, and the one signed by Sr. Abraudo & H. P. Jones & Horace Haws, producing at the same time, a receipt for the document signed by Gov. Abraudo, as received from the appellee by said Jones, and which receipt is on file.

Julian Hawks, a witness for appellants, states that, about the year 1832, the appellee was desirous of selling a portion of the land ^{he} claimed and which he called Yerba Buena, to him. Witness said to the appellee, that if he would show his papers to him, and if they were satisfactory, that he would purchase. The appellee replied that, if the witness would go to his, appellee's house, that he would show the papers relative to the land. The witness went, and the appellee showed him what papers he had, and told witness that he had no other. Witness then said to the appellee that he could not think of purchasing, if he had no other title than what he had shown him. The appellee then stated to witness, that, Salvo Pacheco was an enemy of his, appellee's, and that he, Pacheco, always prevented him, appellee

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ee from obtaining a grant. (Pacheco was Al-
calde of the Pueblo of San Jose.) Witness further
states that, the paper appellee showed him as
his title was a sheet of Mexican paper with
a Mexican stamp, and that one half of the page
had writing on it.

Witness further states that, the appellee,
while on the said premises called Yerba Buena,
pointed out to him the boundaries which he,
appellee, claimed; which boundaries, it will
be seen, are far different from those claimed
in the said pretended grant; that the appellee
told witness, that what he claimed, embraced
about two leagues; and that he, witness, thought
there was not over that quantity, but less, probably.

And witness further states that, he is, and
has been, an intimate and friend of terms with
the appellee, and that he has no interest in
this case.

S. C. Houghton, a witness for appellants,
on the 12th of Nov. 1836, testified that he was ac-
quainted with the Spanish language and spoke
it; that he had a conversation with the ap-
pellee, in the year 1831, at which time the appellee
said to witness that, the title under which he claim-
ed the land was a Prestamo, and which appellee
explained to witness to mean and import, that
he, appellee, had the right to occupy the land. And
appellee further stated to witness that, the said pres-
tamo, was all the title he had to the land called
Yerba Buena.

Witness further stated that, the next year

The appellee showed him the prestamo, which witness states was not a grant, but a mere permission to occupy the land called Yerba Buena. The witness at the time he testified, being shown the copy of the document on file, signed by Gov. Figueroa, stated that its contents was the same as the one shown him by the appellee.

Witness further stated that, in 1852, he went with the appellee to the office of Messrs. Wallace & Ryland, attorneys, at San Jose, for the purpose of employing them as attorneys to present and prosecute his, appellee's claim before the U.S. Board of Land Commissioners; that then and there the appellee produced the said document called by him a prestamo, and laid the same before the said attorneys, stating at the same time, that that document was the only title he had. Upon the examination of said paper by said attorneys, they pronounced it invalid, and not entitled to confirmation, and refused to present it before the Board. All which conversation was carried on through the witness as interpreter, and at the request of the appellee.

Brief.

There are but two main questions to be considered in this case; one of fact, the other, of law.

I. As to whether Gov. Alvarado signed

the document on file, called a grant, at the time it bears date, or, on some day subsequent to the time that the territory of California was ceded to the United States.

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II. As to the validity of the so called grant, admitting it to have been executed at the time it purports, there having been no delivery thereof, to the grantee, until after the territory was ceded as aforesaid.

I. Where Knowledge cannot be acquired by means of personal observation, there are but two modes by which the existence of a by-gone fact can be ascertained;

1st. By information derived either immediately or mediately from those who had actual knowledge of the fact; or,

2dly. By means of inferences or conclusions drawn from other facts connected with the principal fact which can be sufficiently established. An inference is founded on a principle of faith in human veracity sanctioned by experience. A conclusion is derived by the aids of experience and reason from the connection between the facts which are known and that which is unknown.

It has often been said that there are cases wherein the circumstances are stronger and more to be relied upon, than the testimony of living witnesses, inasmuch as a witness may be mistaken or wickedly intend to deceive, whereas, circumstances and presumptions arising from given facts cannot lie. If

such be the fact, this case is certainly one of that class.

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It is true, that, Gov. Alvarado swore positively that he executed the aforesaid document at the time it bears date; yet, that is not conclusive evidence of the fact. It is also true, that, the appellee admitted that he had no such document, and, in fact, swore it in the case. This, it may be said, is not conclusion of the fact that the document was not executed at the time stated by Alvarado.

But, the Court is to determine in the same manner as a jury would, if the issue were left to them, the facts from all the testimony and the circumstances and presumptions that naturally arise in the case.

Experience and observation show that the conduct of mankind is governed by general laws, which operate, under similar circumstances, with almost as much regularity and uniformity as the mechanical laws of nature themselves do. And it is quite natural for anyone in investigating the actions and statements of a party for the purpose of ascertaining the causes thereof, and the intentions with which the party acted and spoke, to place himself in the same position, in imagination, and then ask himself how he would act under similar circumstances, and what reasons would prompt him so to do.

The very first proceedings of the appellee before the Board of Land Commissioners militate against the presumption that the document signed by Alvarado was then in existence. His petition asks for a confirmation on the aforesaid prestamo, (permit to occupy,) without mentioning the fact that

any other document was ever in his possession by which he claimed the land. If at any time previous thereto, the so called grant was in his possession, he knew it at the time he filed his petition, and would have so stated. Had he alleged in his petition that, he had received from the Mexican Government another document, but that the same was lost, and a year subsequent thereto, had found it, and placed it on file, all that would have appeared quite plausible. But, to have omitted such an allegation, when it is possible, is not reasonable and improbable.

Again, let us look at the admissions and repeated statements of the appellee himself. He calls upon Mr. Doughton, a friend, as an interferer to communicate his own information relative to his right to the land, to Messrs. Wallace & Ryland as attornies, and to them states that he never had any other title, but the aforesaid prestamo. Would not any sane man present his case to his attornies, in the best light, and give them all the information possible? I think no reasonable man would come to any other conclusion.

Again, at the time the appeller was desirous of selling a portion of the land he claims, to Mr. Hawkes, he stated that, he had no other title but the aforesaid prestamo; and also gave reasons why he had no grant, namely, that Alcalde Pacheco prevented him from procuring one. Now, will any one believe that a person who wished to sell a piece of property, would secret his title to it, if he had one,

and in fact, there is shown an instrument which

and in lieu thereof, show an instrument which would be considered as an invalid title? If so, his method of reasoning as to human actions, is out of the regular and general course.

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The appellee when sworn for the appellants, testified that he had no papers relative to the land in question, except, what he delivered to his lawyers who filed the petition. But when sworn for himself, subsequently, he stated that he had two titles, one of which he delivered to G. P. Jones & George Haws. Now, he swore falsely at one or the other of those times. The first statement for the appellants, was in conformity with his repeated statements out of Court. But the second time, after studying over it, he makes a different statement, at a time which he ascertains that it will be for his immediate benefit to do so. It has been truly said, that, the truth is the natural issue of the mind, for it is easier to state the truth than to invent. The appellee, when out of Court, when there was nothing to prompt him to speak falsely, the natural flow of the mind was uttered, and he stated that he had no title but the aforesaid pretexts.

Because a party is permitted to swear in his own behalf, the Court is not bound to believe all that he states in his own favor.

I do not contend that the appellants have demonstrated beyond the possibility of error, that Gov. Alvarado did not execute the alleged grant at the time it bears date;

but I do submit, that all which may reasonably be required has been adduced to support that proposition.

According to Greenleaf and all other writers on the law of evidence, the true question, in trials of fact, is not whether it is possible that the testimony may be false, but, whether there is sufficient probability of its truth; that is, whether the facts are shown by competent and satisfactory evidence. By satisfactory evidence, is intended that amount of proof which ordinarily satisfies an unprejudiced mind, beyond reasonable doubt.

It is therefore submitted, that the Court cannot come to any other conclusion than that the aforesaid document signed by Gen. Alvarado, was not in existence at the time the appellee filed his petition before the Board of Land Commissioners, unless, the appellee be considered an insane man, of which there is no proof. That the general course of reasoning of the human mind, the rules and principles by which logicians are governed, and which are adopted by law writers, militate against any other reasonable conclusion.

II. As to the delivery of the alleged grant.

There is no testimony that the pretended grant was ever delivered to the appellee; and it could only be presumed from the fact that it is on file, and that it was filed by the appellee. But, to rebut that presumption, we have the admissions

of the appellee, made in the year 1831 & 2, that he had no such grant, which, I contend is conclusive. His statements in 1833, that he had it, proves nothing so far as the question of delivery is concerned. The question is, did he have it before the territory of California was ceded as aforesaid? The fact of its being placed on file, is only a presumption that he once had it in his possession, and not that he had it before the change of ownership in the territory aforesaid. His own admissions then clearly show that he did not have it up to the year 1831.

Now, I contend that, if the grant was executed at the time it bears date, and the grantee had no knowledge of the fact, until after the change of territory aforesaid, then there was no delivery. Because it requires the assent of the grantee, under both the Civil and Common law, to make a delivery good. And if he had no knowledge of its existence, he could not have given his assent. By the Common Law Courts it has been decided that registration is no delivery, unless by the assent of the grantee. Magnard vs Magnard, 10 Mass. 456; Cames vs Phipps, 12 Johns. 418; Barnes vs Hatch, 3 N. Hamp. 304. In vol. 1, 345, White's Recapitulation it says: "In regard to the necessity of delivery of the thing in order to acquire dominion, it is worthy of remark that that is certainly the case in the Civil law"

The appellee was never put in possession of the land in question under his alleged

grant, nor in fact, never was put in possession. He entered of his own accord, in — year, sometime previous to 1833.

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In the civil law, if A lends B. a thing, and afterwards sells it to him, he is not compelled to take the thing back into his own hands and make again an actual delivery, but as an equivalent thereto, the thing being already in the possession of B., he must say to him that it may remain with him; in this case it is the same as if it were delivered to him. St. 344.

There can be no doubt, that, all the right which the appellee once had, under the document signed by Gen. Figueroa, terminated, when the sovereign power of Mexico over California, ceased. That right being only a permission to occupy, at the will of the sovereignty. And if the Court should be of opinion that an equitable right still existed in the appellee by virtue of said prestamo, I apprehend that the Court would not lend its aid in support thereof, inasmuch as the appellee has filed subsequently, a fraudulent title, upon which alone he now asks for a decree in his favor.

Another point not mentioned at the commencement of the brief, to which the attention of the Court is called, is, that the petition does not refer to the document signed by Alvarado, nor is there any amended petition on file referring to it.

And the rules of this Court...

And the rules of this Court require that the petition shall refer to all papers in the nature of a grant upon which a decree is asked. If that is the rule, can this Court regard said document as being a part of the case?

It is therefore submitted, that there are no valid reasons upon which, to sustain the claim; and that a decree ought to be entered in this Court, reversing the decision of the Land Commission, and rejecting the title.

Frederic Hall,
Of Counsel for Appellants.

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

Antonio Chabolla,

Appellee,

Agt.

The United States,

Appellant.

No. 213, D.C.

No. 93, L.C.

Brief.

Fredric Hall,

Of Counsel for Appellant.

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United States

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Antoine Chaloye

In the year 1852 the claimant pre-
 sented his petition to the Board
 of Land Commissioners, praying for
 a confirmation of his claim to a
 tract of land with the boundaries
 shown in a map annexed known
 by the name of Yeha Buena de la
 Cruz. The petitioner states that
 he had genuine possession of the pre-
 mises by permission of the au-
 thorities of the Municipality of San
 Joaquin de Guadalupe to the Comandante
 which town it was supposed to be-
 long and that on the 25th of November
 1833 his right was recognized and a
 decree to give him full title was di-
 gned to him by Governor Figueroa
 and that petitioner has ever since
 lived ^{on} and occupied said land
 undisturbed. The petitioner further
 states that the signature mentioned per-
 sons and on which his title as far
 as documentary evidence is concerned
 exists in the archives of the former
 government of California, and con-
 cludes with stating that chance
 to be used as said documentary
 evidence and on such ^{testimony} or he
 may obtain. This petition was
 filed on March 9, 1852. There is no

amended petition before the Com-
missioners, referring to the existence
of any other documentary title

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The Board ^{was} ~~was~~ ~~of~~ ~~a~~ ~~copy~~ ~~of~~ ~~this~~
~~case~~ ~~for~~ ~~the~~ ~~reproduction~~ ~~of~~ ~~a~~ ~~copy~~
~~requiring~~ ~~that~~ ~~the~~ ~~petition~~ ~~during~~ ~~the~~
pendency of these proceedings,
another document being placed

February 1840 in a file
among the papers in the case before
the Board of Commissioners, on
the 10 Decr 1853. The Board in their
decision did not rely upon the Decree
of the 25th of November 1833 but the allego-
grant of 24 Feb 1840 a copy of which
is inserted in their opinion.

The only witness who swore to the
genuineness of the latter document
is Juan B. Alvarez. This witness de-
poses that he is acquainted with the
signatures attached to exhibit A. F. &
including the grant dated 24 Feb 1840
and also with the signatures of the bear-
ers annexed thereto. He deposes that
Alvarez also swears that he
signed his own name as Governor
in the two bearings when they appear
on said paper at their respective dates.
In view of the facts that in the peti-
tion presented to the Commission, no
allusion whatever is made to the
existence of such a document,
that there was no evidence given

existence in the Mexican Archives,
that it never saw the light so far
as the evidence shows, until 1853 when
it was produced under the
commissioner. Considering these
facts, it is passing strange that
but a solitary witness should be
found to establish so impor-
tant a fact, and ^{one} the only
✓ witness on the genuineness of this ~~great~~
alleged grant.

Another circumstance is suggested
with a view to impeach the witness
against the genuineness of the grant.
That circumstance is, that it was
on paper habituated with printed
and not with written headings. On
examination of the records, it is found
that in Illinois and Iowa in 1839 & 1840
that the stamped paper habituated
by written headings ^{was} for the years
1839 & 1840. This seems to have con-
tinued until the time when with the
exception of this grant, the first grant
was habituated with printed let-
ters. The foregoing is the testimony
which was before the Board of
Commissioners, and they in view
of all the circumstances, relied
on the statement of above named
witness as that witness was
in a direct manner, and a decided
in favor of the genuineness of the
Grant. Since the above stated to

This Court additional testimony
has been taken to disprove the
genuineness of the Grant,

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Julian Hanky, a witness, says, he
had a conversation with claimant
in the fall of 1882 in the town of La
Pore. He states, that claimant pro-
posed to sell to witness a piece of land
to be a farm he claimed, that claim-
ant exhibited the title papers to
witness, and that the title papers
were satisfactory and witness did
not purchase. That claimant
indicated ^{himself to} the boundaries and
of the land and said that Solon
Pacheco.

Julian Hanky, says to a con-
versation he had with claimant
in the Fall of 1882 when a proposal
to sell was made to witness, that
on that occasion claimant pro-
duced the boundaries of the
land and exhibited all his
title papers and said that Solon
Pacheco was his enemy and
had prevented him from getting
a Grant. Witness declined to
purchase because there was no
Grant of title.

S. O. Houghton testified to a con-
versation with claimant in 1887 just
after the establishment of the Board
of Land Commissioners, in that con-

version in the United States, that
claimant spoke of his title as
a Mexican title, and disclaimed
its character. Witness states he often
saw ^{as} the Mexican title and that
claimant told witness it was all the
title he had.

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Of the testimony of these witnesses,
together with the other facts in this
case concerning them are to be
believed, the testimony of Alvarez
as to the state of his signature
is not to be believed, as it true it
is not believed that the ^{made by the grant} ~~condition~~ ^{made by the grant}
the suggestion that this grant
was not evidenced until perhaps
after this country was in possession
of the American title, is correct.
But it is deemed unnecessary
to decide upon the genuineness
of this grant as we consider that
this claim may be sustained
upon the document of 25th Nov. 1833,
the ~~reference~~ ^{reference} by claimant of the
Kubingana Policy of the colonia-
-zation laws of Mexico, his long
residence, not only, occupation
and its recognition by the Mexi-
can authorities for a series of years.
It should be considered that the
evidence of the fact that the grant
of 1840 was annulled, the ~~was~~
law which was in effect
at the time of claimant

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in land previously acquired. In
executory instruments, where a
fraudulent alteration has been ^{made}
by the grantor, such act avoids
the instrument, and no right
of action exists on it can be main-
tained. Such is not the rule
with instruments which convey
for an interest in real estate, even
where the fraudulent alteration
is found in the instrument itself,
so much ^{of the interest} as it was intended
to transfer fraudulently ~~is~~
~~void~~ is void - the balance is
available. Even then, if it be en-
ced that if there was an attempt
to obtain a remission to obtain a
post fraudulent grant several
years after the decree of 1833 such
attempt would not defeat the
existing rights. If the question
rightly existed to such extent as to
authorise the confirmation of the
claim a decision upon the genui-
ness of the grant of 1840 is unneces-
sary.

The documentary title to which
we now look may be recorded among
the Mexican Archives. It gave
a permission to occupy without
limit as to time. It gave the party
the right
to cultivate the land, to stock it
to build on it, and the only

The genuineness of the document
 to which we have now to look that
 of 25th Nov. 1833 and do not consider
 to doubt but do expect to transfer
 any thing but a ^{permissive} name ^{we} ^{are}
~~any~~ is denied. That document
 gave the party ~~an~~ ^{an} ~~undisputed~~
 a possession undoubted as to time,
 a right to study, cultivate and breed
 on the land and the only reservation
 is that the concession should not
 remain in the hands of the
 the Commun, and the undisputed
 concession was in the original
 is concededly translated given then
 the document is a character
 as to be a title to acquire an inter-
 est to carry an interest in the
 land. The claimant who had
 been previously in possession, re-
 maining in the hands of the land
 cultivated, started it, and a title
 upon it. That possession has
 been continuous and uninterrupted
 by the Indians, as described by sev-
 eral witnesses. The Board of Com-
 missioners in their opinion say, "The
 proof shows that the claimant has
 lived upon and cultivated the land
 for more than twenty years." Certain-
 ly, he could not for several years before
 the American came into the country.
 The Mexican Government by and
 permission of his family to ef-
 fect

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X
X
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It is,

the labor years upon it.

Quam Solida utitur, meaning, to the
actual occupying and living
on the land by claimant & wife
1821

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Jan R. Mac and 32 years, swear
to the prob occupancy since he was
a small boy

Jan R. Mac says that he and
his mother had been there and
for number years. He states that
when he first knew of claimant
with his family they were living on it,
he had however cut it and
was cultivating the land. The
house he then had built and in
he was living seemed to have been
built several years. He had a
family of twenty children all
of whom he believes were born on
the ranch. This utitur, states, he
has cited officially as evidence in
1839, that the said Ranch had always
been recognized as the property of
claimant by the Municipal author-
ities and recinos. The whole
land of the Pueblo every month
before then had been in a certain
possession, and they were prohibited
by the Municipal authorities
from entering on the Ranch.
Antonio Pico has been on
the Ranch since 1833. Claimant was
living on the Ranch with his family

cultivated a sufficient portion of
it for the support of his family,
had not it been he and his
two heads of household. He ac-
quired the place as owner, and it
was generally recognized as his.
I am ~~one~~ one of the municipal
authorities, he requested I
make him a certificate of title
and only three witnesses, first
seen the land. The claimant
had a treaty of children, ten of whom
are living were now born on the
ranch.

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He considered that this notorious
occupation for years, the structure
of a dam, the cultivation of
the land, the extensive stocking
of the land, all acts done with
the express consent of the Mexi-
can Government, and with
their ~~supreme~~ consent for a series
of years, make the claim a
merit in law, and gave the
claimant an equitable claim
upon that Government for a con-
firmation, the same they re-
ceived at the Convention in their
independence of any legal title,
the claimant, on the ^{equitable grounds}
expiration of his claim on
a decree with the ~~be~~ ^{be} ~~and~~
offering the decree of the Board
of Land Commission.

213,

The United States

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A. Chabaya

Opinion con-
cerning decrees
concerning in
favor of validity
of the Claim,

July 21. 1858.

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Seven