CASE NO.
223

NORTHERN DISTRICT

NOVATO GRANT

ASSIGNEES OF BEZAR SIMMONS

CLAIMANT

LAND CASE 223 ND. 205 PAGES

NOV 7 1962

68

223 ND
PAGE 1

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 68.

The Assignees of Bezur Simmons, CLAIMANTS.

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Novato."

of the Board of Commissioners,

223 ND
PAGE 2

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, that on this Twenty fourth day of February, Anno Domini One Thousand Eight Hundred and Fifty-two, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;

The Petition of The Assignees of Bezar Simmons, for the Place named "Novato," was presented, and ordered to be filed and docketed with No. 68 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;

Los Angeles September 1st 1852.

In case nr. 68; Assignees of Bezar Simmons for the place named "Novato," the Counsel for the Claimants, having heretofore presented a Supplemental Petition, were permitted to file the same among the papers in the case.

(Vide page 6 of this Transcript.)

In the same case the Counsel for W. Parker et al; having heretofore presented a petition to contest the right of the claimants, were permitted to intervene in accordance with the additional Regulations of the Board of the 9th February 1852 which petition was ordered to be filed among the papers in the case,

(Vide page 7 of this Transcript.)

San Francisco January 29th 1853.

In the same case the deposition of Jacob P. Leese, a witness in behalf of the claimant, taken before

223 ND
PAGE 3

Commissioner Harry I. Thornton, with Document marked N. J. I. no. 1. Annexed thereto, was filed:

(Vide page 7 of this Transcript)

San Francisco Sept. 23d 1853.

Case no. 68 called. On motion of the counsel for the claimants ordered to the foot of the Docket.

San Francisco, November 23d 1853.

In the same case the deposition of Cayetano Suares, a witness in behalf of the claimants, taken before Commissioner R. Any. Thompson, was filed:

(Vide page 8 of this Transcript)

San Francisco November 25 1853.

In the same case the deposition of Salvador Vallejo, a witness in behalf of the claimants, taken before Commissioner R. Any. Thompson, was filed;

(Vide page 10 of this Transcript)

San Francisco December 1 1853.

In the same case the deposition of John Martin, a witness in behalf of the claimants, taken before Commissioner Alpheus Felch, was filed:

(Vide page 16 of this Transcript)

San Francisco December 5 1853.

In the same case the deposition of Gilbert R. Brush, a witness in behalf of the claimants, taken before Commissioner Thompson Campbell, was filed:

(Vide page 20 of this Transcript)

3

223 ND
PAGE 4

San Francisco Sept. 12th 1854.

Case No. 68 was submitted without argument

In the same Case the depositions of Thomas E. Evenhed and J. J. Warner, witnesses on behalf of the Claimants, taken before the Commissioners sitting as a Board, were read:

(Vide pages 228 & 244 this Transcript.)

San Francisco October 3d 1854.

In the same Case the Counsel for the Claimants filed the following Stipulation, with the documents therein described:

(Vide page 8 3 of this Transcript.)

San Francisco November 4th 1854.

In the same Case Commissioner S. B. Farrelly delivered the Opinion of the Board confirming the Claim:

(Vide page 113 of this Transcript.)

N. and the following order was made, to wit:

(Vide page 117 of this Transcript.)

4

5

223 ND
PAGE 5

Petition

To the Honorable Commissioners to settle private land claims in California.

The petitioners, Frederick Billings, James R. Belton, and Henry W. Halleck, Assignees of Bizer Simmons, respectfully show.

That Fernando Felis in the year 1836 applied to the proper authority and prayed permission to settle and occupy a tract of land called Novato, situate in the present County of Marin and in the then jurisdiction of Sonoma or Frontier of the North, containing two square leagues more or less.

That on the 16th day of April A. D. 1839 Juan B. Alvarado, Governor of California, by virtue of authority in him vested, granted by patent to the said Fernando Felis the said tract of land.

That on the 13th day of November A. D. 1839, Manuel Jimeno, Governor ad interim of California, by virtue of authority in him vested, issued a new grant to the said Felis for the same tract of land more particularly defining its boundaries in accordance with the map accompanying the espediente.

That on the 22d day of May A. D. 1840, the said grant was approved in due form by the Departmental Junta.

That on the 15th day of November A. D. 1842, the said land was duly surveyed and the juridical possession given by the proper authority to the aforesaid Felis.

223 ND
PAGE 6

That on the 20th day of December A. D. 1844, the said Fernando Felis conveyed to Jacob P. Leese the said tract of land.

That on the 24th day of November A. D. 1846, the said Jacob P. Leese and wife conveyed the said tract of land to Bizer Simmons.

That on the 3d day of September A. D. 1850, the said Bizer Simmons by deed of assignment conveyed the said tract of land to your petitioners; copies of which orginal petitions, grants, map, approval, deeds of conveyance and of assignment, are hereto annexed marked A. with translations marked B.

And the petitioners further show that, the said land has not been surveyed by the Surveyor General of the United States, but that it was surveyed by the proper authority at the time of giving the juridical possession and that its boundaries are easily to be recognized and well known.

That since the year 1836 the said Fernando Felis, Jacob P. Leese, Bizer Simmons and the petitioners have been, and the petitioners now are in quiet, peaceable, and undisputed possession and occupation of the said land;

That they know of no conflicting claim;

That they only for confirmation of title upon the original documents and records, copies of which are hereto annexed, upon the minutes and

documents in the archives now in the charge of the Surveyor General, and upon such other and further proofs as they may be advised are necessary.

223 ND
PAGE 7

Wherefore they pray the Commissioners to confirm to them the aforesaid tract of land.

By their Attorneys
Halleck, Peachy & Billings

Filed in Office Feby 24th 1852.
Geo: Fisher.
Dep'y

Deposition of Jacob P. Leese.

San Francisco January 29th 1853.

On this day before me Henry S. Thunton, came Jacob P. Leese, a witness in behalf of the claimant Bizer Simmons, Petition No 68. and was duly sworn, his evidence being given in English.

In answer to questions propounded by claimants counsel the witness testifies as follows.

My name is Jacob P. Leese, my age is 43 years; I have lived in California 20 years.
I am acquainted with the handwriting of Manuel Jimeno, Francisco G. Arce, Fernando Feliz, Salvador Vallejo, Caytano Juarez, Francisco Higuera, Antonio Ortega, Eugenio Bonnie, Victor Linden, and Nasario Berryesa; their signatures to the papers before me marked Exhibit

8

4/68

223 ND
PAGE 8

I, herein, am genuine.
I know the Rancho called Novato in Marin County; Fernando Felis occupied it in 1839 with a house, horses and cattle and sowings; in 1844 he sold the land to me, and I occupied it until 1846 when I sold it to Captain Bezer Simmons, who continued to occupy it until his death in 1850.

J. P. Leese.

U. S. Law Agent pro tem.
Sworn to and subscribed before me this 29th of Jany 1853.

Harry I. Thornton.
Comr &c

Filed in Office Jany 29' 1853.
Geo: Fisher.
Secy.

Case No 68.

Deposition of Gaytano Juarez.

Office of the
Board of Commissioners &c &c.

This day before Comr. R. Aug. Thompson, came, Gaytano Juarez, a witness in behalf of claimant Bezer Simmons petition No 68. who being duly sworn, his testimony being in Spanish was interpreted by the Secretary as follows.

Testimony on behalf of claimant.
Present, Peachy Atty for claimant and R. Thornton Esq Asst. Law Agent.

9

223 ND
PAGE 9

Witness states his name is Caystano Suarez, age forty four years, and residence Sonoma, California.

Questions by Claimant's Atty.

Look at the document now shown you marked as Exhibit No 1. to the deposition of Jacob P. Leese and with the initials H. D. T. Huntington filed in this case, particularly to that part of said document purporting to be a conveyance from Fernando Feliz to Jacob P. Leese of the Novato Rancho being the land claimed in this case, dated Dec 2nd 1844 and say if you recognize the signatures thereto of Fernando Feliz the vendor, Victor Prudon, Nasario Berdeso assisting witnesses, as also your own, and state whether the same are genuine or not?

Answer.

The document last mentioned being the act of sale, in the question was executed before me in my official capacity as second Alcalde of the jurisdiction of Sonoma. I have a distinct recollection of the transaction and recognize my own signatures when they occur thereon as well as those of the other persons named in the question as their genuine signatures, they were all executed in my presence. I am also acquainted with their hand writing having seen them write. Victor Prudon is now living in San Francisco Nasario Berdeso is dead.

Caystano Suarez.

Sworn to and subscribed
before me Nov 23rd 1853.

R. Aug. Thompson.
Comr

10

Filed in Office Nov 23 1853.
Geo: Fisher.
Secy

223 ND
PAGE 10

Case No 68.

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

Deposition of Salvador Vallejo —

This day before Comr R. Aug. Thompson came Salvador Vallejo, a witness in behalf of claimant Petition No 68. and being duly sworn deposed as follows — His evidence being given in the Spanish language was interpreted by the Secretary.

Testimony on behalf of claimant.
Presnt. Wadsy on behalf of claimant &
R. Gruehow Esq U.S. Dist. Law Agent.

Witness states his name is Salvador Vallejo, his age forty years, residence Sonoma, California.
Question by claimants Atty.
Do you know the Rancho called Novato claimed in this case, if so, how long have you known it?
Answer.
I know said Rancho and have known it since the year 1833.
Question by same.
Look at the document now shown you marked "Doc No1." and with the initials H. I. T. and annexed to the deposition of Jacob P. Leese filed in this case particularly at that portion of it purporting to be a record of the proceedings

223 ND
PAGE 11

had, in giving juridical possession of said Rancho to Fernando Felis, and say whether you recognize the said document. If you are acquainted with the handwriting of Fernando Felis, of Salvador Vallejo, Eugenio Suarez, Francisco Higuera, Antonio Ortega and Gregorio Briones, & if their signatures on said document are genuine?

Answer.

I do recognize said document as an original document made by myself - I am acquainted with the handwriting of the parties named in the question. Their signatures where they appear on said document are genuine, and were executed in my presence at the time they bear date.

Question by same.

Look at the document marked N. and with the initials R. T. purporting to be a traced copy duly certified from archives of California now in the office of the U. S. Surveyor General for the State of California, of certain papers relating to the title to said Rancho & particularly at the map therein contained, say if you can point out on said map, the lines run by you when you gave the juridical possession aforesaid, and if said map is a true copy of that by which you gave said possession.

Answer.

I recognize said map as a correct copy of that by which I gave said possession. In giving said possession I commenced at the mouth of the Arroyo de en chi emptying into the estuary of

8168

223 ND
PAGE 12

of Petaluma or bay of San Pablo, and marked on said map with a small cross (+) made by me. From thence I run up said Arroyo to the point marked Palo Col-a^do^ as marked by the dotted line on the map in a westerly direction two hundred cordels of 50 varas each. From that point I run in a Northerly direction 100 cordels of 50 varas, to the point marked on said map by two small crosses (X), thence in an easterly direction 100 cordels to a point called "Olom Pali" on the estuary. From which point we followed the coast of the estuary around the ~~"point"~~ "punta del Potrero" on said map to the beginning; all of which are designated by the dotted lines on said map - These lines were run in accordance with the testimony of the witnesses examined by me as set forth in said record of the proceedings of the juridical possession, and in pursuance of the calls of the grant and the lines on the map.

Question by same.

State what you know of the possession of said Rancho by Fernando Feliz, and of the occupation, improvement and cultivation of the same by him?

Answer.

He occupied the said Rancho from the year 1836 or "37. He had on it two houses, one of adobe and the other of wood, he had also corrals, some lands fenced in and in cultivation in wheat, corn, and beans, also stocks

223 ND
PAGE 13

of cattle and horses, he continued to occupy it until he sold it to Mr Lee in 1844 - Mr Lee and his successors have occupied it ever since - During the period first above mentioned Fernando Feliz lived on said rancho with his family.

Question by same.

State who owned the adjoining Ranchos when you gave the said jurisdicial possession?

Answer.

Camilo an Indian was the land adjoining on the North - Ignatio Pacheco on the South and Juan Martin on the West.

Question by same.

What separates the said Ranch from the lands of the Indian Camilo?

Answer.

A range of hills, along which the North line laid down on said map was run. The Arroyo de arichi separated it on the South from the lands of Ignatio Pacheco - the next line passing the Portrero divides it from the land of Juan Martin.

Question by same.

Is the point called Palo colorado marked on said map a well known and well defined place?

Answer.

It is well known, it is on a high hill with red wood trees growing on the summit - they are the only red woods on the Rancho.

Question by same.

Is there any object by

F 223 ND
PAGE 14

which you could identify the point on the map with two small cross (x x)?
Answer.

At the time the measurement was made Fernando Feliz erected there a pile of stones as a land mark and I could now recognize the spot at the termination of the line from the last mentioned point to the estuary at Olema Pudi, Feliz and Camilo who was present as a Colindante erected a pile of stones to mark the boundary between them.
Question by same.

Look at the document now shown you marked B. with the initials R.T. Thornith filed purporting to be a deed of conveyance of the Novato Rancho by Jacob P. Leese and Rosalia his wife to Bizar Simmons executed on the 24th of Nov 1846, and say if you are the subscribing witness to said deed, and if the signatures of Jacob P. Leese and Rosalia Vallejo thereto are genuine?
Answer.

I am the subscribing witness to said deed and my signature thereto is genuine — the other signatures named are executed in my presence and are also genuine.
Question by same.

Look at the paper purporting to be a grant from Manuel Jimeno to Fernando Feliz contained in the document first referred to, and state whether you know the hand writing of Juan B. Alvarado, Manuel Jimeno, Antonio

Maria Ortiz, and Francisco C. Arce, and if so, whether their signatures when they occur on said paper are genuine or not?
Answer.

I have examined said paper, I know the hand writings of the persons named having often seen them write. Their signatures on said paper are genuine.

Question by Mr Gunnison —
Is the Cote de Madera de Pacayaculo included within the limits of said rancho as surveyed by you?
Answer.

It is.

Question by same.
Does the Arroyo of Alcalde run through the Canada de Novato?
Answer.

It does not, it runs south of the Canada and runs into the estuary near the mouth of the Canada —

Salvador Vallejo

Sworn to and subscribed
before me Nov 25 — 1853.
R. Aug. Thompson.
Comr.

Filed in Office Nov 25 — 1853.
Geo: Fisher.
Secy.

16

12/68

223 ND
PAGE 16

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

This day before Comr Alpheus Felch came John Martin a witness in behalf of the claimants Assignees of Bazar Simmons petition No 68, and being duly sworn deposed as follows.

Deposition of John Martin.

Questions by Mr Peachy Attorney for claimant.

1 Question.

What is your name, age and place of residence?

Answer.

My name is John Martin, my age is sixty seven years, and I reside in Marin County on the Rancho adjoining the Rancho called Novato.

2 Question.

How long have you lived in California, and how long on the Rancho where you now live?

Answer.

I have lived in California thirty one years, and on my present Rancho since 1837.

3 Question.

Please state what you know about the settlement, improvement & cultivation and occupation of the Rancho called Novato by Fernando Feliz or any other person?

Answer.

Fernando Feliz occupied it, cultivated and improved it and lived on

223 ND
PAGE 17

it in 1837. I do not know how long he had
been there at that time. He lived in a
wooden house in 1837 and was then build-
ing an ~~adobe~~ adobe house on the place
which I think he finished and occupied
the same year. He had a wife and as
many as five or six children living there
with him. He had cattle and some stock
then and cultivated some of the land. He
had a number of Indians then there at
work for him. He continued to reside
on the place until he sold it to Mr
Leese. Mr Leese bought it with the cattle
on the place. Captain Simmons next
occupied the farm. He had cattle on it
and built a new house on it. The Knights
lived there next. Fliz had an average
of about eighty cattle on the place; he
had also horses but I cannot tell how
many.

4 Question.

What is the southern boun-
dary of the Rancho Novato?

Answer.

The Arroyo Novato. This Arroyo
separates the land of Novato from Igna-
cio Pacheco's land, called San José.

5 Question.

What is the western boundary
of the Rancho Novato?

Answer.

The western line of the ranch
runs across the Portezuelo of my farm.

6 Question.

Where is the Cerrito Gracia?

Answer.

It forms one part of the Portezuelo
it forms the north side of it.

18

223 ND
PAGE 18

7 Question.

Is there any land mark or boundary on the Cerrito Gracia to designate the western boundary line of Novato?
Answer.

There are two trees and stones piled up for a land mark or boundary.
8 Question.

Is there any land mark South of that pile of stones to designate said Western ~~boundary~~ line?
Answer.

There is. There are some red wood trees standing on a high hill, and the Western line runs from the Cerrito Gracia to those trees.
9 Question.

To what point does the Western line run North of the Cerrito Gracia?
Answer.

To a place called Devils' Rock on the top of a hill near which the road from Novato to Petaluma runs.
10 Question.

How far is it from the Red wood trees to Devils' Rock?
Answer.

About two miles and a half.
11 Question.

What is the Northern boundary of the Rancho?
Answer.

It runs from Devils' Rock to a pile of stones which are at foot of some chestnut trees near the foot of a hill called Olompali, and near the road

223 ND
PAGE 19

leading from Novato to Camillos Rancho.
This road passes near the marsh and runs
very near the foot of the hill.
12 Quest.

What is the Eastern boundary
of the Rancho?

Answer.

It is the Estero Novato. The
Estero Petaluma is also a boundary on
the east side of the Rancho.
13 Quest.

What do you mean by Estero?

Answer.

The salt water marsh—

John his X Martin
mark

Mr Granham Avocate
Law Agent was present at the
taking of this deposition but
propounded no interrogatories
to the witness.

Subscribed and
sworn to before me this first
day of December 1853.

Alpheus Felch.
Commissioner.

Filed in Office Dec 1st 1853.
Geo: Fisher.
Secy.

10/58.

20

223 ND
PAGE 20

Office of the Board of U. S.
Land Comrs. &c &c

This day before Comr Thompson Campbell came Gilbert R. Bruch a witness in behalf of the claimant Bizer Simmons petition No 68, and being duly sworn deposed as follows—

Deposition of Gilbert R. Bruch.

What is your name, age and place of residence?

My name is Gilbert R. Bruch, I am twenty nine years of age, and I reside in Marin County, State of California.

When did you first go on the Rancho called Novato to reside?

I went there last July was a year, at which time I was Mayordomo of the ranch, and was there in the employment of Mr Peachy, at the time there was about one hundred and fifty head of cattle and two hundred and forty horses on the place.

Are you acquainted with the boundaries of said Rancho, and if so, state what they are?

Commencing at the arroyo arichi at its mouth, where it empties into the estero, thence running up the arichi through the Canada de la nata, thence to the potrero del to the ranch of Juan Martin, which lines form the Southern

223 ND
PAGE 21

boundary of said Rancho. The Western line of said rancho cross the potezuelo of Juan Miranda, and runs nearly North and South, at the potezuelo on the right hand side, there is a hill called the hill of gracia, on the top of which there are two trees close together, and on the South side of said hill there is a pile of stones, placed there as a boundary mark, said western line runs over said pile of stones. From said hill the Western boundary line runs South to a point of red wood trees on a hill, a point well known. From said hill the western boundary line runs North to a rock called the devils rock, on the top of a hill where the road cross over leading to Petaluma. The whole length of said Western boundary line, I dont think exceeds two and a half miles. From the devils rock the Northern boundary line runs to the hill of Olompali, at the North Eastern corner there is a pile of stones, on the South side of the hill where there is a small grove of live chestnuts. The eastern side of said rancho is bounded by the Estero of Novato.

Do you know of any Rebla on said ~~Novato~~ Novato rancho, and if so, on which side of the rancho is it situated?

There is such a grove, and is situated on the Northern side of the Rancho and extends the quarter part of the way from the devils rock to Olompali.

22

What do you understand by the Canada of Novato?

I have always understood by the Canada Novato, or that part lying on the creek of Laichi—

Gilbert R. Brush.

Sworn and subscribed
before me this 5th day
of December A.D. 1853.

Thompson Campbell.
Comr.

Filed in Office Dec 5th 1853.
Geo: Fisher
Secy

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223 ND
PAGE 22

Deposition of Thomas E. Evershed.

United States Land Commission.
San Francisco Sept 12 1854.

On this day, before the Commissioners sitting as a Board, came Thomas E. Evershed, a witness in behalf of the claimant Bazar Simmons, case No 68, who after being duly sworn deposed as follows—

Questions by the Counsel for the Claimant.

Quest 1st

What is your name, age and place of residence?

Ans.

My name is Thomas E. Evershed, my age thirty years, my residence San

223 ND
PAGE 23

Francisco—

2nd Q.

What positions do you hold in the Office of the U.S. Surveyor for California?

Ans.

I am one of the Archive Clerks—

2nd Q.

State whether or not there are any documents which are the Originals of Document Marked A R T. filed in this case, purporting to be a traced copy of an Expediente relating to the Rancho of Novato in said archives.

Ans.

The document which I now produce is the original of the traced copy referred to and certified to by Saml D. King Surveyor General for California.

4 Q.

State whether there are any books in the Archives in which Titles are recorded after the year of 1836, if yea, state to what years those books relate, and for what years are wanting?

Ans.

There are no books of Titles in the Archives after the year 1836. The books that do exist in the Archives are, two are entitled "Registro de Títulos," known by marks "which book as far as I recollect, shows records of grants from 1790 odd to about 1828— there are about the dates I recollect; the second book begins in the year 1833 and goes to 1836— also showing Records of grants— The book from 1833 to 1836 in all instances shows a full Record of grants— but not the

20/68

approval of the Departmental Assembly.

The U.S. Law Agent declines cross-examining the witness—

Thos. E. Eversted—

223 ND
PAGE 24

Subscribed and sworn to
before the Commissioners
sitting as a Board, this
12th Sept A.D. 1854.

Attest

Geo: Fisher.
Secy.

Filed in Office Sept 12/1854.

Geo: Fisher.
Secy.

Deposition of D.J. Warner—

United States Land Commission
San Francisco Sept 12/1854.

On this day before the Commissioners sitting as a Board came D.J. Warner, a witness in behalf of the claimant Bazar Simmons, in case No 68. who, after being duly sworn, deposed as follows.

Questions by the claimants Counsel

Quest 1st.

Look at the original document brought before this Commission by Thomas E. Eversted referred to in his depositions taken this day before this board in this case, and state whether or not you are

25

case and state whether or not you are acquainted with the hand writing of Juan B. Alvarado, former Governor of California, with that of José Fernandez, S. Arguello and Manuel Limon, what are your means of knowledge, and whether the signatures of the fore mentioned persons on the said document are genuine? Ans.

I have seen all three Gentlemens writing except José Fernandez and I am well acquainted with their signatures - The signature of Juan B. Alvarado on page marked 11, on the Original document of which page 11 on the traced copy is a fac simile, is a true and genuine signature of Alvarado - The signature of Fernandez on the page refered to in each document, both the original and traced copy I believe to be true and genuine - having seen his signature in many cases affixed to Executive documents eminating from the Government of California - On page 12 of the original document the name of Fernandez and Alvarado I believe to be their genuine signatures, said signatures appearing on page 12 of the traced copy before referred to - The name of Santiago Arguello on page 13 of the original document of which page 13 of the traced copy is a Fac Simile, is also his genuine signature - The names of Manuel Limon and José Z Fernandez on page 14 of said original document of which page 14 of the traced copy is a Fac Simile, I believe to be their true and genuine signatures ——

The U. S. Law Agent declines cross-

26

examining the witness.

A. J. Warner.

Subscribed and sworn to
before the Commissioners
sitting as a Board this
12th day Septr A. D. 1854.
Attest
Geo: Fisher.
Secy.

Filed in Office Sept 12 1854.
Geo: Fisher.
Secy.

223 ND
PAGE 26

27. Y.D.K

1839

223 ND
PAGE 27

A.
R. "T"

Expediente Promovido por el Cno. Fernando Felis en pretencion del Paraje nombrado de. "Novato."

188.

1839.

2. S. D. /. Monterey 12 de Mayo de 1839. Informe. el señor prefecto del primer distrito el contenido en esta instancia.

223 ND
PAGE 28

Alvarado

Sr. Juan de Castro

Mzo 20 de 1839

El prefecto del 1er Distrito visto el contenido en esta instancia informa que no aparece obstaculo ninguno para que el terreno solicitado se conceda en propiedad à la parte que lo pretende

Castro

Exmo Sor Gobernador Fernando Feliz vecino de las fronteras del Norte ante V. E. en la mejor forma que à mis derechos convenga comparesco y digo: que siendo poseedor de un numero considerable de ganado Vacuno y Caballar solicita del Sor comandte en estas fronteras el parage de Novato en clase de provisional el que se me concedio en su concepto y conforme espresa el documento numero 1o que acompaño; y al efecto de conseguir la propiedad del mencionado parage, pinque mi casa de paseo puse dicho ganado vacuno y Caballar, y he procurado darle el cultivo necesario. Ahora hago ante V. E. la impetracion de q. se me conceda el espresado parage de Novato segun indican las lineas tiradas en el adjunto diseño. agregando haver servido en la Carrera Militar 15. años, tener que asistir à una numerosa familia y ser fundador de esta parte meridional de la alta California. Por lo espuesto. A. V. E. rendidamte suplico se sirva atender à esta mi solicitud, decretando en mi favor si fuere justo. de que recibirè merced.

Sonoma Mayo 2/ de 1838.

Fernando Feliz.

Nota en papel sellado por no haverlo en este lugar.

2/. S. D. H. Sonoma Nr. 18 de 1839. Se concede al interesado en esta instancia en uso de la provincial y mientras — hacen los oficios segun esta establecido el parage

Por Comandte Militar de Sonoma y la Frontera. Fernando Feliz vecino de esta Frontera y radicado en Dem Rafael ante V. como mejor convenga digo: que hallandome resuelto à establecerme y radicarme en esta

29

223 ND
PAGE 29

q. pide. interin. corre todos los demas tramites no se le impidira que haga sus labores y demas q. crea necesitan.
Marn. G. Vallejo.

jurisdiccion con mis bienes semovientes y no teniendo en que verificarlo por falta de un terreno propio para el efecto solicito que U. me permita poner mis dhos bienes en el paraje de Novato en la parte de Arriba del Arroyo que corre de poniente à Oriente cuyo terreno, como antes he manifestado à U. esta Valdio y no pertenece à la propiedad de persona alguna. Por tanto.
A. U. Suplico se sirva atender à esta solicitud de que viviré reconocido.
Sonoma Nbre 18. de 1836.
Fernando Feliz

5. L. D. R.

mcp 16

6. L. D. R.

Here follows
Maps.

30 m/. S. D. R.

223 ND
PAGE 30

Juan B. Alvarado Gobernador Constitucional del Departamento de las Californias.

Por cuanto el Ciudadano Fernando Key ha pretendido para su beneficio personal y el de su familia, el terreno conocido con el nombre de Novato, colindante al Este con el Estero de Novato, al Ote. con el sevilo de Garcia al Nte. con el Roblar y al Sur con la Cañada de Novato: practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos; usando de las facultades que me son conferidas à nombre de la Nacion Mejicana he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes teniendo sugeto à la aprobacion de la Excma Junta Departamental y à las condiciones siguientes.

1ª podrà cercarlo sin perjudicar las travesias caminos y servidumbres lo disfrutarà libre y exclusivamte destinandolo al uso ò cultivo que mas le acomode pero dentro de un año fabricarà casa y estara habitada.

2ª Solicitarà del juez respectivo que le de posesion judicial en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondrà à mas de las mojoneras algunos arboles frutales ò silvestres de alguna utilidad.

3ª El terreno de que se hace mencion es de dos leguas poco mas ò menos segun esplica el diseño que corre en el Espedte. El juez que diere la posesion lo harà medir conforme à Ordenanza quedando el sobrante que resulte à la nacion para los usos convinientes.

8. S. D. R.

4ª Si contraviniere à estas condiciones perderà su derecho al terreno y serà denunciable por otro.

En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en Monterey à diez y seis de

fines. Dado en Monterey à diez y seis de

31

de Abril de mil ochocientos treinta y nueve.
Juan B. Alvarado # Manl. Jimeno Secrio
Queda tomada razon de este titulo en el libro
sobre adjudicaciones de terrenos Baldios. à
fojas 12 vuelta.

Jimeno.

q. L. D. R. Escmo Sor Gobernador

Fernando Feliz vecino de las fronteras del
Norte ante V.E. en la mejor forma que à mis
derecho convenga comparesco y digo: que ya
siendo poseedor de un numo considerable de
ganado bacuno y caballar, solisito del Sr. Comt.
de estas fronteras el paraje de Novato en clase
de provicional el que se me concedio en ese
concepto y conforme espresa el documento numo
1º que acompaño; y al efecto de conseguir la
propiedad del mencionado paraje pinquè
una casa de paso, puse algn. ganado bacuno
y caballar y he procurado darle el cultivo nece=
cesº. Ahora hago ante V.E. la impetracion
10. L. D. R. de que se me conceda el referido paraje de Novato
segun indicen las lineas trazadas en el adjm
to diseño agregando haver servido en la carrera
militar 15 años, tener que existir à mi mano
merosa familia y ser fundador de esta par
te inculta de la Alta California.
Por lo espuesto. A.V.E. rendidamte supca
se sirva atender à esta mi solicitud; decretando
en mi favor si fuere justo de que recibire merced.
Sonoma Marzo 24 de 1838.

Fernco Feliz.

Nova en papel sellado por no haverlo
en este lugar.

11. L. D. R. Monterey Abril 16. de 1839.
Vista la peticion con que da principio este Exo.
pediente la posecion que provicionalmte obtiene
por el comandante encargado del punto de
Sonoma con todo lo demas que se tubo presente
y ver convino de conformidad por lo dispuesto
por las leyes y reglamentos de la Materia,
se declara al Ciudadno Fernando Feliz dueño
en propiedad del paraje conocido con el nom
bre de Novato con estencion de dos leguas poco
mas ò menos segun esplica el dueño que corre

223 ND
PAGE 31

223 ND
PAGE 32

agregado en este Espediente libese el despacho correspondiente, tomese razon en el libro respectivo y reservase este Espedte para la devida aprobacion de la Excma junta Departamental estiendase el titulo de concesion con las condiciones acostumbradas. El señor Dr. Juan B. Alvarado, Gobernador del departamento de las Californias, lo mandò, decretò y firmò de que doy fee.

Alvarado.

Monterey 19 de Mayo de 1840.
Dado cuenta à la E. Junta Departamental acordo en sesion de hoy que pase à la comision de agricultura.

Josè Z. Fernandez Secio

12. J.D.R Ex Veinte y dos del mismo lo devolbiò la comision por el dictamen que se acompaña

Fernandez

Monterey 12 de Junio de 1840.
En vista de la Aprobacion Otorgada en Veinte y dos del mes p.o p.do por la E. Junta Departamental libese testimonio de ella à la parte de D. Fernando Felis en confirmacion del terreno nombrado Novato que obtuvo en diez y seis de abril del año p.p.do El Sr. D. Juan B. Alvarado Gobernador Constitucional del departamento de las Californias asi lo proveyò y firmò de que doy fee.

Alvarado

13 J.D.R Excmo Sor.
La comision de Agricultura encargada de dictaminar en la solicitud de Dn. Fernando Feliz. Visto el Espedte en atencion à los informes que en el constan y lo mas que berse a podido y la concesion del Excmo Sor Gobernador Dn. Juan Bautista Alvarado la comision pone à la deliberacion de V.E los Articulos siguientes.
Artl.o 1.o Se aprueba la concesion echa por el Sr. Gobernador Dn. Juan Bautista Alvarado Al bonado del terreno conocido con el nombre de Novato en la persona de Dn. Fernando Feliz.
Articulo 2.o Este Espedte bolbera al

33

Gobierno Departamental.
Monterey Mayo 20 de 1840.
Josè Rafael Gonzalez.
A Arguello.

14 S.D.K Monterey 22 de Mayo de 1840.
En sesion de este dia aprobo la Exma Junta Departamental los dos Articulos con que concluye el dictamen anterior.
Mah. Jimeno Presdte
Josè Z. Fernandez Secio.

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

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

Seal

In Testimony whereof I have hereunto signed my name Officially and affixed my private Seal not having a Seal of Office at the City of San Francisco, Cal. this 2nd day of January 1852.

Sam. D. King.
Surveyor Gen. Cal.

Filed in Office Nov. 21. 1853.
Geo: Fisher Secy.

35

223 ND
PAGE 34

Escritura de Venta

Que hace "Fernando "Feliz en favr de Jacob. P. Leese en el Pueblo de Sonoma à los 20: Dias de Decr de 1824.

Doc: H.S.G. Juzgado de Sonoma
No. 1. annexed to Depo: of Jacob P. Leese Taken before C. Halldar

Espediente instruida para medir y prozeder à dar posesion de dos sitios de Ganados Mayor en el Rancho de Novato, el dia 19 de 1822.

Ynes. el Ciud.o Salvador Vallejo

Dc assistencia Cayetano Juarez
"Ferdnco. Higuera.

36

223 ND
PAGE 35

Dello 1°. deis pesos: Habilitado provisionalmt. por la Aduana maritima de Monterey para los años de 1839 y 1840.

Alvarado Antonio Maria Ocio.

Manuel Jimeno Casarin primer vocal propietario de la Exma junta del departamento de las Californias en ejercicio del Gobierno del mismo.

Por cuanto el Cno. Fernando Feliz ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Novato, colindante al Norte con el terreno que ocupa que ocupa el Indigena Camilo, al Sur con el de Ignacio Pacheco al Este con el Mar y al Oeste con Juan Martinez: practicadas previamt. las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos; usando de las facultades que me han conferidas à nombre de la Nacion mejicana he venido en concederle el terreno mencionado declarando le la propiedad de el por las presentes letras sugetandose à la aprovacion de la Exma junta Departamental y à las condiciones siguientes.

1ª podrà cercarlo sin perjudicar las haveeras, caminos y servidumbres destinandole al uso ò cultivo que mas le acomode pero dentro de un año fabricara casa y estara habitada

2ª Solicitara del juez respectivo que le deposecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyas limites pondrà à mas de las mohoneras algunos arboles frutales ò silvestres de alguna utilidad.

3ª. El terreno de que se hace donacion es de dos sitios de ganado mayor poco mas ò menos segun explica el diseño que corre en el Espedte. el juez que diere la posecion lo hara medir conforme à Ordenanza para señalar los linderos, quedando el sobrante que resulte à la Nacion para los usos convinientes.

4ª Si contravniere à estas condiciones perderà su derecho al terreno y sera denunciable

223 ND
PAGE 36

por otro.

En consecuencia mando que se le vendole de titulo el presente y teniendose por firme y valedero, se tome razon en el libro à qe. corresponde, y se entregue al interesado para su resguardo y demas fines. Dado en Monterey à trece de Noviembre de mil ocho cientos noventa y nueve.

Manl. Jimeno

Francisco E. Arce Oficial primero

Queda tomada razon de este despacho en el Libro de asientos sobre adjudicaciones de Terrenos baldios à fa. 12 Vta.

Arce.

Señor Juez de 1a Instancia

Fernando Feliz vecino de esta jurisdiccion dueño del Rancho de Novato como proceda mejor derecho ante V. parezco y digo: q. como consta del titulo q. presento con la solemnidad y premisas necesario, tengo en mi dho rancho dos sitios sitios de Ganado mayor debajo de los linderos q. espresa dho titulo y por q. necesito p.a q. en todo tiempo conste hasta donde llegan y si me perjudican ò perjudico à alguno de los circunvecinos à ellos; se ha de servir V. mandar q. precediendo las diligencias acostumbradas de identidad, vista de ojos y reconocimiento proceda con citacion de los circunvecinos à la medida de mis dhas tierras. p.a cuyo efecto nombro desde ahora y p.a cuando el caso llegue p.r medidor à Dn. Antonio Ortega vecino de esta jurisdiccion intelligente en esta materia y q. los demas q. fueran interesados nombren otros medidores p.r su parte y se proceda à dhas medidas.

P. á V. A. V. suplico se sirva mandar hacer como llevo pedido y fecho q. sea se me devuelva dhos recaudos con las diligs. originales q. se hicieren p.a en guarda de mi dho: este escrito y todo lo necesario V. dispensandome el uso de papel comun p.r falta del sellado correspondte.

Sn. Rafael qbre 10 de 1892.

Fernando Feliz

En el pueblo de Sn. Rafael à los once dias

38

del mes de q^{e} de mil ocho cientos cuarenta y dos, ante mi el C^{no} Salvador Vallejo, Juez de esta jurisdiccion se leyò esta peticion y vista la hube p^{r} presentada con el documento q^{e} espresa y mando que con citacion de los circunvecinos se haga informacion de identidad, vista de Ojos, y reconocimiento de dhas tierras à esta pronto à asistir person alm^{te} asi lo proveyò, mandò y firmo. con los de ass^{a}.

223 ND
PAGE 37

Ass^{a} Salvador Vallejo. ass^{a}.
Cayetano Soarez # Fernandez Hig^{a}.

En el espresado pueblo à los doce dias del mes de q^{e} de mil ocho cientos cuarenta y dos yo el referido juez con los de asist^{a} p^{a} proceder à la informacion de identidad hice parecer ante mi el C^{no} Anto Ortega vecino de esta jurisdiccion de oficio labrador y casado del cual recibi juramento q^{e} hizo p^{r} Dios y la señal de la Cruz en forma, à cargo del cual prometio decir verdad y siendo preguntado p^{r} el conocimiento de las tierras y parages terminos y linderos pertenecientes del Rancho de Novato, Dijo: que hace ocho años es vecino de esta jurisdiccion y sabe q^{e} las tierras pertenec^{es} à dho Rancho son del C^{no} Fernando Feliz y tiene p^{r} linderos el Arroyo de Auichi el portezuelo del Rancho de D^{n} Martinez el Corte de Madera de Pacayta cala y el Serro de Olampali, las cuales ha visto, reconocido varias veces y q^{e} desde q^{e} las posee el referido Fernando Feliz las ha cultivado y han pastado en ellos sus ganados y p^{a} prueba de lo q^{e} tiene dicho esta pronto à ir à dhas tierras con el presente Juez y señalarle los parages terminos y linderos donde llegan y q^{e} lo q^{e} lleva dicho es la verdad p^{r} el juram^{to} q^{e} tiene hecho en q^{e} se afirmo y ratifico: declarò ser de 50 años de edad y que las leyes generales no le tocan y firmò con el presente juez y los de ass^{a} segun dho.

Antonio Ortega

Ass^{a} Salvador Vallejo. ass^{a}.
Cayetano Soares. # Juan^{o} Hig^{a}.

A continuacion hize comparecer al Ciud^{no} Gregorio Briones, vecino de esta jurisd^{n} y

B.

su declaracion es idéntica à la anterior por
mì conmigo y los de asa. segun dho.

Gregorio Briones
Asa. Salvador Vallejo Asa.
Cayetano Soares. Fernes. Hiz.

En el mismo dia, mes y año. hizè comparecer
al Cno. Juan Martinez de la mi. maz. edad
aficion y estado sf. los anteriores de edad de
cuarenta y dos años su declaracion fue iden
tica à la primera y primo conmigo y los de as=
istencia. segun dho.

Asa. Salvador Vallejo Asa
Cayetano Soares # Fernes. Hiz.

Estemelven el Campo, en el parage nombrado Ar
royo de Cuichi, terminos de Sobato à los trece
Dias del mes de 9bre. de 1842, yo el juez ac=
tuando pr. receptoria con dos testigos de Asa.
pr falta de Escribano publico los testigos pr. mi
examinados prest. el Ciudadano Fernando
Feliz dueños de dhas tierras y Ciudno. y cmdnos
Gregorio Briones Antonio Ortega Mant. Cantua
y Juan Martinez, colindantes y circunvecinos
procedi à ver y reconocer las tierras de dho rem
cho y pr. mayor claridad puesto à Caballo en
compa. de todas las partes y testigos referidos m
mandè à los sus odichos me señalasen los para
ges, terminos y linderos de ellos segun las señales
q. han declarado en sus disposiciones asi lo
hicieron y yo el repetido juez los vi y reconocì
con ellos los de mi asistencia y papeles presen
tados y pa. sf. conste de puso pr diligencia
y lo firmè con los de mi asa y demas sf. ow=
pieron.

Salvador Vallejo
Fernando Feliz.
Gregorio Briones. }
Asa. } Asa
Cayetano Soares # Fernes. Hiz.

En dicha comisn. yo el Juez pa. proceder à las ante
dichas, despues de la notificacion y ratificacion
de Estilo presente el Ciudano Fernando
Feliz y circunvecinos à dhas tierras hizè
comparecer ante mi y los de Asa. à los C. C.
Antonio Ortega y Gregorio Briones, medidores
nombrados à quienes mandè tomasen un

CA 223 ND
PAGE 38

223 ND
PAGE 39

cordel de hilo y midiesen cincuenta Vas con Vs de medir de cuatro palmos castellanos y en efecto los referidos medidores en mi presencia midieron en un cordel torcido y bien tirado con vara de medir Castellana Mexicana y sellada el num.o dho de cincuenta Vas y les mandè procediesen à la medida de dos sitios de ganado mayor q.e poco mas ò menos pertenecen al rancho dho. segun el Titulo y diseño presentado y dieron principio à dha medida desde el Cerro de Quichi hasta el portezuelo de Juan Martin, donde llegaron con dos cientos cordeles de cincuenta Vs. El interesado levanto alli un monton de piedras en señal de mohonera de este punto siguiendo la medida hacia el Corte de Madera de Pacayatacala donde llegaron con cien cordeles q.e puso la correspondte señal de Mohonera y de prosiguio midiendo con el mismo numero de Cordeles hasta el cerro de Compali donde puso la Ultima mohonera y dandose por concluida la medida del terreno que compre de el Rancho de Novato resulta q.e forma un de estencion de cinco mil Vs de latitud y diez mil de longitud: y declararon los enunciados midores estar bien enterado el Cno Fernando Feliz de las tierras que le corresponden segun el titulo y diseño que se hallan à la Cabeza de este espedte por todo lo cual y en señal de verdadera posecion y ceremonial acostumbrado arrancò piedras y yerbas y tirò por los cuatro vientos en manifesta.on de legal y legitima posecion q.e tomò por si. En consecuencia el repetido D. Juez mando q.e por mas claridad de los linderos que van espresados hiziese à su costa y montezuma mas mohoneras de piedra y Cal en altos de mas de Vs por q.e en todo tiempo conste, reconozcan y queden por terminos y linderos de sus tierras por los demas circunvecinos de ellos y de haberse ejecutado dhas medidas quieta y pacificamte sin contradiccion de persona alguna lo pidiò por testimonio y yo el referido Dor Juez con los de mi ass.a lo doy de haber pasado como dichos es y q.e las espresadas medidas han sido practicadas à todo el

41

223 ND
PAGE 40

lcal saber y entender de los medidores segun
depusieron sin dolo fraude ni engaño y p.a mas
seguridad y ratificacion del prsamto. q.e tienen
hecho, firmaron conmigo y los de mi asso.

Antonio Ortega
Salvador Vallejo
Fernando Feliz

Asso Cayetano Soares # Asso.
Fernez. Hig.a

En Vista de hallarse concluido este Espedte.
en q.e consta haberse lo dado posesion juridica
del Rancho nombrado Nobato, al Cuid.no
Fernando Feliz q.e la tomo p.r si, entreguese
le à la parte el Orginal p.a los usos q.e le convengan con los documentos q.e presenta. El Cuid.no
Salvador Vallejo Juez de esta juriscdiccion
actuando p.r receptoria con dos testigos de asist.a
p.r falta de Escribano publico asi lo proveì.
mandè y firmè à los quince dias del mes de
Novb.e de mil ochocientos cuarenta y dos.

Asso Salvador Vallejo Asso.
Cayetano Soares # Fernez. Hig.a

1844.

Escritura de Venta
que hace Fernando Feliz
En favor de D.n
Jacobo. P. Leese.

42

223 ND
PAGE 41

Juzgado 2º de Sonoma

En el pueblo de Sonoma de la Alta California à los Veinte dias del mes de Diciembre de mil ochocientos cuarenta y cuatro, ante mi el C. Calletano Juarez Alcalde 2º de dicha juriscdcn funcionando por receptoria con dos testigos de asistencia Fernando Feliz vecino de esta juriscdcion dijo que por si y en nombre de sus hijos, herederos y sucesores y de quien ellos hubiere titulo voz y causa de cualquiera manera vendia y da en Venta Real y enagenacion perpetua por juro de heredad por siempre famas al C. Jacobo P. Leese Alcalde 1º de esta juriscdcion y à los suyos el Terreno llamado Novato en cantidad de dos sitios de ganado mayor poco mas ò menos que le pertenece en posecion y propiedad al dicho Fernando Feliz colindte al Norte con el Terreno que ocupa el Indigena Cazulo; al Sur con el de D. Ignacio Pacheco, al Este, con la Bahia de Sn Pablo de Solano y al Oriente con Juan Martinez segn consta consta por el Titulo de pertenencia que adjunto esta Escritura por los cuales corresponde en posecion y propiedad el otorgante el cual declara y asegura no tener lo vendido ni empeñado y que esta libre de tributo, memoria Capellania, Vinculo patronato fianza y de otro gravamen perpetuo, temporal y especial general tacito y espreso y como tal de lo vendè con todas entradas y salidas: fabrica, usos costumbres, regalias, servidumbres y demas cosas anexas q. ha tenido tiene y le pertenecen de qualquier derecho; por cien Vacas de Vientre, Veinte y cinco Terneras Veinte y cinco Yuntos, Diez Vacas mansas, Veinte cinco Novillos y Veinte y cinco Toros, una manada de Veinte y cinco Yeguas, con su garañon; que tiene recibido segun el mismo confiesa y renuncia la Ley nueva del Titulo prim.l partida quinta, y asi mismo declara que es el justo precio y verdadero valor del referido terreno y que no vale mas ni hallo que tanto le haya dado por el y si mas vale ò valer puede del exceso en poco ò mucha suma hace gracia y donacion pura perfecta irrevocable que el derecho llama entre vivos à favor del comprador y sus

2@ Lo borrado No Vale.

223 ND
PAGE 42

herederos y suscesores gracia y donacion pura perfecta irrevocable en Sanidad con insinuacion y demas firmezas legales y renuncia la ley 2º. titulo primº libro Diez nueva recopilacion que trata delos contratos de Venta, trueq. y de otros en que haya lesion en mas ò menos en la mitad del justo precio y los cuatro años que prefiere para pedir su rescision ò cumplimto à su justo valor los q. da por pasados como si efectivamte lo estuviesen, y. desde hoy en adelante para siempre se desapodera desiste y quita y aparta y a sus herederos y suscesores del dominio ò propiedad posecion titulo voz recurso y otro cualquiera derecho que le competa al enunciado terreno de Novato; los cede renuncia y traspasa con las acciones reales y personales utiles, mixtas, directas y efectivas en el comprador y en quien la suya represente para q. la posea, goze, cambie, enagene use y disponga de ella à su eleccion como de cosa suya adquirida con legitimo y justo titulo y le confiere poder irrevocable con libre para ca y general Administracion y constituye procurador actor en su propia causa para q. de su autoridad entre y se apodere del nominado terreno y prenda de la real tenencia y posecion que por dho le compete: y para q. no necesite tomarlo, ni pida q. le de copia autorizada de esta escritura con la cual sin otro acto de aprehencion ha de ser visto haverla tomado aprehendido y trasperidole y en el interim se constituye su mismo tenedor y precario poseedor en legal forma: Y se obliga à que dho terreno será cierto seguro y efectivo al comprador y nadie lo inquietara ni movera pleito sobre su propiedad posecion, goze y disputa ni contra el aparecer gravamen alguno y si lo inquietase movera à aparecerse luego q. el otorgante sus herederos y suscesores sean requiridos conforme à derecho, saldrà à sus defensa y lo seguira à sus espensas en todas instancias y tribunales hasta ejecutoriarlos y dejar al comprador y los suyos en su libre uso y quieta y pacifica posecion; y no pudiendo

223 ND
PAGE 43

conseguirlo, le darem otro igual en Valor de fabrica
sitio venta y comodidades; y en su defecto le res=
tituyeran la cantidad que haya desembolsado
las mejores utiles, presisas y voluntarias que
a la Casa contenga el mayor valor y estimacion
que con el tiempo adquiera y todos los costos
de daños y gastos intereses ò menoscabos que
se le siguieren y erogaren por todo lo cual
se les ha de poder executar solo en Virtud
de esta Escritura y juramento del que lo
posee. ò de quien lo hè presente en quien dispire
su importe y la relaba de otra prueba y la ob=
servancia de todo lo referido obliga à su persona
y bienes habidos y por haver y confiere amplio
poder à los Señores jueces y tribunales de la
Nacion que de este negocio debe conocer con
forme à derecho pª. qué lo apremien à su
cumplº como por Sentencia definitiva de
juez competente pasada en autoridad de
cosa juzgada y consentida por tal lo recibe
Asta. Fernando Feliz. Asta
Cayetano Flores # Alcl. Prudon.
Narciso Berelleza. Asta
Yo el infrascrito doy fee con los de assistencia
de haverse estendido la antecedente escritura
en papel comun por no haber en este lugar del
sello que corresponde pta ut supra.
Flores.

Aduana Maritima, Sello primero Seis pesos
de Monterey en } Habilitado provicionalmte.
por la Aduana maritima de Monterey para
los años de mil ocho cientos treinta y nueve
y cuarenta: Antonio Mª. Osio. # Alvarado
manuel Jimeno Casarin primer Vocal Supo
pietario de la Cesma junta del departamto.
de las Californias y en exercio del Govº del mismo
por cuanto el C. Fernando Feliz ha peticio
nado para su beneficio personal y el de su
familia el terreno conocido con el nombre
de Novato colindte. al Norte con el terreno qe.
ocupa el Indigena Camilo: al Sur con el de
Ignacio Pacheco: al Este con el Mar y al Oeste
con Lucas Martinez: practicadas preventas
las diligencias y averiguaciones concernientes

las diligencias y averiguaciones conducentes

45

223 ND
PAGE 44

segun lo dispuesto por leyes y reglam.tos usando de las facultades que me han conferidas à nombre de la Nacion Mejicana he venido en conceder le el terreno mencionado, declarandole la propiedad de el por las presentes letras sujetandose à la aprovacion de la C. Junta Departamental y à las condiciones siguientes primera: puede cercarlo sin perjudicar las haveriadas caminos y servidumbres: lo disfrutarà libre y esclusivam.te destinandolo al uso ó cultivo que mas le acomode, pero dentro de un año fabricarà casa y estarà habitada Segunda: Solicitara del Juez que le dè la posecion juridica en Virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondrán, à mas de las mohoneras algunos arboles frutales ó silvestres de alguna utilidad.

Tercera. El terreno de que se hace donacion es de dos sitios de ganado mayor poco mas ó menos segun esplica el Diseño que corre en el Espediente. El Juez que diere la posecion lo harà medir conforme à Ordenanza para señalar los linderos quedando el sobrante que resulte à la Nacion para los usos convinientes.

Cuarta. Si contravinière à estas condiciones perderà su derecho al terreno y sera denunciable por otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero se tome razon en el libro à q.e corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterey à treze de Noviembre de mil ochocientos y nueve. Manuel Jimeno. Fran.co de Arce. Oficial 1.o Que da tomada razon de este despacho en el libro de asientos sobre adjudicaciones de terrenos Baldios à fs. Doce. Vta. Arce.

Certifico que es fiel copia la antecedente del Titulo Original.

misma fha

Cayetano Juarez.

46

223 ND
PAGE 45

I hereby Certify that the foregoing title from the Mexicean Government to a Grant of Land therein described, and the bill of Sale to me from the Original Grantee, are this day transfered to Mr. Bezar Simmons by his Attorney James Alex: Forbes he having purchased from me the whole of the Lands contained in the said Title for the sum of Six thousand Dollars the receipt of which I hereby acknowledge in full payment of the same.

San Francisco 22nd May 1854.

Jacob P. Leese

Filed in Office Sonoma 29th 1853

Geo: Fisher Deputy

47

No. 223 ND
PAGE 46

1B.
Translation of Expediente, title, possession and sales —

To the Military Commandant of Sonoma and the frontier —

Sonoma Nov 18th 1836.

I, Fernando Feliz, resident of this frontier and settled in San Rafael, before you in the most proper manner represent, that having decided to establish myself and settle in this jurisdiction with my self mining property and not being able to do so for want of a fit land for that purpose, I request that you will permit me to put my aforesaid property on the place of Novato on the part above the brook which runs from West to East, which land, as I have before shewn you, is vacant and does not belong to any person.

The place petitioned for is granted provisionally to the person interested in this request and until he can make out the required documents.

While it is going through the other forms he will not be permitted from carrying on his labors, and other things which he may think necessary.
(Signed) M. G. Vallejo

Wherefore I pray you to attend to this request for which I will be ever grateful.
Sonoma, November 18th 1836.
(Signed) Fernando Feliz —

223 ND
PAGE 47
B.

Monterey March 12th 1839.

Let the Prefect of the first district report on the contents of this petition.
(Signed) Alvarado

San Juan de Castro March 20th 1839.

The Prefect of the first district having seen the contents of this petition, reports: that there seems to be no obstacle to the land petitioned for being granted in fee to the party requesting it—
(Signed) Castro.

To His Excellency the Governor.

I, Fernando Feliz, resident of the Northern frontiers, before your Excellency in the manner most conducive to my rights, appear and say: That being owner of a considerable number of neat cattle and horses, I petitioned the Commandant of those frontiers for the place of Novato, as a principal grant, which was granted to me as such, as shown by document No 1. which I transmit herewith, and for the purpose of acquiring the ownership of the aforesaid place I built a walled house, placed some neat cattle and have endeavored to give it the necessary cultivation. I now make before your Excellency the request that the aforesaid place of Novato be granted to me, as shown by the lines drawn on the annexed map, adding that I have served in the military capacity fifteen years, that I have to maintain a numerous family and am a settler of this uninhabited part of Upper California—

For the foregoing reasons I earnestly pray your Excellency, have

223 ND
PAGE 48

the goodness to attend to this my petition, and if you think it just to decide in my favor, by which I will receive grace.
Somma March 4th 1838.
(Signed) Fimando Feliz.
P.S. This does not go on Stamped Paper because there is none in this place—

Juan B. Alvarado, Constitutional Governor of the Department of the Californias—

Whereas citizen Fimando Feliz has, for his own personal benefit and that of his family, petitioned for the land known by the name of Novato, bounded on the East by the Estero of Novato, on the West by the Cerito (peak) of Garcia, North by the Ridge, and South by the Canada of Novato, the proper measures and examinations being previously made, as required by laws and regulations, using the powers which are conferred on me, in the name of the Mexican Nation I have granted him the aforesaid land declaring to him the ownership of it by these presents, subject to the approval of the Most Excellent Departmental Junta and to the following conditions—
1st He may inclose it without prejudice to the cross roads, roads and servitudes and enjoy it freely and exclusively, making such use or cultivation of it as he may see fit, but within one year he shall build a house on it and it shall be inhabited—
2d He shall request the proper Magistrate to give him juridical possession

223 ND
PAGE 49

in virtue of this order, by whom the boundaries shall be marked out, besides the land marks he shall place some fruit or fruit trees of a useful character —
3d The land him mentioned contains two leagues, a little more or less, as shown by the map which goes with the espediente. The magistrate who may give the possession will cause it to be measured in conformity with the ordinance, leaving the surplus which may result to the nation for its convenient uses —
4th If he contravene these conditions he shall lose his right to the land and it may be denounced by another person.

Stamp First Sig Dollars —
Provisionally authorized by the maritime Custom House of Monterey for the years 1839 and 1846 —
Signed/ Alvarado (Signed/ Antonio Mc Osio.

Manuel Jimino Casarin, senior vocal of the Most Excellent Departmental Junta of the Californias, acting as Governor of the same —

Whereas, citizen Fernando Feliz, has, for his own personal benefit and that of his family, petitioned for the land known by the name of Novato, bounded on the north by land occupied by the Indian Camilo, on the South by that of

No. 223 ND
PAGE 50

Ignacio Pachuca, East by the sea, and west by Juan Martinez; the proper measures and examinations being previously made as required by laws and regulations,— using the power conferred on me, in the name of the Mexican Nation, I have granted him the aforesaid land, declaring to him the ownership of it by these presents, subject to the approval of the Most Excellent Departmental Junta and the following conditions—

1st. He may inclose it without prejudice to the cross roads, roads and servitudes, and enjoy it fully and exclusively making such use and cultivation of it as he may see fit, but within one year he shall build a house on it and it shall be inhabited—

2d He shall ask the proper Magistrate to give him juridical possession in virtue of this order, by whom the boundaries shall be marked out, in which, besides the land marks he shall place some fruit or fruit trees of an useful character—

3d The land granted in donation is two sitios de ganado mayor (two square leagues) a little more or less as shown by the map which goes with the espediente; the Magistrate who may give the possession will cause it to be measured in conformity with the ordenance, in order that the boundaries may be designated, leaving the surplus which may result to the nation for its convenient uses—

4th If he contravene these conditions he shall lose his right to the land and

52 5/68

it may be denounced by another person.

In consequence I order, that three pounds running as a little, and being held as firm and valid, note be made of them in the corresponding book, and they be delivered to the person interested for his security and other purposes.

Given in Monterey on the thirteenth of November one thousand eight hundred and thirty nine—

(Signed) Manuel Jimeno.

(Signed) Francisco G. Arce.

Chief Clerk.

Note has been made of this patent in the book of entries of grants of vacant lands at folio 12. ober—

(Signed) Arce

Monterey April 16th 1839.

Having seen the petition with which this expediente commences the possession provisionally obtained from the Commandant in charge of Sonoma, together with all other information which was presented and deemed proper to be considered in conformity with the laws and regulations on the matter, Citizen Fernando Feliz is declared owner in fee of the place known by the name of Novato, in extent two leagues a little more or less, as shown by the map which goes attached to

223 ND
PAGE 51

223 ND
PAGE 52

the espediente; let the corresponding order be issued, note be made in the proper book, this espediente to be kept for the due approval of the Most Excellent Departmental Junta, and the title if grant issued with the usual conditions.

Sinor Don Juan B. Alvarado,
Governor of the Department of the Californias,
thus ordered, decreed and signed, to which
I certify.

/Signed/ Alvarado.

Monterey May 19th 1840
Reported to the E. Departmental Junta,
ordered to be passed to the committee on
agriculture, in session of this day.

/Signed/ José Z. Fernandez.
Secretary.

On the twenty second of the same month
the committee returned it with the ac-
companying report.

/Signed/ Fernandez.

Monterey June 12th 1840.

In view of the approval given
on the twenty second of last month by the
Excellent Departmental Junta, let letters
many of it be issued to the party, Don
Fernando Feliz, in confirmation of the
land named Novato, which he obtained on
the sixteenth of April of last year.—

Sinor Don Juan B. Alvarado
Constitutional Governor of the Department
of Californiaz, thus decreed and signed,
to which I certify.

8/68

(Signed) Alvarado

Excellent Sir

The Committee on Agriculture, charged to report on the petition of Don Fernando Feliz, having seen the espediente, in view of the report which appear in it, and all other information which could be procured, also the grant of his Excellency, Governor Don Juan Bautista Alvarado, the committee reports for your Excellency's decision the following articles.

Art 1st The grant made by Governor Don Juan Bautista Alvarado, of the land known by the name of Novato, to Don Fernando Feliz, is approved.

Art 2nd This espediente will be returned to the Departmental Government.

Monterey May 20th 1840.

(Signed) José Rafael Gonzalez.

(Signed) E. Arguello

223 ND
PAGE 53

Monterey 22d of May 1840.

In session of this day the Excellent Departmental Junta approved the two articles with which the preceding report ends.

(Signed) Manuel Jimeno
President

(Signed) José Z. Fernandez.
Secretary

5-5

223 ND
PAGE 54

To the Judge of First Instance.

D. Fernando Feliz, resident of this jurisdiction, owner of the Rancho of Novato, appear before you in the most favorable manner and represent; that, as appears by the title which I present with the necessary formalities and oath, my aforesaid rancho contains two sitios de ganado mayor (two square leagues) within the boundaries described in said title, and as I find it necessary that it should appear in all future time which are the said boundaries, and whether I trespass upon my neighbors, or they upon me, you will be pleased to order that, the usual examinations of identity, or ocular view and recognition being previously made, the determinate neighbors be cited and the measurement of my lands aforesaid be proceded with, for which purpose I now name for surveyor (when the time may arrive) Don Antonio Ortega, resident of this jurisdiction and skillful in such matters, and let the other parties who may be interested appoint a surveyor on their part, and the aforesaid measures be proceded to.

I therefore pray you have the goodness to do as I request, and that the above mentioned examinations being made, they may be delivered to me, with the original documents which may be made out, this writing, and whatever else may be necessary for the security of my right; excusing me for using common paper for want of that of the corresponding stamp.

San Rafael, November 11th, 1842.

56

1408

(Signed) Fernando Feliz.

223 ND
PAGE 55

In the town of San Rafael on the eleventh day of the month of November one thousand eight hundred and forty two, before me, citizen Salvador Vallejo, Magistrate of this jurisdiction, this petition was read, and having ben seen, it was admitted with the document therein mentioned, and I ordered that, having summond the circumjacent neighbors, information be made of identity, ocular inspection, and reconnissance of said land, at which I am ready to assist punctually—
I thus decreted, ordered, and signed with three of my assistance—

(Signed) Salvador Vallejo.
Assisting witness
Signed) Gaytano Juarez.
(Signed) Francisco Higuera.

In the aforesaid town on the twelfth day of the month of November one thousand eight hundred and forty two, I the Magistrate before mentioned with three of my assistance, in order to proceed with the information of identity, caused to appear before me citizen Antonio Ortega, resident of this jurisdiction, by occupation a laborer, and married, to whom I administered an oath, which he made by God and the sign of the cross in due form, promising to speak the truth; and being asked for the description of the lands and places,

223 ND
PAGE 56

limits and boundaries pertaining to the
rancho of Novato, he said; he said that he
had been a resident of this jurisdiction eight
years, and knows that the lands pertain-
ing to said rancho, belong to citizen Fer-
nando Feliz, and that he considers as the
boundary, the Arroyo of Novato, the (gap)
of the Rancho of Juan Martinez, "the
corte de madera" (sawpits) of Pacayta-
cala, and the peak of Olompali, which he
has seen and examined several times, and
that since the aforesaid Fernando Feliz
has owned them he has cultivated them
and his cattle have pastured on them,
and in proof of what he has said he is
ready to go to the said lands, with the
present magistrate and show him the
places, limits and boundaries which they
reach to; and that all he has said is
true by the oath which he has made,
and which he confirms and ratifies;
he declares that he is 52 years old and
is not disqualified by the laws, and he
signed with the present magistrate and
those of his assistance, according to law—

(Signed) Antonio Ortega
(Signed) Salvador Vallejo.

Assisting witnesses—
(Signed) Cayetano Juarez.
(Signed) Francisco Rodriguez

In continuation I caused to appear
citizen Eugenio Bruniz, a resident of this
jurisdiction, his declaration was the same
as the preceding, and he signed with
me and those of assistance according to
law—

58 12/68

223 ND
PAGE 57

/Signed/ Eugenio Briones
/Signed/ Salvador Vallejo
Assisting Witness
/Signed/ Caydano Soarez.
Signed/ Francisco Hig.a

On the same day, month and year, I caused to appear Citizen Juan Martinez of the same residence, occupation and condition as the preceding, aged forty two years, his declaration was identical with the first, and he signed with me and three of my assistance according to law—

/Signed/ Salvador Vallejo.
Assisting Witness.
Signed/ Caydano Soarez.
Signed/ Fran.co Hig.a

Being in the fields in the place named arroyo of Uuichi, a boundary of Novato, on the thirteenth day of the month of November 1842, I the magistrate, for want of a Notary Public acting in virtue of my office with two assisting witnesses, present the witnesses examined by me, citizen Fernando Feliz owner of said lands, and citizens Eugenio Briones, Antonio Ortega, Manuel Cantua and Juan Martinez colindantes residents, colindantes and neighbors, I proceded to see and reconnoitre the lands of said rancho, and for the better understanding /guater deamen/ being on horseback

59

223 ND
PAGE 58

in company with all the parties and witnesses before mentioned, I ordered the aforesaid (witness) to point out the places, limits and boundaries of the lands as they describe them in their depositions. They did so, and I, the magistrate and those of my assistance saw and examined them and the documents presented, and in testimony I made official note of it, which I signed with those of my assistance, and the others who know how.

(Signed) Eugenio Briones
(Signed) Salvador Vallejo
(Signed) Fernando Feliz.

Assisting witnesses
Signed) Gaytano Juarez.
Signed) Francisco Rios

Immediately I, the magistrate for the purpose of proceeding to the measurement, after the usual notification, and ratification, citizen Fernando Feliz and the colindantes of said lands being present, caused to appear before me and those of my assistance Citizens Antonio Ortega and Eugenio Briones, appointed measurers, and I ordered them to take a rope of thread (hemp) and measure (on it) fifty varas with a vara measure of four palmos castellanos, and the said measurers did, in my presence, with a Spanish Mexican Stamped vara measure, mark off the aforesaid number (viz fifty) of varas on a twisted and well stretched rope, and I ordered them to proceed to measure two square leagues (dos sitios de ganado mayor) which, a

14/68

223 ND
PAGE 59

little more or less, pertains to the above named rancho according to the title and map presented, and they commenced the measurement from the arroyo of Quichis to the portezuelo (gap) of Juan Martin distant ten hundred cordels of fifty varas each - The person interested raised at that place a heap of stones as a land mark, and from thence they continued the measurement one hundred cordels to the "corte de madera" of Pacaytacalea, and the corresponding land mark was placed. Thence the measurement was continued the same number of cordels to the peak of Olimpali, when the last land mark was placed, and the measurement of the land contained in the rancho of Novato being considered as concluded, its results that it has an extent of five thousand varas in width and is ten thousand long; and the aforesaid measures ordered that citizen Fernando Feliz had been made to know the lands which belong to him according to the title and map which appeared at the head of this expediente. For all which, and as a sign of true possession and customary form, he pulled up grass and stones, and threw to the four winds in manifestation of the legal and legitimate possession which he for himself took - The magistrate consequently ordered that for the greater clearness of the boundaries herein described, he should make at his own cost and expense, land marks of masonry,

223 ND
PAGE 60

more than a vara high, that in all future time they be recognized, and remain as limits and boundaries of his lands by and for their colindantes; and in testimony that the said measurements were performed quietly and peaceably without opposition by any person, he asked for a testimony and I the magistrate with those of my assistance gave it, that everything was done as has been said, and that the measurements appeared to were made to the best of the Knowledge and belief of the measurers as they declared, without deceit or fraud, and for greater security and the ratification of the acts they have made, they signed with me and those of my assistance.

(Signed) Antonio Ortega
(Signed) Gregorio Briones
(Signed) Salvador Vallejo
(Signed) Fernando Feliz.

Assisting Witnesses.
Signed) Cayetano Juarez.
Signed) Franco Rig.a

This espediente being finished, by which it is shown that juridical possession of the rancho named Novato has been given to citizen Fernando Feliz, who took it personally, let this original be delivered to the party interested for the use he may deem proper together with the documents he presented —

Citizen Salvador Vallejo,

62 10/68

223 ND
PAGE 61

Magistrate of this jurisdiction, acting for want of a Notary Public, in virtue of this office with two assisting witnesses, thus directed, ordered and signed, on the fifteenth day of the month of November, one thousand eight hundred and forty two

Signed Salvador Vallejo

Assisting Witnesses
Signed/ Cayetano Juarez.
Signed/ Francisco Rig.ª

65

223 ND
PAGE 62

Second Court of Sonoma.

In the Town of Sonoma in Upper California, on the twentieth day of the month of December one thousand eight hundred and forty four, before me, citizen Caytano Juarez, second Alcalde of said jurisdiction, acting in virtue of my Office with two assisting witnesses, Fernando Feliz, resident of this jurisdiction, said, that for himself and in the name of his children, heirs and successors, and whom of them may have title, voice or claim in any manner, he sells, and gives in real sale and perpetual alienation, with the right of enheritance forever, to citizen Jacob P. Leese, First Alcalde of this jurisdiction, and to his the land called Novato, in quantity two square leagues, a little more or less, which belongs to the said Fernando Feliz, in possession and fee, and is bounded on the North by the land occupied by the Indian, Camilo, South by that of Don Ignacio Pacheco, East by the bay of San Francisco Solano and West by Juan Martinez, as appears by the title of grant annexed to this instrument, by which it belongs in possession and fee to the vendor. And he (the vendor) declares and assures that it has not been sold or pledged, and that it is free from tribute, charitable or religious duty, entail, patronship, pledge or any other incumbrance, whether perpetual, temporal or spiritual, general, tacit or expressed, and as such he sells it with all its rights of entry and exit,

223 ND
PAGE 63

buildings, uses, customs, rights, servitudes and other things thereunto belonging which he owns and which pertains to him by law, for one hundred heading cows twenty five little calves, twenty five young bulls, twenty five steers and twenty five bulls, ten milch cows a herd of twenty five mares with a stallion, all which he has received which he himself acknowledges, and he renounces the new (ninth) law, title first, part fifth, and also declares that the above is the just price and true value of the land referred to and that it is not worth more, neither did he find any person who would have given so much for it, and if it is, or may be worth more, of the excess, be it a large or small sum, he makes in favor of the purchaser, his heirs and successors, gift and donation, pure, perfect and irrevocable, with good faith with judicial intervention and other legal formalities, and renounces law 2nd, title first, book two, of the new recopilacion, which treats of contracts of sale, exchange and others by which damage is sustained in more or less than one half of the just value, and the four years fixed by it in which to demand restitution of the property or what was wanting of its full value, he considers as past, as if they actually were so, and from this time forward forever, he, for himself, his heirs and successors, gives up possession, dominion and rights from the dominion, ownership,

65

223 ND
PAGE 64

possession, title, claim, accession, and every other right which pertains to him in the aforesaid lands of Nobate, and he grants, releases and transfers them, with the actions real and personal, mixed, direct and effective to the purchaser and whoever may represent him, that he may possess it, enjoy, exchange, alienate, rent and dispose of it at his pleasure, as of his own property acquired with a just and legal title; and he confers on him irrevocable power, with free, full and general administration, and appoints him his attorney in fact, that of his own authority, he may enter upon and take possession of the aforesaid land, and seize the real estate and possession which belongs to him by right, and that it may not be necessary for him to take it he prays that an authenticated copy of this writing be given to him (the purchaser) by which, without any other act it will be seen that he has taken and seized it, and it has been transferred to him, and in the meantime he constitutes himself his tenant and temporary possessor in due form of law. And he binds himself that said land shall be certain, sure and effective to the purchaser, and that no person shall molest him, or bring suit against his ownership, possession, enjoyment or benefit, nor shall any incumbrance appear against it, and if he should be molested, or suit or an incumbrance appear, as soon as the vendee, his heirs and successors are apprised in conformity with the law, they shall come forward in defence of it, and will follow it

66

20/58

223 ND
PAGE 65

at their own expense, in all courts and tribunals until they obtain judgment in his favor, and leave him, the purchaser, and his in free use, quiet and peaceable possession of it— And not being able to accomplish this, they shall give him another equal in value of the buildings, place, rent and convenience, or in want of such, they shall return him the amount he has expended, the improvements named, necessary and voluntary which at the time he may have, the increased value which in time they may have obtained, together with all the costs, damages, expenses, or losses, which may follow or accrue to him; all which they may be compelled to pay in virtue solely of this instrument and the oath of him who owns it (the rancho) or whoever may represent him, to whom he leaves it to fix the amount and he waives him from other proof— And for the observance of all the foregoing, the vendor binds his person, his property in present possession or which he may hereafter obtain, and he confers ample power on the courts and Judges, who by law ought to take cognizance of this matter, to compel him to comply with it as a definitive sentence of a competent judge, passed in authority of res judicata and consented to, for as such he receives it.

Signed/ Fernando Feliz

Before me

Signed/

Cayetano Juarez—

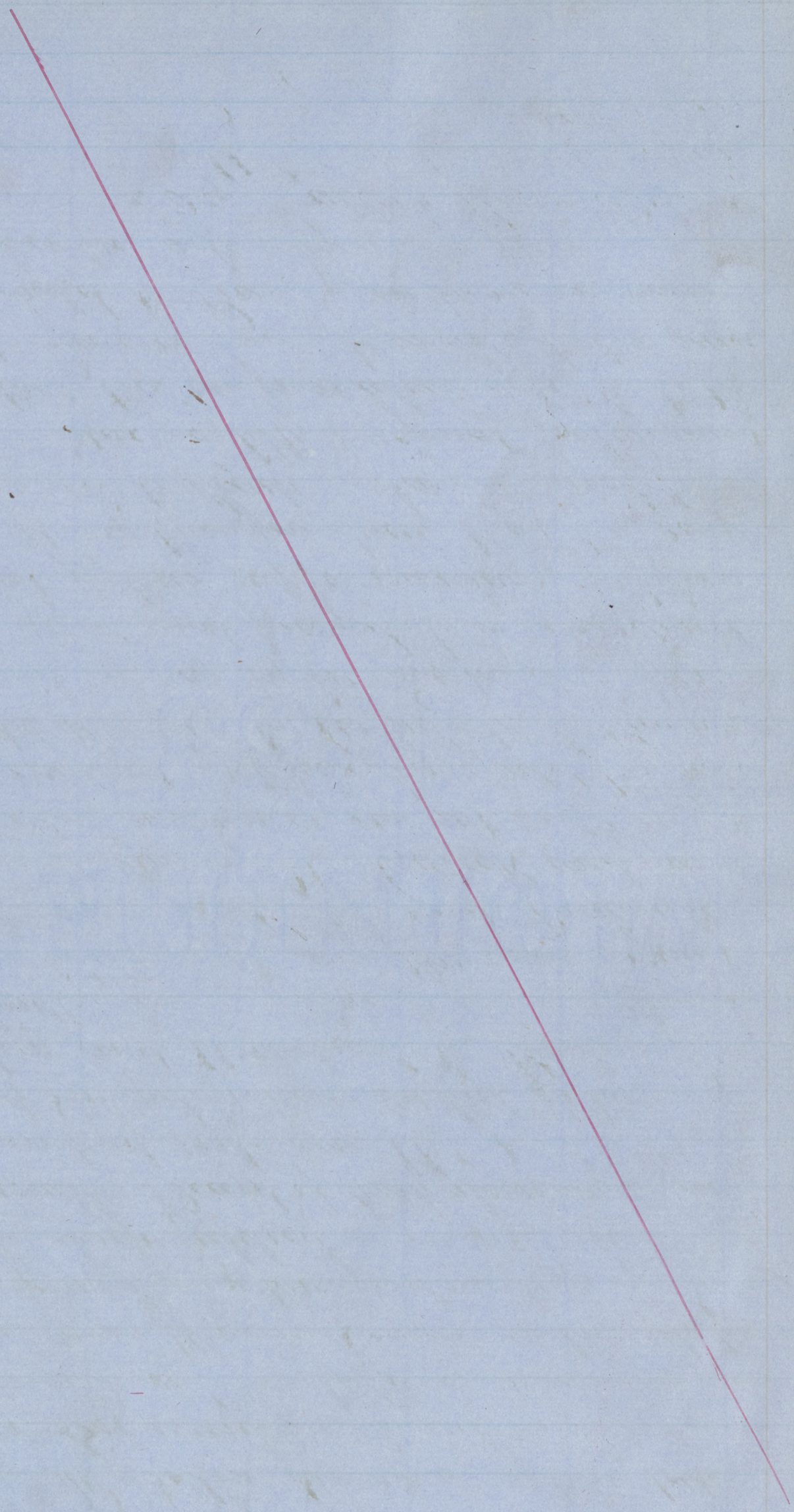
Assisting Witness—
(Signed) Natanio Bendeca.
(Signed) V.r Pinder.

No 223 ND
PAGE 66

I, the undersigned, certify with
three of my assistance that the preceding
instrument was executed on common pa-
per, because there was none of the proper
stamp in this place.
Date as above—

(Signed) Suarez—

Filed in Office Feby 24' 1852.
Geo: Fisher.
Secy.



223 ND
PAGE 67

Supplementary Petition.

To the Honorable Commissioners to settle private land claims in California—

In the matter of the petition of Frederick Billings, Henry W. Halleck and James R. Bolton, Assignees of the late Bizer Simmons, praying for the confirmation of title to the Novato Rancho situated in Marin County in this State, and formerly in the jurisdiction of Sonoma—which petition is on file with the Honorable Board of Commissioners, and is numbered sixty five (65)

The petitioners in the foregoing petition and Archibald C. Peachy, respectfully show, in this their supplemental petition that since the said original petition was filed, the said Frederick Billings, Henry W. Halleck, and James R. Bolton assignees as set forth in the said original petitions, have sold the said Novato Rancho to Archibald C. Peachy as will appear by the Exhibit A. herewith filed and prayed to be considered a part of this supplementary petition.

They therefore pray that the said Archibald C. Peachy may be substituted in the place of the original petitioners and that the confirmation of title to the said Rancho may be made to the said Archibald C. Peachy, in his own name, and for his sole use.

By Halleck, Peachy & Billings
Attys for Assignees of R.
Simmons and Attys for
A. C. Peachy—

Filed in Office August 31st 1852. Geo: Fisher Secy.

None follows Exhibit A.

71

No. 223 ND
PAGE 68

Exhibit A.

"Exhibit A."

Know all men by these presents, that we Frederick Billings, James R. Bolton and Henry W. Halleck all of the city of San Francisco in the State of California, assignees of the real estate and personal property of Bizor Simmons, late of said city of San Francisco by virtue of a certain deed bearing date the 3d. day of September A. D. 1850 recorded in the office of the Recorder of the County of San Francisco, State of California, as such assignees, and acting under and by virtue of said deed, parties of the first part, in consideration of Twenty eight thousand five hundred dollars to us in hand paid, the receipt whereof is hereby acknowledged by Archibald C. Peachy also of the said city of San Francisco, party of the second part, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said Archibald C. Peachy, party of the second part, his heirs and assigns, all that piece parcel and tract of land, with all the buildings and improvements thereon, situate, lying and being in the County of Marin, in the State of California, known as the Rancho de Novato or Novato Rancho, saving and excepting therefrom a small portion thereof, heretofore conveyed by the said Bizor Simmons to Benjamin Franklin Simmons by deed recorded in the Office of the Recorder of the said County of Marin ——
The said tract of land or Novato Rancho hereby conveyed with the exception aforesaid

223 ND
PAGE 69

being the tract of land granted on the 16th day of April A. D. 1839, by Juan B. Alvarado, Governor of California, to one Fernando Feliz, to whom on the 13th day of November A. D. 1839, Manuel Jimino, Governor ad interim of California, issued a new grant, which said tract of land on the 20th day of December A. D. 1844, was conveyed by said Fernando Feliz to one Jacob P. Leese, and on the 24th day of November A. D. 1846 by said Jacob P. Leese and Rosalia Vallejo his wife, to the said Bezer Simmons, and by said Bezer Simmons by the deed hereto fore mentioned, with the exception hereafter stated, conveyed to the said parties of the first part, the said tract of land supposed to contain two square leagues a little more or less — for the boundaries of which and for all other pertinent matter reference being had to the said several conveyances and grants and to the act or deed of juridical possession of said tract of land given to said Fernando Feliz — the said grant of Jimino and the act or deed of juridical possession and the deed or writing of sale made by said Feliz to said Leese, and the deed of said Leese and wife, being herewith transferred to said party of the second part; the said grant of Alvarado being among the archives of the Department of California, viz in the possession of the United States Surveyor General for said State — And the said parties of the first part do do hereby for the consideration aforesaid

No 223 ND
PAGE 70

all, assign and transfer unto the said party of the second part, all the house, mares and colts, all the neat cattle and all the stock of whatever description, and all the farming implements, and all the personal property of whatever description on or belonging to the said Novato Ranch— To have and to hold the same unto the said party of the second part his heirs & assigns to his and their own use and behoof forever.

In witness whereof we, Frederick Billings, James R. Bolton and Henry W. Halleck, assignees aforesaid on this the 9th day of July the year 1852, hereto set our hands and affix our seals at San Francisco aforesaid—

(Signed) Frederick Billings (seal)
Assignee of Bizer Simmons

(Signed) James R. Bolton. (seal)
Assignee of Bizer Simmons.

(Signed) H W Halleck (seal)
Assignee of Bizer Simmons.

Executed and delivered
in presence of
(Sgd) R. H. Waller—

State of California
County of San Francisco } On this 9th day of July A. D. 1852 personally appeared before me the subscriber a Notary Public in and for said County, Frederick Billings H. W. Halleck and James R Bolton known to me to be the individuals described

74

4168

223 ND
PAGE 71

in and who executed the foregoing conveyance and who as the assignees of the late Bzer Simmons, severally acknowledged to me that they executed the same freely and voluntarily as the Assignees of said Bzer Simmons for the uses and purposes therein mentioned —

In witness whereof I have hereunto subscribed my name and affixed my Notarial seal the day and year last above written —

(Notarial seal) Signed Royal W. Waller
Notary Public.

Filed in Office August 31st 1852.
Geo: Fisher
Secy.

75

No. 223 ND
PAGE 72

Petition of Intervention.

To the Honorable Commissioners to settle private land claims in California—

The petitioners W Parker, Sevitus Nudbour for themselves, and Sevitus Nudbour as administrator of the estate of John H. Allen deceased, respectfully show: That on the third day of September A.D. 1850 Bizer Simmons sold and conveyed to Benjamin Franklin Simmons, a certain portion of the Rancho called Novato situate in the present County of Marin, which portion is more particularly described in the deed of conveyance, a copy of which is submitted herewith marked A.

That on the 7th day of November A.D. 1850, the said Benjamin Franklin Simmons, sold and conveyed the aforesaid tract of land to the said W. Parker, Sevitus Nudbour and John H. Allen, by deed of conveyance, a copy of which is submitted herewith marked B.

That in the month of May A.D. 1857, the said John H. Allen died in California, and that in the month of August A.D. 1857 the petitioner Sevitus Nudbour was appointed administrator of the said Allen's estate, all of which will be proved on the hearing of this petition.

Wherefore the petitioners pray that this their petition of intervention in the claim of the assignee of Bizer Simmons to the Rancho of Novato Number 65 on the docket of the commissioners be allowed, and that the papers filed in

223 ND
PAGE 73

that claim may be taken as a part of this petition; and they further pray that the Commission confirm to these petitioners the tract of land described in the above mentioned conveyance —

By their Attys
Halleck, Peachy & Billings

Filed in Office August 31st 1852.
Geo: Fisher
Secy.

We consent that the foregoing petition of Intervention be allowed —
Halleck, Peachy & Billings
Attys for A. C. Peachy
& Assignees of B. Simmons —

#

Nov 8 Allowed ten days amend to
petition —

77

No. 223 ND
PAGE 74

A.

Know all men by these presents, that I Bizer Simmons of San Francisco in the State of California, in consideration of Thirty five hundred dollars to me paid by Benjamin Franklin Simmons of Novato in the County of Marin in said California, the receipt whereof is hereby acknowledged, have bargained and sold and by these presents do grant and convey unto the said Benjamin Franklin Simmons, his heirs and assigns, a portion of the rancho called Novato in said County of Marin, which said rancho was sold and conveyed to me the said Bizer Simmons by David V. Lase and Rosalia Vallejo his wife by deed dated the twenty fourth day of November A.D. eighteen hundred and forty six, the said portion hereby conveyed being described as follows: Being the North West corner of said rancho and circumscribed by a line run as follows: Commencing at the corner of said rancho where the boundary line of Jack Martin's rancho and the boundary line of Camillo's rancho intersect, thence run on Camillo's boundary line in an Easterly direction to a pile of stones, thence due South to an oak tree standing between two Springs, Stones piled at foot on North side, thence in the hollow taking a Westerly course line to be on the North bank of the middle row running in said hollow to a large oak tree marked standing by the side of the road and near the said middle thence crossing the road taking a West South Westerly course to a large oak tree, piles of stones at foot, standing at a point of a ridge of hills on the

223 ND
PAGE 75

opposite side of the hollow, thence taking the top of the ridge in a Westerly direction and continuing until it strikes Jack Martin's ~~line~~ rancho, and thence in a Northerly direction on Martin's line until it strikes Camillo's rancho, the point of beginning, be the same more or less—
To have and to hold the above conveyed premises with all the appurtenances unto the said Benjamin Franklin Simmons, his heirs and assigns, to his and their use and behoof forever— And I the said Bizer Simmons covenant for myself my heirs, executors and administrators to and with the said Benjamin F. Simmons his heirs and assigns to warrant and defend the said premises against all persons claiming the same by, through or under me.

In witness whereof at San Francisco, this third day of September, the year eighteen hundred and fifty I hereto set my hand and seal.

(Signed) B. Simmons. (seal)

Executed and delivered
in presence of
(Signed) E. Galucha.

State of California.
County of San Francisco.

This 3d day of September 1850 personally appeared before me William Babé Notary Public duly appointed commissioner and sworn to act for said County, Bizer Simmons

for said County, Bizer Simmons

79

personally known to me to be the party described in the within deed and acknowledged that he executed the same freely and voluntarily for the purpose therein mentioned.

223 ND
PAGE 76

Witness my hand and seal of Office the day and date above written.

[Signed] William Babé.

Notarial Seal

Notary Public
County of San Francisco.

B

This Indenture made the seventh day of November in the year one thousand eight hundred and fifty, between Benjamin F. Simmons of Novato in the County of Marin and State of California, party of the first part, and W. Parker, Sendus Nadham and John H. Allen all of said State of California, parties of the second part, Witnesseth, that the said party of the first part, for and in consideration of the sum of Two Thousand dollars secured to be paid in lawful money of the United States of America, to be in hand paid by the said parties of the second part, hath granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, remise, release, convey and confirm unto the said parties of the second part, and to their heirs and assigns forever — All of the following piece or parcel of land

811

4168

223 ND
PAGE 77

lying and being in the County of Marin aforesaid, described and bounded as follows viz: Commencing at the North West corner of the so called Novato Rancho where the boundary line of Jack Martin's Rancho intersects with the line of Camillo's rancho, thence running on Camillo's South line in an Easterly direction to a pile of stones, thence due South to an oak tree standing between two springs, stones standing at foot on North side, thence taking a Westerly direction in a hollow on the North bank of a rivulet running in said hollow to a large marked oak tree by the side of the road and near the said rivulet, thence crossing the road taking a West or Southerly course to a large oak tree / pile of stones at foot / standing at a point of the ridge of hills upon the Spanish side of the hollow, thence taking the top of the ridge in a Westerly direction and continuing until it strikes Jack Martin's Rancho and thence in a Northerly direction on Martins Rancho to the point of beginning — This being the same premises which was conveyed to the said party of the first part by Bazer Simmons by deed dated 3 Sept 1852, which is placed on record in Book A. p. 5. of land titles in said Marin County, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and

Bk 223 ND
PAGE 78

also all the estate, title, interest, property, possession, claim and demand whatsoever as well in law as in equity of the said party of the first part, of, in or to the above described premises, and every part and parcel thereof, with the appurtenances. To have and To hold all and singular the above mentioned and described premises, together with the appurtenances unto the said parties of the second part their heirs and assigns forever, And the said Benjamin F. Simmons and his heirs the said premises, in the quiet and peaceable possession of the said parties of the second part, their heirs and assigns against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

In witness whereof, the said party of the first part hath hereunto set his hand and seal, the day and year first above written.

(Signed) Benjamin F. Simmons (seal)
(a) Harriet Simmons.

Sealed and delivered
in presence of
(Signed) Robt. K. Pashpost.

State of California }
County of Sonoma. } ss

On this 7th day of November A. D. 1852 before me Robt K. Pashpost a Notary Public in and for said County personally appeared Benj F. Simmons personally known to me to be the

83

223 ND
PAGE 79

person described in and who executed the within instrument and acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein specified.

Witness my hand and seal, private, as the seal of my office.

(Seal) (Signed) Robt. N. Pasmont.

Filed in Office August 31st 1852
Geo. Fisher.
Secy

83

No 68

223 ND
PAGE 80

Stipulation

It is hereby agreed between the U. S. Law Agent and the Attys for the claimant, that the claimants may file a certified copy of the conveyance from the assignee of the late Bizer Simmons of a part of the Novato Rancho to Archd C. Peachy and also a certified copy of the deed of assignment made by the said Bizer Simmons to Henry W. Halleck, Frederick Billings and James K. Bolton in the 3d Sept 1850; and also a certified copy of the order of the Probate Court of Marin County appointing Semelus Needham the administrator of John H. Allen deceased; and that said documents shall be considered in evidence in this case in the same way as if filed before the case was submitted. And it is also agreed that all the evidence taken and documents filed in the claim of the assignees of Bizer Simmons to part of the Novato Rancho and in the claim of Archibald C. Peachy to the same, shall be held & considered as in evidence in the claim of Parker and Semelus Needham ~~and~~ and John H. Allen to the part of said Rancho claimed by them, in the same manner as if originally taken and filed in the last named claim.

3 Oct 1854.

Louis T Blanding.
Asst Law Agent.

Halleck, Peachy & Billings
for claimants

84

2/08

Filed in Office Oct 3' 1854.
Geo: Fisher.
Secy

223 ND
PAGE 81

85

223 ND
PAGE 82

B.
Conveyance

This Indenture made the seventh day of November in the year one thousand eight hundred and fifty between Benjamin F. Simmons of Novato in the County of Marin and State of California, party of the first part and W. Parker, Serotha Needham and John H. Allen all of said State of California, parties of the second part, Witnesseth; that the said party of the first part for and in consideration of the sum of Two thousand dollars to him paid to be paid in lawful money of the United States of America, to ~~be~~ in hand paid by the said part of the second part, hath granted, bargained, sold, aliened, remised, released, conveyed and confirmed and by these presents doth grant, bargain, sell, remise, release, convey and confirm unto the said parties of the second part and to their heirs and assigns forever, all of the following piece or parcel of land lying and being in the County of Marin aforesaid, described and bounded as follows, viz: Commencing at the North West corner of the so called Novato rancho where the boundary line of Jack Martins rancho intersects with the line of Camillos rancho; thence running on Camillos South line in an Easterly direction to a pile of stones; thence due South to an oak tree standing between two springs, stones standing at foot on North side, thence taking a Westerly direction in a hollow on the North bank of a rivulet running in said hollow to a large marked oak tree by the side of the road and near the said rivulet

86 2/08

223 ND
PAGE 83

thence running the road taking a West or southerly course to a large oak tree (pile of stones at foot) standing at a point of the ridge of the hills upon the opposite side of the hollow, thence following the top of the ridge in a Westerly direction and continued until it strikes Jack Martins rancho and thence in a Northerly direction on Martins rancho, and thence in a Northerly direction on Martins rancho to the point of beginning; This being the same premises which was conveyed to the said party of the first part by Bezer Simmons by deed dated 30 Sept 1850 which is placed on record in book A. of L.S. of land titles in said Marin County —
Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; And also the estate, right, title interest, property, possession, claim & demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, or to the above described premises, and every part and parcel thereof, with the appurtenances.
To have and to hold all and singular the above mentioned and described premises, together with the appurtenances unto the said parties of the second part their heirs and assigns forever.
And the said Benjamin F. Simmons

87

223 ND
PAGE 84

and his heirs, the said premises in the quiet and peaceable possession of the said parties of the second part, their heirs and assigns, against the said party of the first part, his heirs, and against all and any person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

In witness whereof, the said party of the first part hath hereunto set his hand and seal, the day and year first above written.

(Seal) Benjamin F. Simmons.
Harriet Simmons.

Sealed and delivered in
the presence of
Robt R. Pierpont.

State of California. }
County of Sonoma } On this 7th
day of November A. D. 1852, before me
Robert R. Pierpont a Notary Public in
and for said County, personally appeared
Benj. F. Simmons personally known
to me to be the person described in
and who executed the within instru-
ment and acknowledged to me that
he executed the same freely and vol-
untarily and for the purposes therein
specified.

Witness my hand and pri-
vate seal, as the seal of my office.
(Seal) Robt. R. Pierpont.

Recorded and Recorded in Ledger A. Folio

88

4/68

18, 19.— Nov 9' 1853, 30 clock A. M.

John A. Davis
Recorder.
By Daniel Taylor.
Clerk.

Filed in Office Nov 21' 1853
Geo: Fisher.
Secy.

223 ND
PAGE 85

89

223 ND
PAGE 86

Order of Probate Court.

At a Probate Court held in San Rafael, Marin County August 4th 1857 — Present Hon. O. D. Shurtz

In the matter of the estate of Jno H. Allen deceased Intestate

On reading and filing the petition of Servetus Needham praying for Letters of Administration of the estate of John H. Allen deceased, proof of the notice of said application being given in accordance with the requisitions of the law.

Ordered by the Court, That whereas Servetus Needham hath complied with and conformed to all the requisitions of the law in his application for Letters of Administration on the Estate of John H. Allen deceased. That Letters of the Administration of the Estate of John H. Allen deceased, be granted to the said Servetus Needham, Ordered by the Court that Servetus Needham be cited to appear before the Court forthwith to file his bond and comply with the requisitions of the law — Servetus Needham appeared and filed his bond, approved by the Court — Ordered that James Miller, Geo. Brunn and H. L. Wheeler be appraisers for the real and personal property of said estate.

W. F. Meier. Clk.
By H. Barney. D.

State of California }
Marin County } S.S. I hereby certify

90 4108

223 ND
PAGE 87

that the foregoing is a true copy of orders in the within entitled cause as appears from the record in my office —

In testimony whereof I have hereunto set my hand and affixed the seal of Recorder (no seal having yet been provided by the Probate Court) this 30th day of September A. D. 1854.

Jas L. Poindexter.
Clerk Marin County.

(seal)

Filed in Office Oct 3 1854.

Geo: Fisher,
Secy.

91

223 ND
PAGE 88

A.

Conveyance from B. Simmons to Benj. F. Simmons.

Know all men by these presents, that I, Bezer Simmons of San Francisco in the State of California, in consideration of Thirty five hundred dollars to me paid by Benjamin Franklin Simmons of Novato in the County of Marin in said California, the receipt whereof is hereby acknowledged, have bargained and sold and by these presents do grant and convey unto unto the said Benjamin Franklin Simmons, his heirs and assigns, a portion of the rancho called Novato in said County of Marin, which said rancho was sold and conveyed to me the said Bezer Simmons by Jacob P. Leese and Rosalia Vallejo his wife, by deed dated the Twenty fourth day of November A. D. eighteen hundred and forty six — the said portion hereby conveyed being described as follows:- Being the North West corner of said rancho and circumscribed by a line run as follows; Commencing at the corner of said rancho where the boundary line of Jack Martins rancho and the boundary line of Camillos rancho intersect, thence run on Camillos boundary line in an easterly direction to a pile of stones; thence due South to an Oak tree standing between two springs, stones piled at foot on North side, thence in the hollow taking a Westerly course line to be on the North bank of the rivulet now running in said hollow to a large oak tree marked standing by the side of the road and near the said rivulet, thence crossing the road taking about South Westerly course to a large Oak tree, pile of stones at foot, standing at a point of a ridge of hills on the opposite side of the hollow, thence

223 ND
PAGE 89

taking the top of the ridge in a Westerly direction and continuing until it strikes Jack Martin's rancho, and thence in a Northerly direction, on Martin's line until it strikes Camillo's rancho, the point of beginning, be the same more or less— To have and to hold the above convyed premises with all the appurtenances unto the said Benjamin Franklin Simmons, his heirs and assigns, to his and their use and behoof forever— And I the said Bezer Simmons covenant for myself, my heirs, executors and administrators to and with the said Benjamin F. Simmons, his heirs and assigns to warrant and defend the said premises against all persons claiming the same by, through or under me—

In witness whereof at San Francisco, this third day of September the year eighteen hundred and fifty I hereunto set my hand and seal.
Executed & delivered B. Simmons. (Seal)
in presence of
E. C. Galusha.

State of California
County of San Francisco. } This 3d day of September 1852 personally appeared before me William Rabe Notary duly appointed commissioned and sworn to act for said County, Bezer Simmons personally known to me to be the party described in the within deed & acknowledges

described in the within and foregoing

93

that he executed the same freely and voluntarily for the purposes therein mentioned.

Witness my hand and seal of office the day and date above written—

William Babe—
Notary Public
County of San Francisco

(Seal)

223 ND
PAGE 90

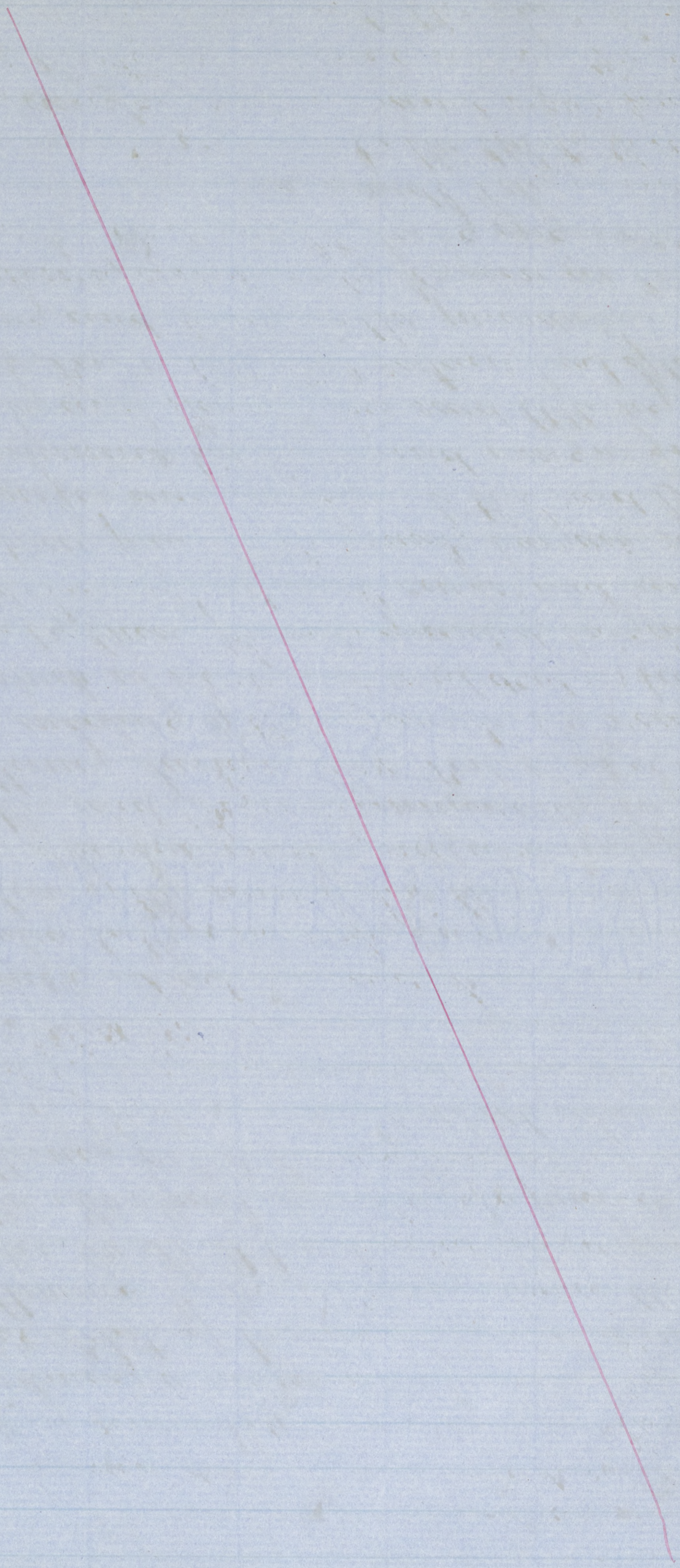
Entered this 4th day of September at 2 o'clock P.M.

Jno. A. Davis—
Recorder for Marin
County, California—

cnts paid by B. F. Simmons $3.75—
Ledger A. Page 5—

Filed in Office Nov 21' 1853.

Geo: Fisher.
Secy



95

223 ND
PAGE 91

B.
B. T.

Conveyance
from J. P.
Leese & wife
to Bizer
Simmons

This Indenture made and concluded on the twenty fourth day of November Anno Domini one thousand eight hundred and forty six between Jacob P. Leese and Rosalia his wife, of Sonoma, of the one part, and Bizar Simmons a native of the town of Woodstock State of Vermont, United States of America by his Attorney James Alex Forbes, H. B. M. Vice Consul for California, of the other part by virtue of a power of Attorney dated and given on the thirtieth day of September A. D. 1846 and duly and publicly acknowledged before W. A. Bartlett, Alcalde of St Francisco, Witnesseth, That the said Jacob P. Leese and Rosalia Vallejo his wife, for and in consideration of the sum of five thousand dollars of lawful money paid and truly paid by the said Bizer Simmons by his said Attorney James Alex Forbes, at or before the ensealing of these presents, the receipt of which is hereby acknowledged, in full, have by these presents granted, bargained, sold, transferred and confirmed, and by these presents do grant, bargain, sell, transfer and confirm to the said Bizer Simmons his heirs and assigns forever, by and through his said Attorney James Alex. Forbes; All that certain tract of land lying and being in the jurisdiction of Sonoma, commonly known as the Rancho de Nobato, being originally granted unto Fernando Feliz by the Mexican Government, the thirtieth day of November one thousand eight hundred and thirty nine; and sold by the said Fernando Feliz unto the said Jacob P. Leese; being bounded on the Northly

223 ND
PAGE 92

the lands of Camilo an Indian, on the by the bay of San Francisco, on the South by lands of Ygnacio Pacheco, and on the South West and West by lands of John Martin; including a point or tongue of land running into the aforesaid bay of San Francisco, commonly called the Potrero; the whole of this grant containing two leagues more or less, together with all and singular the houses, buildings, ways, woods, waters, water course, rights and liberties, profits, privileges and appurtenances whatsoever thereunto belonging or in anywise appertaining; the whole of the right, title, interest, estate, property, claim and demand whatsoever of them the said Jacob P. Leese and Rosalia his wife, in law or equity or otherwise howsoever of, in to or out of the same— To have and to hold the same with all the rights, privileges and appurtenance thereunto belonging or in anywise appertaining, unto the said Bezer Simmons of the second part his heirs and assigns forever: the said party of the first part hereby covenanting that they their heirs, executors and administrators will warrant and forever defend the title to the said premises and every part thereof to him the said party of the second part his heirs and assigns against the lawful claims of all or every person or persons whatsoever claiming or to claim the same or any part thereof.

In witness whereof the

223 ND
PAGE 93

said party of the first part have hereunto
set their hands and seals this day and date
above written.
Done in the Jacob P. Leese (seal)
presence of Rosalia Vallejo (seal)
Salvador Vallejo

Magistrate's Office }
Sonoma. }

I the undersigned Chief
Justice of Place of this jurisdiction do hereby
certify that Jacob P. Leese and Rosalia Val-
lejo his wife, who are personally known to
me to be the persons whose names are sub-
scribed to the foregoing deed as parties thereto,
this day appeared before me and acknowl-
edged that they executed and delivered the
same as their voluntary deed and act,
for the use and purpose therein contained.
And the said Rosalia being by me made
acquainted with the contents of said deed
acknowledged on an examination apart
from her husband that she executed the
same freely and without compulsion or
undue influence of her said husband.
In testimony whereof I have
hereunto placed my hand this first
day of October A. D. 1847.
Lilburn W. Boggs.
Alcalde

District of Sonoma }
Territory of California. }
Recorded in Book page 24,
25 and 26—
L. W. Boggs—
Alcalde—

98

4/68

Filed in Office Nov 21 1853.
Geo: Fisher.
Secy.

223 ND
PAGE 94

99

223 ND
PAGE 95

Deed.

Assignee of
Bizor Sim-
mons to
A. C. Bachy.

Know all men by these presents, that we Friedrich Billings, James R. Bolton and Henry W. Hallick, all of the city of San Francisco in the State of California, assignees of the real estate and personal property of Bizor Simmons late of said city of San Francisco by virtue of a certain deed bearing date the third day of September the year one thousand eight hundred and fifty-one recorded in the office of the recorder of the County of San Francisco State of California, as such assignees and acting under and by virtue of said deed, parties of the first part in consideration of Twenty eight thousand five hundred dollars, to us in hand paid the receipt whereof is hereby acknowledged by Archibald C. Bachy, also of the said city of San Francisco party of the second part have granted, bargained, sold and conveyed and by these presents do grant, bargain, sell and convey unto the said Archibald C. Bachy party of the second part his heirs and assigns all that piece, parcel and tract of land with all buildings and improvements thereon, situate, lying and being in the County of Marin in the State of California, known as the Rancho de Novato or Novato Ranch saving and excepting therefrom a small portion thereof heretofore conveyed by the said Bizor Simmons to Benjamin Franklin Simmons by deed recorded in the office of the Recorder of the said County of Marin, the said tract of land or Novato Rancho, hereby conveyed with the exception aforesaid being the tract of land granted on the sixteenth day of April A. D. one thousand eight

100

2/108

223 ND
PAGE 96

hundred and thirty nine, by Juan B. Alvarado Governor of California to one Fernando Feliz to whom on the 13th day of November A.D. 1839, Manuel Jimeno, Governor, ad interim of California issued a new grant, which said tract of land on the twentieth day of December A.D. one thousand eight hundred and forty four was conveyed by said Fernando Feliz to one Jacob P. Leese and on the twenty fourth day of November A.D. one thousand eight hundred and forty six, by said Jacob P. Leese and Rosalia Vallejo his wife, to said Bizer Simmons, and by said Bizer Simmons by the deed hereto for mentioned with the exceptions hereto for stated, conveyed to the said parties of the first part the said tract of land supposed to contain two square leagues a little more or less, for the boundaries of which and for all other pertinent matters reference being had to the said several conveyances and grants and the act or Record of Judicial possession of said tract of land given to said Fernando Feliz, the said grant of Jimeno and the act or record of judicial possession, and the deed or writing of sale made by said Feliz to said Leese and the deed of said Leese and wife being herewith transmitted to said party of the second part, the said grant of Alvarado being among the archives of the Department of California now in the possession of the United States Surveyor General for said State, and the said parties of the first part do also hereby

223 ND
PAGE 97

for the consideration aforesaid sell, assign and transfer unto the said party of the second part, all the horses, mares and colts, all the neat cattle and all the stock of whatever description and all the farming implements, and all the personal property of whatever description on or belonging to the said Novato Rancho, To have and to hold the same unto the said party of the second part his heirs and assigns to his and their own use and behoof forever—

In witness whereof we Frederick Billings, James R. Bolton and Henry W. Hallick assignees aforesaid in this the ninth day of July the year eighteen hundred and fifty two, hereto set our hands and affix our seals at San Francisco aforesaid.

Frederick Billings (seal)
Assignee of Bezer Simmons.

Executed & delivered in presence of H. H. Walker.
James R. Bolton (seal)
Assignee of Bezer Simmons.
H. W. Hallick (seal)
Assignee of Bezer Simmons.

State of California
County of San Francisco } ss

On this ninth day of July A. D. 1852 personally appeared before me the subscriber a Notary Public in and for said County, Frederick Billings, James R. Bolton and H. W. Hallick, known to me to be the the individuals described in and who executed the foregoing conveyance and who as the assignees of the late Bezer Simmons, severally acknowledged to me that they executed the same

4168

223 ND
PAGE 98

freely and voluntarily as the assignee of said Bizer Simmons for the uses and purposes therein mentioned.

In witness whereof I have hereunto subscribed my name and affixed my Notarial seal the day and year last above written.

Royal H. Waller
Notary Public.

(seal)

Marin County } ss

I hereby certify that the foregoing is a true copy of the original deed as taken from the Records in my office.

Witness my hand and official seal this 10th day of September A. D. 1854.

Jas L. Pendexter
Recorder.

(seal) By D. T. Taylor.
Deputy.

Filed in Office Oct 3 1854.
Geo: Fisher.
Secy.

223 ND
PAGE 99

Conveyance from Assignee to A. C. Peachy.

Exhibit A.

Know all men by these presents, that we Frederick Billings, James R. Bellen and Henry W. Hallick, all of the city of San Francisco in the State of California, Assignees of the real estate and personal property of Bezer Simmins, late of said City of San Francisco, by virtue of a certain deed bearing date the third day of September the year one thousand eight hundred and fifty, recorded in the Office of the Recorder of the County of San Francisco, State of California, as such assignees and acting under and by virtue of said deed, parties of the first part, in consideration of Twenty eight thousand five hundred dollars, to us in hand paid, the receipt whereof is hereby acknowledged, by Archibald C. Peachy, also of the said City of San Francisco, party of the second part, have granted, bargained, sold and conveyed and by these presents do grant, bargain, sell and convey unto the said Archibald C. Peachy, party of the second part, his heirs and assigns, all that piece, parcel and tract of land, with all the buildings and improvements thereon, situate, lying and being in the County of Marin in the State of California, known as the Rancho de Novato or Novato Ranch, saving and excepting therefrom a small portion heretofore conveyed by the said Bezer Simmons & Benjamin Franklin Simmons by deed recorded in the Office of the Recorder of the said County of Marin. The said tract of land or Novato Ranch hereby conveyed with the exceptions aforesaid, being the tract of land granted on the eighteenth day of April A. D. one thousand

1114

223 ND
PAGE 100

eight hundred and thirty nine by Juan B. Alvarado, Governor of California, to one Fernando Feliz, to whom on the 13th day of November A. D. 1839 Manuel Jimeno, Governor ad interim of California, issued a new grant, which said tract of land on the twentieth day of December A. D. one thousand eight hundred and forty four was conveyed by said Fernando Feliz to one Jacob P. Leese, and on the thirty fourth day of November A. D. one thousand eight hundred and forty nine, by said Jacob P. Leese and Rosalia Vallejo his wife, to said Bizer Simmons, and by said Bizer Simmons by deed hereto fore mentioned, with the exception hereto fore stated, conveyed to the said parties of the first part, - The said tract of land supposed to contain two square leagues a little more or less, for the boundaries of which and for all other pertinent matters reference being had to the said several conveyances and grants and the act or record of judicial powers of said tract of land given to said Fernando Feliz - the said grant of Jimeno, and the act or record of judicial powers and the deed or writing of sale made by said Feliz to said Leese and the deed of said Leese and wife being herewith transferred to said party of the second part; the said grant of Alvarado being among the archives of the Department of California now in the possession of the United States Surveyor General for said State —
And the said parties of the first part

223 ND
PAGE 101

do also hereby for the considerations aforesaid sell, assign and transfer unto the said party of the second part all the horses, mares and colts, all the neat cattle and all the stock of whatever description and all the farming implements, and all the personal property of whatever description on or belonging to the said Novato Ranch. To have and to hold the same unto the said party of the second part his heirs and assigns to his and their own use and behoof forever.

In witness whereof we Frederick Billings, James R. Bolton and Henry W. Halleck, Assignees aforesaid on this the Ninth day of July the year Eighteen hundred and fifty two, hereto set our hands and affix our seals at San Francisco aforesaid.

Executed and delivered in presence of R. H. Waller

Frederick Billings. (seal)
Assigne of Bizer Simmons

James R. Bolton. (seal)
Assigne of Bizer Simmons

H. W. Halleck. (seal)
Assigne of Bizer Simmons.

State of California
County of San Francisco.

On this 9th day of July A. D. 1852 personally appeared before me the subscriber a Notary Public in and for said County, Frederick Billings, H. W. Halleck and James R. Bolton known to me to be the individuals described in and who executed the foregoing conveyance, and who as the Assignees of

223 ND
PAGE 102

the late Bizer Simmons, severally acknowledged to me that they executed the same freely and voluntarily as the Assignees of said Bizer Simmons, for the uses and purposes therein mentioned.

In witness whereof I have hereunto subscribed my name and affixed my Notarial seal the day and year last above written.

Royal H. Waller.
Notary Public

(seal)

Record July 14th at 30 clock P.M. and Recorded in Book A. of deeds page 141.

Jas L. Pendleton
Recorder, Marin County.

$2444 80/100

Received A. C. Peachy $2444. 80 cts it being his amount of taxes for this year as assessed.

San Rafael
Sept 22 1852

Wm T. Carter.
Sheriff

Filed in Office Nov 21 1853.

Geo: Fisher.
Secy

107

223 ND
PAGE 103

Deed of Assignment.

This Indenture made this third day of September A. D. one thousand eight hundred and fifty, between Byer Simmons of San Francisco in the State of California party of the first part and Frederick Billings James R. Bolles and H. W. Haller of said city parties of the second part, Witnesseth, That the said party of the first part in consideration of the sum of one dollar to him in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, & for the further consideration hereinafter specified, hath given, granted, bargained and sold and by these presents do give grant, bargain and sell unto them the said parties of the second part all their lands, tenements and hereditaments lying and being in the State of California, which are more particularly specified and described in a schedule hereto annexed and made part hereof marked Schedule A. To have and to hold unto them the said parties of the second part their heirs and assigns forever. In Trust nevertheless and to and for the following uses, intents and purposes, that is to say that the said parties of the second part shall take possession of all and singular the said lands, tenements, hereditaments hereby conveyed or intended to be and sell and dispose of the same either at public or private sale, to such person or persons for such prices and on such terms and conditions and either for cash or upon credit as in his judgment may appear best and most for the interest of the parties concerned, and convert the

1118 2/68

No. 223 ND
PAGE 104

same into money and thereupon to execute acknowledge and deliver good and sufficient deeds, and all instruments of conveyance necessary to effect a sale and transfer of any and all the estates and property hereby conveyed or intended so to be and by and with the proceeds of such sales the said parties of the second part shall first pay and disburse all the just, reasonable and usual expenses, costs, charges and commissions of making, executing and conveying into full effect this assignment and the objects thereof, and the residue of the proceeds of such sales shall be considered as the nett avails or proceeds of the property hereby conveyed, and first by and with the said nett proceeds the said parties of the second part shall pay and discharge in full all the debts, obligations and demands due or to become due by the party of the first part or on anyway existing against him together with all interest which may be due thereon at the time of payment, and secondly by and with the rest, residue and remainder of said nett proceeds if any shall remain after the payment in full of said debts and private liabilities of the party of the first part the said parties of the second part shall pay and discharge the partnership debts mentioned in the deed or assignment this day made by the said Bizer Simmons and William H. Stowell to the said parties of the second part, and hereby referred to according to the order and arrangement established

223 ND
PAGE 105

by the said deed for the payment of the debts therein mentioned as intended to — And the said party of the first part also assigns and conveys to the said parties of the second part all the goods, chattels, vessels, boats and personal property of every kind mentioned in the said Schedule A. hereto annexed, in trust for the uses and purposes herein set forth as those to which the proceeds of the real estate above conveyed are to be devoted —

In testimony whereof the party of the first part hath hereunto set his his hand and affixed his seal on the day and year first herein written —

Signed, Sealed & Delivered in presence of
Archr C. Peachy.
C. Temple, Emmet.

State of California
County of San Francisco } ss At San Francisco on this third day of September A. D. Eighteen hundred and fifty personally appeared before me a Notary Public in and for said County Bizer Simmons well known to me to be the party described in and who executed the foregoing instrument and acknowledged that he executed the same freely and voluntarily and for the purposes therein mentioned.

In witness whereof I have hereunto set my hand and seal Official the day and year above written —

C. Temple Emmet
(seal) Notary Public.

110

4168

Schedule A.

Schedule of property belonging to Bezer Simmons referred to in his deed of assignment ——

223 ND
PAGE 106

The Rancho known as Novato Rancho in Marin County, purchased of Jacob P. Leese and Rosalia Vallejo his wife, November 24 1846, save a small portion heretofore conveyed to Benjamin Franklin Simmons, with the improvements and my stock thereon —

Seven-sixteenths of the Peninsula forming an arm of the Bay of San Diego, purchased of

The following property in the City of San Francisco, an undivided half of one hundred vara lot, numbered eighty eight, fifty varas by fifty varas of fifty vara lot numbered two hundred eighty five, western half of fifty vara lot numbered two hundred and three, Southern half of lot numbered thirty eight (fifty vara lot) about one hundred and forty five lots in Sacramento City the exact number and locality of the same can be ascertained by the original deed of John A. Sutter to said Simmons dated November 24 A.D. 1849 and recorded in Sacramento, and certain deeds of some of the lots so conveyed by Sutter given by me to Bulkley Phelps, Isaac T. Hatt, Owen Farham, Franklin N. Billings, Mrs Ann S. Ryder, — The following

111

property in the city of Benicia, viz: the western half of lot one (1) in block five (5) lot six in block twenty six, lot sixteen in block forty five, lots fourteen and sixteen in block forty seven, lot fourteen in block forty eight, lot six in block fifty, lot sixteen in block fifty one, lot sixteen in block fifty three.
One undivided fourth part of the ship Magnolia —

A note for five thousand dollars signed by Abel F. Pope —

223 ND
PAGE 107

Marin County } ss.

I hereby certify that the foregoing is a true copy of the original deed of assignment as taken from the Records in my office.

Witness my hand and official seal this 16 day of Sept A. D. 1854.

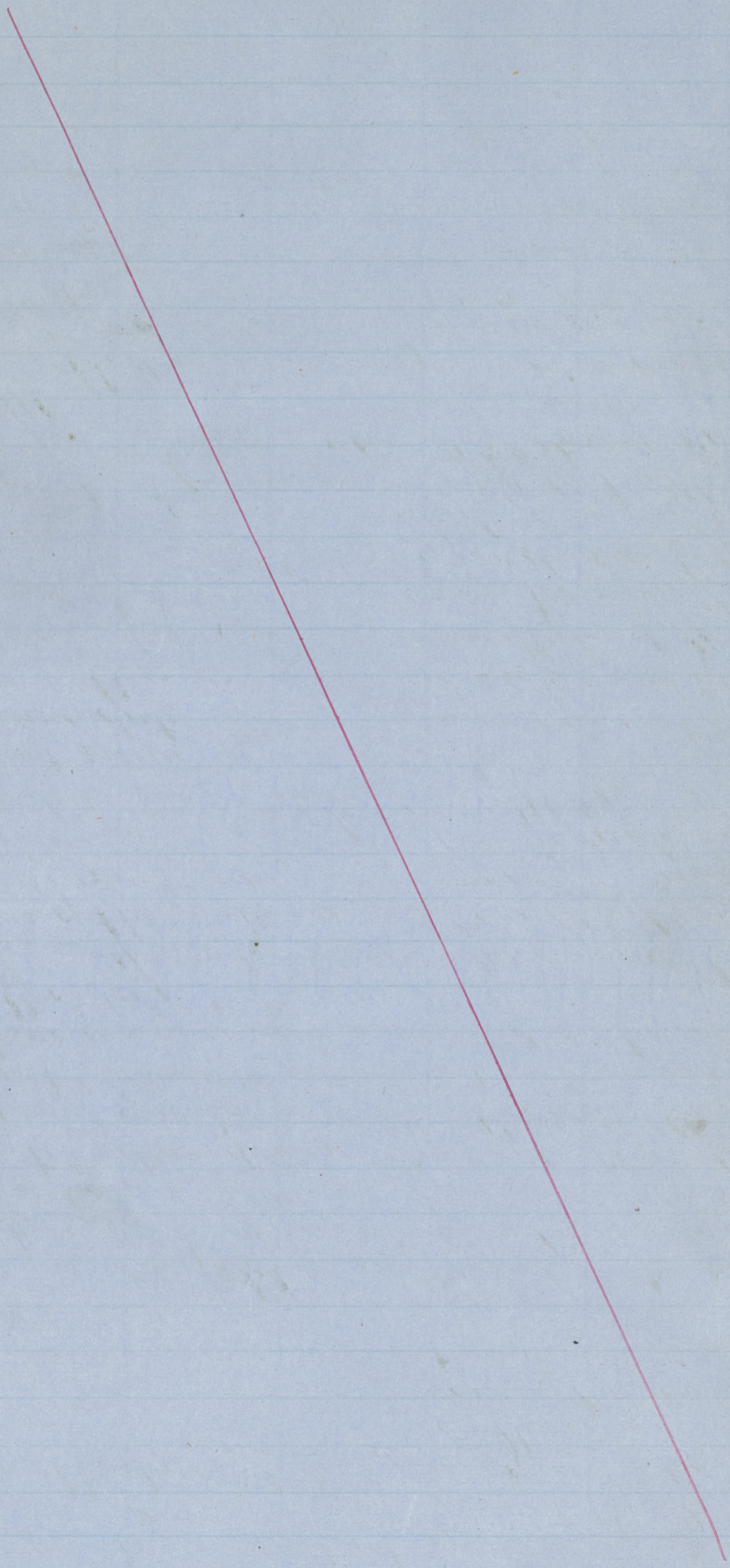
Jas. L. Reinhardt
Recorder

(seal)

By D. S. Taylor. Deputy.

Filed in Office Oct 3 1854.

Geo: Fisher.
Secy.



113

No 68.

Bizar Simmons, et, al.
vs
The United States.

Claim for a place called Novato, situate in the County of Marin and containing two square leagues —

223 ND
PAGE 108

Opinion of the Board by Comr. S. B. Farwell.

The petition in this case in the first instance asks confirmation in the name of the assignees of Bizar Simmons by virtue of a title derived from Fernando Feliz, the original grantee from the Mexican Government. But by subsequent intervening petitions a confirmation is asked in the name of Archibald C. Peachy.

The claimant has placed on file traced copies of the espediente and grant of the said Feliz, which said copies are authenticated, and received in evidence. The espediente bearing date the — day of — 1836. The grant issued by Governor Juan B. Alvarado bearing date the 16th day of April 1839.

Also an additional grant issued to the same person by Governor Manuel Jimeno bearing date the 13th day of November 1839 for the same premises, which defines the boundaries more particularly, also proof that the departmental Assembly approved the same on the 22d day of May, 1840.

And also proof of judicial measurement and possession had and given on the 15th day of November 1842. The present claimant has shown in evidence a full chain of titles from the original grantee to and in himself.

The boundaries seem to be clearly defined and with unusual accuracy, both by the last grant and report of the judicial officer who reports the measurements and

223 ND
PAGE 109

they are well fortified by other proofs in the case. The proofs all establish the facts that the conditions of the grant were fully complied with and the board are of the opinion that the claim is valid and should be confirmed, and a decree will be entered accordingly in the name of the said Archibal C. Peachy, it appearing from the proofs that he is the present sole owner of the same, and that his intervening petition was filed within the time fixed by the act of Congress for filing claims before this board for confirmation.

Confirmed.

Filed in Office Nov 7th 1854.

Geo: Fisher.
Secy.

No 68.

Decree of Confirmation.

Bezar Simmons, et, al. vs The United States. } Novato.

After hearing the proofs and allegations in this case, it is adjudged and decreed by the board that the claim herein is valid and is justly confirmed in the name of Archibald C. Peachy, the present claimant of record.

The land of which confirmation is hereby had is called Novato, and situated in the County of Marin, and bounded as follows; to wit;- Commencing at the mouth of Arroyo de Arichi emptying into estuary of Petaluma or Bay of San Pablo, and running up said Arroyo ten thousand varas to a point called Pablo Colo, thence in a Northerly direction five thousand varas

115

223 ND
PAGE 110

to a place marked by a pile of stone; thence in an Easterly direction to a place called Loma Pelo five thousand varas, from thence with the Estuary around the Punto del Potrero, to the estuary to the place of beginning. Containing two square leagues a little more or less_

Alpheus Felch.
R. Aug. Thompson. Commissioner.
S. B. Farwell.

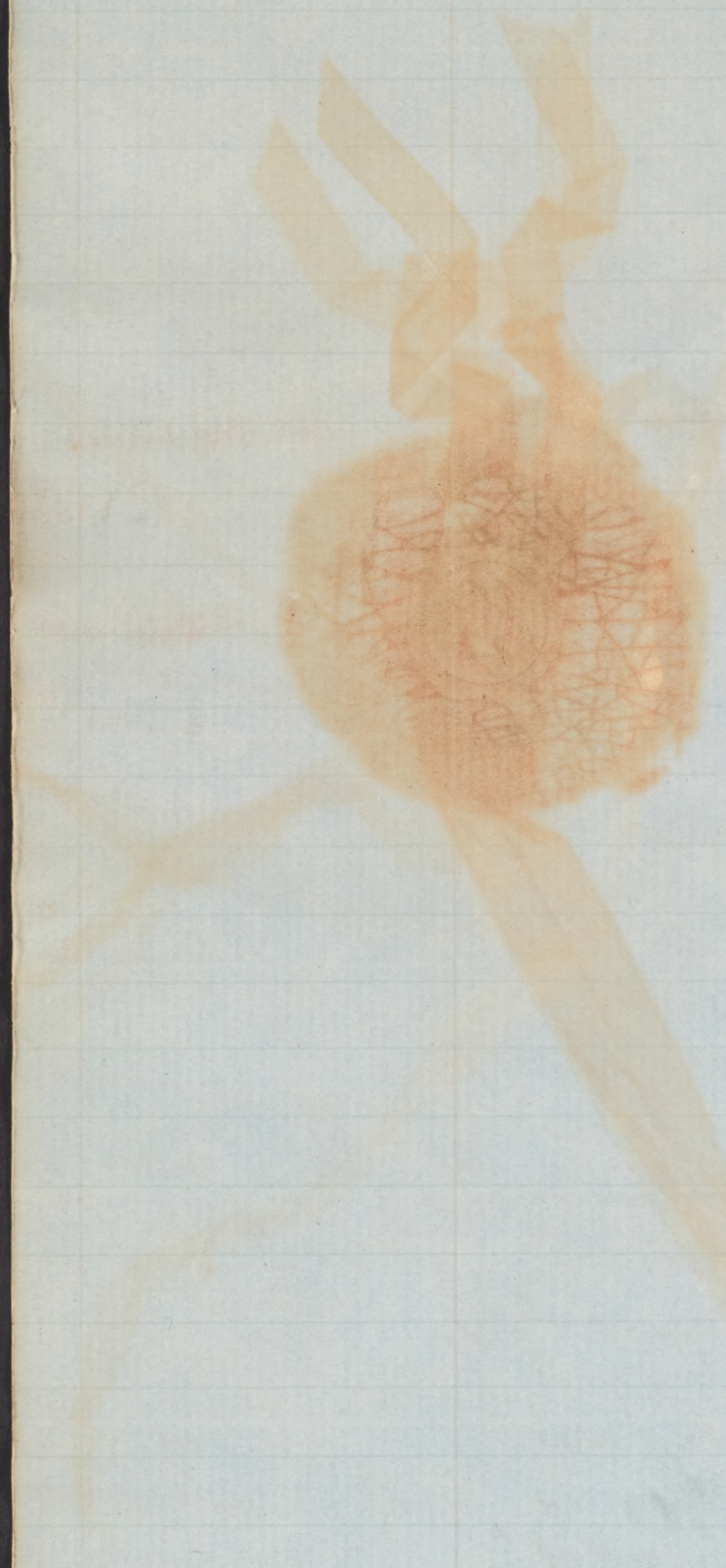
Filed in Office Nov 7th 1854.
Gen: Fisher.
Secy.

116

117

223 ND
PAGE 111

and it appearing to the satisfaction
of this Board that the lands hereby ad-
dicated is situated in the Northern
District of California it is hereby
ordered that the Transcripts of the
proceedings and of the Commission
in this case and of the papers and
evidence upon which the decree
and the Surveys connected
with said Transcripts shall be filed
in the Clerk's Office of the District
Court for the Northern District of
California and the decree be transmitted
to the Attorney General of the U.S.



223 ND
PAGE 112

Office of the Board of Commissioners,

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

I, George Fisher — Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing One hundred & seventeen pages, numbered from 1 to 117, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. 68, on the Docket of the said Board, wherein The Assignees of Bazur Simmons are the Claimant & against the United States, for the place known by the name of " Novato ——

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

Geo: Fisher
Secy

U. S. DISTRICT COURT,

Northern District of California.

No. ~~223~~ 223

THE UNITED STATES,

vs. ND

The Assignees of Bazan

Summons

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 68

Filed, June 20 1855,

John A. Morrow,

Clerk

223 ND
PAGE 113

Bezar Simmons et al:
vs.
The United States. Novato.

After hearing the proofs and allegations in this case it is adjudged and decreed by the Board that the claim herein is valid and is hereby confirmed in the name of Archibald C. Peachy the present claimant of record,

The land of which confirmation is hereby had is called "Novato" and situated in the County of Marin & bounded as follows, to wit: Commencing at the mouth of Arroyo de Ancho emptying into estuary of Petaluma or Bay of San Pablo, and running up said Arroyo ten thousand varas to a point called Palo Colo. Thence in an Northerly direction five thousand varas to a place marked by a pile of stone. Thence in an Easterly direction to a place called Loma Palo five thousand varas. From thence with the Estuary around the Punta del Potrero on the Estuary to the place of beginning - containing two square leagues a little more or less.

(Signed) Alpheus Felch.
" R. Aug. Thompson.
" S. B. Farwell.
Commissioners.

I George Fisher, Secretary to the U. S. Board of Land Commissioners, do hereby certify that the foregoing is a true and correct copy to

a Decree of Confirmation on file in this Office in Case No. 68, wherein Bezar Simmons et al. are the Claimants for the place named Novato.

In testimony whereof I have hereunto subscribed my name this 8 day of May A. D. 1858.

Geo. Fisher.

Dep

3

223 ND
PAGE 114

No (68) D 23

Assignees of Bozon Summons.

vs.

Novato.

Decree of Confirmation.

Filed in Office Nov. 4th 1854.

(Signed) Geo. Fisher,
Secretary.

Recorded in Record of Decisions vol 2 p 342.

(Signed) Geo. Fisher,
Secy.

1 223 ND
PAGE 115

223 ND
PAGE 116

Office of the Attorney General of the United States,

Washington, June 13th 1855.

685 Novato.

The Assignees of Bezar Simmons,
Claimants.

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

Attorney General.

No 223

U. S. District Court
Northern Dist of Calx.

United States
vs
The Assignees of
Bezar Simmons,

Notice of Appeal
in Case no. 68.

Filed July 17, 1855,
by Ahern
Deputy.

2

223 ND
PAGE 117

223 ND
PAGE 118

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

The United States
Appellants
vs
Archibald C. Peachy, W.W. Parker, Servitas Needham and Servitas Needham Adm'r &c. Appellees.

The Petition of the United States by their Attorney represents: that this cause is an application for a review of the decision of the Board of Commissioners whereby the claim of the said Appellees was confirmed as appears by reference to the records in this Case: That a transcript of the said Records was filed in this Court on the 1st day of May 1854: that a notice of appeal was filed on the 1st day of May 1854 and that the land claimed lies in the said District. That the said claim is invalid. Wherefore Appellants pray that the said decision of the Board be reversed & that this Court deem the said title to be invalid. Respectfully &c.

S. W. Inge
U.S. Dist Atty

No 223

U.S. Dist. Court

The United States

vs

Assignees of B. Simmons

Petition

Filed March 7. 1856.

by Chenet.

Deputy.

3

223 ND

PAGE 119

Glassell

No 223

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

223 ND
PAGE 120

The United States, appellants
vs.
Assignees of Bezer Simmons, appellees

} Transcript No 68. Claim for "Nonato" 2 sq. leagues or ~~boundaries~~.

Archibald C. Peachy, W. W. Parker & Lemuel Needham for themselves, and Lemuel Needham as administrator of the estate of John A. Alein, deceased, appellees in the above entitled cause, appear by their ~~Attorneys~~, and for answer to the petition of the United States, filed herein, say:

That their title to the land called "Nonato" as set forth and described in the petition of the Assignees of Bezer Simmons and the supplementary petitions of appellees to the Board of Commissioners, and in the documentary and other evidence filed in this case, is a good and valid title, that the land claimed is situate in the Northern District of California, and within the jurisdiction of this court.

And they pray this Honorable court to affirm the decision of the Board of Commissioners confirming their claim, and to decree their title to be valid.

Halleck Peachy & Billings
Attys for appellees.

No 223

The United States, appellants
vs.
Assignees of B. Simmons, appellees

Answer.

Filed March 7. 1856.
by Chevers.
Deputy.

4

223 ND
PAGE 121

Hallett & Peachy & Billings
Attys for appellees.

223 ND
PAGE 122

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 *Tuesday* the *16th* day of *December* in the year of our Lord one thousand eight hundred and fifty-*six*. —

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States
vs.
The assignees of
Bezar Simmons,

Case No. 223.

Transcript No. 18

The Attorney General of the United States having given notice that no appeal will be further prosecuted in this case, and a stipulation having been entered into by the United States District Attorney for the dismissal of the appeal from the decision of the Board of United States Land Commission heretofore rendered in their favor, on motion of the District Attorney, it is ordered, adjudged and decreed, that the appeal pending in this Court be dismissed and that the claimants have leave to proceed under the decree of the Land Commission heretofore rendered in their favor, as a final decree.

Ogden Hoffman
U. S. Dist. Judge

No 223

United States District Court, Northern District of California.

The United States

vs.

The assignees of Bezar Simmons.

Case — No. 223
Transcript No. 68

order.

Filed December 16, 1856,
J. A. Munroe,
Clerk.
By W. H. Chevers
Deputy.

3

223 ND
PAGE 123

223 ND
PAGE 124

California Land Claims.

Attorney Generals Office

6 October 1856,

Sir:

In the case of the claim of The Assignees of Bazar Simmons, confirmed to the claimants by the Commissioners, case no. sixty-eight, (68), appeal will not be prosecuted by the United States.

I am

Respectfully

Wm Blanding Esq

U.S. Attorney

San Francisco.

223 ND
PAGE 125

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

The United States
vs
The assignees of
Bezar Simmons

Case No. 223
Transcript No. 18

In pursuance of a notice from the Attorney General of the United States, hereunto annexed, it is hereby stipulated and agreed that the appeal heretofore taken in this case from the decision of the United States Land Commission to ascertain and settle private land claims in California, be dismissed, and the notice of intention to prosecute said appeal, filed in this Court by the Attorney General of the United States, be withdrawn, and that the claimants have leave to proceed under the decree of the said Land Commission in their favor as under Final Decree.

Wm Blanding
Dist Atty

Hallett Pearby & Billings
Attys for claimants

No 223

United States
District Court

The United States
vs.
The assignees of
Bezar Simmons.

Case — No 223
Transcript — No 68

Stipulation.

Filed Dec: 16. 1856.
W. H. Chenoweth
Deputy Clerk,

223 ND
PAGE 126

223 ND
PAGE 127

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

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States vs. Assignees of Bezar Simmons. | D.C. 223, L.C. 68.

On motion of Mr Billings, of counsel for the claimant, ordered that the U. S. Surveyor General for California return into this Court the survey by him made in the above cause, and that a certified copy of this order be forthwith served on the said Surveyor General, and on the U. S. Atty: for this District.

No. 223,

District Court of the United States

IN AND FOR THE

Northern District of California.

The U. S.

vs.

Assignees of
B. Simmons,

Order To return
Survey,

Filed July 2, 1859.

W. H. Chevers *Clerk.*

By .....

..... *Deputy.*

223 ND
PAGE 128

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

Clerk's Office,

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

..... *Clerk.*

By .....

..... *Deputy.*

U. S. District Court.

223 ND
PAGE 129

The United States
v.
Ass. of Bezar Simmons. } No. 223.

And now come the United States, by their attorney P. Della Torre, and except to the survey of the land claimed in this case, known as the "Rancho de Novato," - a plat of which survey was filed in the clerks office of said Court on the 14th. day of July, 1869.

And for objection to the confirmation and approval of the said survey, the United States, by their said attorney, allege as follows:

1st. That the said survey was made in direct violation of the act of juridical possession, which did not include any land to the east of a line commencing at "Post No. 1. Point of beginning", and running northerly to a "pile of stones at foot of two Buckeye trees", but included the land to the west of such line only.

158
583

2nd: That the land included within the lines of juridical possession ~~embraces~~ is of the extent of two square leagues, the amount granted by Gov. Alvarado and approved by the Departmental Assembly

Wherefore the United States, by their attorney aforesaid, pray that the said survey be rejected as erroneous, and that the Surveyor General be directed by order of this Court to make a new survey in accordance with the act of juridical possession, and return a plat of the same, when made, to this Court for approval.

San Francisco, July 29. 1859.

Sully R. Wise,
acting U. S. Atty.

223 ND
PAGE 130

223

U. S. District Court

The United States

v.

Ass. Began Simmons.

Exception to Survey.

Rec'd copy within this
29th July A. D. 1859.

Hallock & Riley
Claimant Atty

Filed July 29. 1859.
W. D. Cheever
Clerk

223 ND
PAGE 131

Tully R. Wise
Acting U. S. Atty.

U. S. District Court
Nor. Dist. Cala.

223 ND
PAGE 132

The United States
v.
Ass't Began Summons

No. 223.

San Francisco, June 29, 1860.

On this day, before Jno B. Williams, a Commissioner of the United States for the District of California, duly appointed by the Circuit Court of the U. S. for said District, under the acts of Congress in such case made and provided, came Gregorio Briones, a witness on behalf of the U. S., who, after being duly sworn, testified as follows, his evidence being interpreted by Thomas M. Leavitt, a sworn interpreter.

Present: T. R. Wise, Esq, Acting U. S. Atty, by Judge Sloan.
Counsel for claimants, Mess Halleck Peachy and Billings, declined to attend.

Questions by Acting U. S. Atty.

Question 1.

State your name, age, residence and occupation.

223 ND
PAGE 133

Answer 1.

Gregorio Briones - age 62 - residence Marin County - occupation farmer.

Question 2

Do you know the Rancho "Novato" in Marin County, originally granted to Fernando Feliz?

Answer 2.

I do.

Question 3.

Did you ever make a measurement of that Rancho under the authority of the former government?

Answer 3.

I did. I was one of the persons engaged in giving juridical possession to Fernando Feliz. I was one of the measurers. Salvador Vallejo, the judge, Canuto Zalazar, Juan Martinez, and others whose names I dont remember, were present. I remember Victor Prudon was present.

Question 4.

Where did you commence the measurement?

Answer 4

At the arroyo Avichi, where there was a white-ash tree. from there to the Portezuelo Novato - from there we took a northwest

223 ND
PAGE 134

direction to the top of the mountain where there were Redwoods - I marked an oak at that place. From there I went down to the Cañada, and went up the Olampali - from there I took an easterly direction to a spring of water - from there, a south direction to the road. Then I walked a short distance northwesterly and then took a south direction and walked along the march of the estero, and went near the Lomitas, and walked towards the northwest. From there I passed the Portezuelo and reached the place of commencement.

Question 5.

Did you place any monuments on any part of the boundaries, and if so, describe where.

Answer 5.

We did - in the Portezuelo of Novato we placed a pile of rocks - The second ~~is~~ as was placed where the Redwoods grew, on the top of the mountain, which made the boundary between the Novato and the Nicasio Ranchos - The pile of rocks at the Portezuelo was the boundary between the Novato Ranch and the Rancho of Juan Martinez. The third monument

223 ND
PAGE 135

was placed on the "falda" or slope of the Olampali, between Olampali and Novato Ranchos. Near this monument were some trees, called by the americans Buck-~~eye~~-eyes. From this last monument we measured to the lomitas, which are about 60 yards from the road from Petaluma to San Rafael - from the lomitas, in a straight line to the place of beginning on the arroyo Aroichi, which is near the salt marsh.

Question 6.

Was the Potrero or Novato point included within the measurement or not?

Answer 6.

It was not - the point was excluded and reserved to the government.

Question 7.

What ranch lay to the south of the Novato?

Answer 7

The Pacheco Ranch - or San Jose Ranch bounds the Novato Ranch. The arroyo Aroichi is the dividing line.

Question 8

What was the boundary towards San Pablo Bay?

Answer 8.

The point, or Potrero, as it was called.

Question 9.

Why was not the point included?

223 ND
PAGE 136

Answer 9

Because there were two sitios granted him, which was measured off, and the point was the sobrante.

Question 10

Was Fernando Feliz present?

Answer 10.

He was - and expressed himself perfectly satisfied. He is now dead.

Gregorio Balona

Sworn to & Subscribed
before me this 29th
day of June, A.D. 1860

Jno B Williams
U.S. Com.

223

U. S. District Court

The United States

v

Asa Bezar Simmons

Def Gregorio Briones
for United States

Filed June 29. 1840
W. A. Shepard
Clerk

10

223 ND
PAGE 137

223 ND
PAGE 138

United States of America,) SS.
Northern District of California.)

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

GREETING:—

WHEREAS, objection has been made to the official survey and location of the land finally confirmed, in case No. 223, to Assignees of Bazan Sunmons known as "Novato", and situated in the County of Marin in said District.

NOW THEREFORE YOU ARE HEREBY COMMANDED, in the name of the President of the United States of America, to give due notice to all parties having, or claiming to have, an interest in such survey and location, that they be and appear before the District Court of the United States for said District, sitting in Land Cases, on or before Wednesday, the 26th day of September A. D. 1860, at 11 o'clock, A. M. (if that day shall be a day of jurisdiction, and if not, on or before the next Wednesday thereafter,) then and there to intervene for the protection of such interest, or their defaults will be taken. And what you shall have done under this writ do you then and there make return thereon.

WITNESS, the Hon. OGDEN HOFFMAN, Judge of said Court, at San Francisco, in said District, this 20th day of August A. D., 1860.

W. A. Clevel.

CLERK.

No. 223

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

THE UNITED STATES.

V.

Assignees of
Bezar Simmons.

MONITION.

Returnable Sept. 26, 1860.

Issued Aug. 20, 1860.

Filed Sept. 26, 1860.

W. A. Shepherd
Clerk.

The within Monition was received by me on Monday the 20th day of August 1860, and in obedience thereto I have given due notice, as therein commanded, by causing the publication of said notice, for Four consecutive Wednesdays, in the San Francisco Herald, commencing on the 22nd day of August 1860; and for Four consecutive Saturdays, in the Sonoma a paper published nearest the land, commencing on the day of 186 .

Dated San Francisco, Aug. 22nd 1860.

P. L. Solomon
U. S. Marshal.

223 ND
PAGE 139

223 ND
PAGE 140

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the CITY OF SAN FRANCISCO, on Wednesday the 26th day of September in the year of our Lord one thousand eight hundred and sixty.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

v.

The Assignees of Bezar Simmons.

IN LAND CASES.

District Court No. 223.

Land Com. No. 68,

AND now at this day the United States Marshal having made return upon the Monition heretofore issued in this cause, that he had given due notice as therein commanded; on motion of the Attorney for the United States proclamation was made that all parties having, or claiming to have, an interest in the survey and location of the land finally confirmed in the above entitled cause, appear and intervene for the protection of such interest;

The U.S. District Attorney, and Edmund Randolph, Esq. appearance in behalf of the United States. and Messrs Hallock, Peachy & Billings for the Claimants, No other parties appearing

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

No. 223,

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

V.

The Assignees of
Bezar Simmons.

ORDER ON RETURN OF MONITION.

Filed September 26. 1860

W. H. Chevers,
Clerk.

223 ND
PAGE 141

223 ND
PAGE 142

District Court of the United States
Northern District of California.

The United States
v.
Assignees of Bezar
Simmons deceased

D.C. № 223.
"Novato"

Under an order made herein the Surveyor General of the United States for the State of California under his hand and seal, but without a formal approval furnished the map of a survey purporting to be the public official survey of the Novato Rancho. Exceptions were filed thereto on the part of the United States. In the mean time a deputy Surveyor was engaged in making a survey of the same and of some adjoining Ranchos - but as the said Surveyor General stated, without his authority, orders or direction. A new map however seems to have been prepared in his office, representing a new survey of said Rancho, whereby the point of land which projects into the Bay of San Pablo on the East, called "Novato Point" was included, as was the case by the former survey and map; but, for the apparent purpose of reducing the area to the quantity mentioned in the grant, a large portion of the land in the South Western part of the tract and clearly forming part of the Novato Rancho was excluded and added to the Nicasio Rancho - and by which the boundaries marked out and established by monuments by

223 ND
PAGE 143

the officers who gave juridical possession were wholly disregarded, thereby leaving the second survey subject to the exceptions already filed to the former. The first map has never been recalled by the Surveyor General nor has the Court made any order to send it back for want of a certificate of approval by said Surveyor General - Under these circumstances the United States move the court for an order directing the map of the survey now approved to be filed herein in lieu of the former map, to which Exceptions have been filed.

Calhoun Dunham

U.S. Atty

223.

U. S. Dist. Court.

The United States.

— vs —

The Assignees of
Bezar Simmons.

Motion of U. S. Atty.

Filed Dec: 10. 1860.
N. A. Cheves,
Clerk.

13

223 ND
PAGE 144

223 ND
PAGE 145

The United States. — vs — Assignees of B. D. Wilkins.

U. S. Dist. Court. Nor. Dist. Cal.

No. 223

I. D. W. Mondeville, U. S. Surv. Gen. for California on oath state that on the fourteenth Day of July A. D. 1859 I filed in the U. S. Dist. Ct. a copy of a plat of survey of the rancho of Novato — the same having been made during the term of my predecessor Col. Hayes, but not having the approval either of him or myself — the said plat was in the office when I entered upon my duties, and has now had any indorsement or been otherwise than the only in Court — This plat contained 13.296 34/100 acres

In Nov. 1859 under my order a new survey of the rancho was made in 1859 which the quality was two leagues or 8.870 62/100 acres. This survey had my approval — and was so indorsed.

—

Notice of this survey being on file and that the survey or plat had been approved and filed in my office (under the law of 1860)

223 ND
PAGE 146

was given by publication

in the Sonoma Co. Journal once a week
for four weeks, commencing Augt. 24 1860
& ending Septr. 14. 1860

also

in the San Francisco Herald once a
week 4 weeks 5 insertions commencing
Aug. 15 ending Septr. 8th.

The Sonoma Co. Journal is published at
Petaluma and is the place of pub-
= lication nearest to the land

=

I. Edward Conway Chief Clerk in the
U. S. Surv^{r}. Genl. Office, having read the
foregoing statement intended to be signed
by L.W. Meadwell U. S. Sur. Genl, do swear
say that the facts above set forth are
known to me and that the same are
true. This affidavit is made by
me on account of the absence of
said Meadwell from the city

Subscribed & sworn to before me Edward Conway
November 30th 1860 Henry Haight Chief Clerk
Notary Public

223.

U. S. Dist: Court.

The United States.

—vs—

The Assignees of
Bezar Simmons.

Affidvt: C. Courtney.

Filed Dec: 10. 1860.
W. D. Rees,
Clerk

14

223 ND
PAGE 147

U. S. Dist. Ct.

The United States

v

Same.

Affidavit &c.

223 ND
PAGE 148

The United States
vs
The assignees of Bejar
Summons

District Court of the
United States Northern
District of California

Northern District of California —ss—

I W Mandeville being duly sworn deposes and says that he is the Surveyor General of the United States for the State of California; that when he took charge of said office he discovered that a survey of the Rancho Novato had been made under instructions from his predecessor Col Hays, and a plat thereof had been filed by the deputy charged with the survey, and the same remains on file in his office; that the claimant had in his possession a plat of this survey, made out in this office, with a full and regular certificate of Col Hays, on the 8th April 1857, stating that the plat was in conformity with the field notes on file, and which had been examined and approved, although there was no approval found on the records of the office by the affiant, or any other proceeding showing that final action had been taken in said Survey by Col Hays —

That a copy of this survey was filed in the Clerks office of the U S Dist Court Northern District California in compliance with an order therefrom dated 9th July 1859 — that being the only

223 ND
PAGE 149

Survey at that time on the files of the Office – That some time after E. O. Sloan called upon him at his office and enquired whether he was causing another Survey to be made of that Ranch, stating to affiant that one of his deputies was actually engaged in making a survey in connection with some adjoining Ranchos – affiant replied that he had issued no instructions for such Survey, that if it was being made, it was without his directions – Instructions however were afterwards issued and a plat of survey returned therein, by which the quantity was limited to two square leagues, and excluded a portion in the South West corner of former Survey and including it in the Survey of the Micasio Rancho, but retaining Novato Point – This affiant informed said Sloan he had some thought of adopting one or the other, remarking that if Messrs Halleck Peachy & Billings would consent he would do so – That he afterwards approved said last Survey and published the same according to law –

J. H. Innes

Sworn to and subscribed before
me this twelfth day of Dec.
A D 1860

J. A. Rich
Notary Public

No. 223.

U. S. Dist. Court.

The United States.

—vs—

Assignees B. Eminent.

Affidavit of
I. W. Mandeville.

Filed Dec. 15. 1860.
W. A. Adrees
Clerk

223 ND
PAGE 150

15

223 ND
PAGE 151

U. S
vs
Assignees of Bezan Simmons

This is a motion to substitute the plat of a recent survey made by the present Surveyor General for that of a former survey made by his predecessor and returned to, and on file in, this court which has been objected to by the U. S. Dist Co Attorney.

It appears that publication under the act of 1860 has been made by the Surveyor General of the last survey and no exception or objection to that survey and that the same has not been ordered into court or an application for such order made within the time prescribed by the act. It has therefore

2

become final and conclusive on all parties unless the Court was already possessed of the cause by virtue of the order requiring the first survey to be returned & the exceptions filed to it.

The 8th section of the act of 1860 provides that "all surveys & locations hereto fore made & approved by the Surveyor General of Cal^a which have been returned into the said Court or either of them or are which proceedings are now pending for the purpose of ascertaining contesting or reforming the same are hereby made subject to the provisions of this act except that in the cases so returned or pending no publication shall be necessary on the part of the Surveyor

genal"

Some question is made
whether the plat heretofore
returned into this Court
~~was~~ purports on its face to have been
~~seen before the~~ approved
~~by~~ by the then Surveyor Genal.
There would seem to be
no doubt that it was
in fact approved by him
and it was returned to the
Court by him as the official
Survey of the land com-
prised in the claimants
as such was duly replied
to by the District Attorney
~~He was~~ The case was
therefore clearly one "in
" which proceedings were
" pending in this District
" Court for the purpose of
" Contesting or reforming the
" Survey.

In ~~the~~ such cases no produc-
tion by the Surveyor Gen-
eral is necessary - nor if
made as to of the Survey

223 ND
PAGE 153

to remand or pending or of any other which may be substituted for it, can it avail to oust the Court of the jurisdiction already acquired, or to bar the contestants of their right to except to the application for an order to remand into Court be made within the time specified by the Act.

A final survey having been made and returned into this Court, the case became one in which proceedings were pending nor can the jurisdiction of which the Court had thus acquired be divested by a publication by the Surveyor General of the same or any subsequent survey of the lands & the expiration of the time limited for taking

5

taking objections to survey regularly published and in which no proceedings are pending —

I therefor think that the motion must be denied so far as it seeks to substitute the new survey for the one heretofore returned to this Court — but the cause must proceed as other causes which at the passage of the act proceedings were pending in this Court for the purpose of contesting or approving surveys of confirmed land claims —

223.

U. S. Dist. Court.

The United States.

-vs-

The assignees of

Bezar Simmons.

Opinion on motion to substitute plats of Survey. etc.

Filed May 4. 1861.

N. A. Chevers.

Clerk.

16

223 ND

PAGE 156

223 ND
PAGE 157

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the City of SAN FRANCISCO, on Wednesday the 22d day of ~~March~~ May in the year of our Lord one thousand eight hundred and ~~fifty~~ sixty one

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
v.
Asapn of Bezar Simmons

No: 223.

And now at this day comes S. Hydenfeldt Esq, attorney for claimants, and moves the Court for an order vacating the order heretofore entered July 2. 1859, ordering the ~~an~~ official survey of the land confirmed into Court, on the ground of the want of jurisdiction; whereupon, the counsel for the claimants and W. H. Sharp Esq, U. S. atty, having been heard, and due consideration had, It is ordered, that the said motion be, and the same hereby is, denied.

223

UNITED STATES DISTRICT COURT,
Northern District of California.

The United States

vs.

Ass. Bezar Simmons

Order denying motion for an order vacating order of July 2, 1859.

Filed May 22d. 1861,
W. H. Chevers,
CLERK.

By /

DEPUTY.

17

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

223 ND
PAGE 158

223 ND
PAGE 159

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the City of San Francisco, on Wednesday the 17th day of July in the year of our Lord one thousand eight hundred and ~~fifty~~ sixty one

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
v
Asap Bevan Simmons

No. 223.

And now at this day, on motion of W. H. Sharp Esq U. S. attorney, and by consent of the respective parties, It is Ordered, that the proofs in the above entitled cause be closed on or before Monday the 29th day of July instant.

223

UNITED STATES DISTRICT COURT,
Northern District of California.

The United States

vs.

Asa Bean Simmons.

Order to close proofs
on July 29. 1861.

Filed July 17. 1861

W. H. Chevers.

CLERK.

By

DEPUTY.

18

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

223 ND
PAGE 160

U. S. District Court
Nor. Dist. of Cal.

3.

The U. S
vs
The Ranchero of Petaluma

No 223 ND

223 ND
PAGE 161

December 19. 1862.

In the decree of the Board in this case the land confirmed to the claimants is described as bounded follows—

"Commencing at the mouth of the
"arroyo de Arichi emptying into the
"Estero de Petaluma or Bay of San
"Pablo and running up said arroyo
"ten thousand varas to a point
"called "Palos Colorados" thence in a
"Northerly direction five thousand
"varas to a place marked by a
"pile of stones, thence in an Easterly
"direction to a place called "Olyom
"pah" five thousand varas to a
"point thence with the Estuary a
"round the Punta del Potrero on
"the Estuary to the place of beginning
"containing two square leagues a
"little more or less"—

This description was evidently taken from the evidence of the witnesses examined before the Board—

These witnesses all concur in identifying

223 ND
PAGE 162

2

The Arroyo de Aroichi as the
Southern boundary the hill crowned
with red wood, (or Palos Colorados) as the South west
ern Corner, and bounding the
land on the side of the Ricardo
Rancho, the Portezuelo, and hill of
Garcia as the points in the west
ern line, which terminates on the
north at a hill on the top of
which is a mounment of stones,
and, the Potlar, and the hill
of Olympali as the northern bounds
and the Esteros or Marches
as the remaining boundary to
the point of beginning—
Ex. Aroichiria.

The Olympali thus separates
the Rancho from that of Camillo
on the North— The Porta Zuelo &
the mounment of stones indicate the
boundary on the side of Juan
Martin— the Palos Colorados, that
on the side of Ricardo, and the
Aroichi that on the side of Pacheco.
In the grant the land is des
cribed as bounded "North by the
"land of Camillo, South by lands of
"Pacheco East by the Sea and
"west by land of Juan Martin"

223 ND
PAGE 163

3 It is plain therefor that the ~~whole of this tract is within the limits of~~ boundaries mentioned in the decree are those described in the grant and indicated on the diseño -

~~It appears by the record of Judicial possession~~

That these are the established and recognized boundaries of the Rancho appears by the testimony of several witnesses and especially by that of the officer who gave the Judicial possession and of Juan Martin a colindante on the west who was present on the occasion -

The land included within these ~~limits~~ is a little less than 3 leagues the quantity mentioned in the grant is "two leagues a little more or less."

It appears however that in the survey of the adjoining Rancho of Nicasio the South western & western boundaries of the Novato Rancho have not been observed - That ~~was~~ no objection was made to that survey by the owners of the latter, although it was duly

223 ND
PAGE 164

4 published according to law—
It has therefore become final
The survey of the tract now
before the Court follows the lines
of the Micasio survey and it
Comprises all the remaining lands
within the boundaries described
in the decree of the board—Con-
taining about 8870 acres or two
leagues—
It is objected on the part of
the U. S. that the Record of Ju-
dicial possession shows that a
point of land called the Potrero
Viejo running out towards the East into
the Marshes, and connected with
the main body of the tract by a
neck of land of no great width
was not included in the land
whereof Judicial measurement
was made and Judicial possession
given— That it should therefore
be excluded from the survey
and the claimants obliged to
locate their land within those
~~to be necessary to obtain Judicially.~~
boundaries by Judicial possession and
on the land already surveyed &
probably patented to the heirs of
Micasio—

223 ND
PAGE 165

5 If in fact the Potrero
was in fact cut off and excluded
as a sobrante, by the officer who gave
judicial possession - there would
be no alternative but to exclude
it from the survey - and the
claimant would have his own ne
gligence to reproach for permitting the
Rancho to be located in part on
his land.

But the record of possession
fails to establish the fact excluded
or fixes with any degree of cer
tainty

If this ties the measurement as
Commencing "at the Arroyo de A
4 chi and running thence 10,000
4 varas to the Roto Suelo or gap of
4 San Martin where a pile of stones
4 was erected - thence 5000 varas
4 to the Corte de madera of Pacaya-
4 ala where the corresponding land-
4 mark was placed - thence 5000
4 varas to the peak of Olympali
4 where the last land-mark was
4 placed - whence it results that
4 the Rancho of Novato has the ex
4 tent of 5000 varas in width &
4 10,000 varas in length" -

223 ND
PAGE 166

~~But~~ On attempting to apply this discription to the ground we ~~are~~ ~~obliged~~ encounter insurmountable difficulties
From the arroyo de Aichi to the Porta Zuelos is a distance not exceeding 8000 varas instead of 10000 as mentioned in the act of Posession, and though such ~~a~~ ~~mistake~~ mistakes as measurements, of a much greater number of varas ~~was~~ were of very frequent occurrence yet in all the cases I have seen the actual distance, was greater, and never less than that mentioned in the record of possession— ~~Yet such a case was.~~
But this line could not have been intended as a boundary ~~line~~
It runs from East to West through nearly the centre of the Rancho and to a point which the next measurement made, shows to have been in the middle of the western boundary—
This next measurement was from the Porta-Zuelo to the Corte de la Arena, which ~~is~~ was not disputed for as the ~~is~~ Palos Colorados, spoken

223 ND
PAGE 167

ry by the witnesses as the South western corner— The lengths of this line, as given in the record nearly corresponds with its actual length—

~~But~~ from The last line is described as run from the Corte de madera to the Peak of Olympale 5000 varas— Like the first it ~~runs~~ crosses diagonally through the centre of the Rancho, cropping the first line nearly at right angles— Instead of being 5000 varas in length it is nearly 10,000— and it is much longer ~~than~~ than record to be only 5000 varas than the first line which the record says was ± 10,000 varas in length— Here the ~~the~~ description stops— The three lines given, enclose no track of land They are merely diagonal lines drawn through the middle of the tract and crossing each other— the ~~ends of~~ western ends, of which are united by the line drawn from the Porta Suelo to the Palos Colorados— How if ~~any~~ ~~one~~ their lengths as given in the Record could be reconciled on any hypothesis of possible mistake

223 ND
PAGE 168

with the actual distances be-
tween the points indicated they
would still be without the
means of determining whether or not
the Potrero was to be included—
It is difficult to imagine how
the measurers could after deter-
mining as they thought the distance
from the Arichi to the Porta Zuelo
to be 10,000 varas have imagined
that the distance from the Rabo
Colorados to the Olympali was only
which is evidently much greater
was only 5000 varas and that
thus a tract 10,000 varas long &
5000 varas wide was obtained— The
whole description seems hopelessly
confused and unintelligible— It
makes no mention of the North
western corner which all the witness
agree was fixed North of the Porta
Zuelo where a pile of stones still
now exists— nor does it mention
the Arroyo de Arichi as a Southern
boundary which it is like manner
is recognized on all hands as the
ancient boundary of the Rancho
in that direction—

So The U. S. have by mistake one

223 ND
PAGE 169

9 witness, Gregorio Briones, who assisted at the measurement.
But his testimony is wholly unintelligible. He is evidently confused as to the points of the compass and even correcting his mistakes in that particular it is impossible to follow, or understand his description of the lines run. He states positively however that the Potrero was not included.
On the other hand Vallejo who gave the possession, Juan Martin, a Colindante who assisted and other witnesses who have known the Rancho since its establishment all testify that it was bounded by the marshes on the East and included the Potrero. To have cut off a piece of land not more than 3/4 of a league in extent, unavailable to any one else than the owner of the Rancho, and only accessible from his Rancho and this, when the land was plainly within the grant as a part of the tract solicited and granted, and would include give to the Rancho an extent less than 3 leagues while the grant

223 ND
PAGE 170

10 called for two leagues "a little
more or less," would will ap
pear to any one acquainted with
the mode in which Judicial
measurements were made a degree of pre
cision and rigorous exactness so
strange as to be almost incredi
ble— That the lines were not run
around the Potrero is evident—
But this was, because its boundaries
being the Esteros, there was no ne
cessity of establishing them— The chief
object of the proceeding was to fix
the boundaries adjoining neighboring
Ranchos— And this appears to
have been done with respect to
all the Colindantes— the Pachecos
the owners of Micasio, Juan Martin,
& Camillo the owner of Olympali.
I think therefore from
the evidence and the intrinsic
probabilities of the case that the
Potrero must have been included
in the Judicial measurement—
And certainly there is nothing in
the record of that proceeding to justify us in affirming that it was otherwise
Indeed the testimony of the lines
run is so obscure and confusedly in

11

imperfect in omitting to mention boundaries which the ^our^ U. S maintain were established (viz the Arichi for ~~on~~ the southern line, and the hill ~~hill~~ of Roblar as the northwestern corner & northern line) that we may well discard it altogether. The claimant would then be at liberty to take two leagues within the exterior limits of his grant of Bismo these as has been already observed plainly embrace the Potrero—

This he is willing to do by accepting the survey as made by the U. S. It certainly does not lie in the mouth of the latter to contend that he shall locate his land in part on that, which tho' included within his exterior limits ~~has~~ the United States themselves have surveyed and probably patented as part of the Nicasio rancho—

~~I think that perhaps the survey approved Dec 27th 18[illegible] by the late Surveyor General [illegible] should be affirmed.~~

Indeed the position which the United States assume is somewhat anomalous—

223 ND
PAGE 171

12

They admit that by ~~those~~ officers acting under their authority have included within the survey of Micadios ~~a part~~ lands not merely within the external limits of the Novato Rancho but embraced within the boundaries as established by a judicial survey — They now seek to repudiate their own act, and disputing the validity and completeness of the survey, to confine the Novato Rancho exclusively within its limits. Notwithstanding that they themselves have already given a part of the land to another —

Before they can be permitted to do this, they should at least be compelled to show that the record of the judicial measurement ~~was clear~~ ~~& explicit~~ ~~& plain~~ ~~& above~~ describes the boundaries of the whole tract in a clear definite & explicit manner — But this as we have seen they are wholly unable to do ~~by parol testimony to be~~ The lines described in that measurement do not give the external boundaries of any tract whatever

223 ND
PAGE 173

13 The United States are obliged to resort to parol testimony to establish the northwest corner and indeed to show what land north of the Porta Zuelo and west of the hill of Olympahi was included - And the limits of the Rancho in this direction are admitted - But the same evidence discloses that the Potrero on the South East was also included - and it is difficult to perceive why ~~one~~ if the ~~And~~ lands on the Northwest are included those on the South East should be left out - But at all events the U. S fail in establishing the ~~total~~ fundamental fact on which their whole objection to the Survey rests - viz that a judicial measurement was made, the record of which distinctly discloses what were the limits of fixed by the officer who gave the possession and that the Potrero is not within those limits but was cut off as a Servitude Had the Survey of Micheo been correctly made, or added into

223 ND
PAGE 174

14 Court and modified so as not
to encroach upon the lands of
Novato, it might have been
difficult for the owners of Latter to main-
tain under the record of Judici-
al measurement their right to
the 3 leagues included within
their extreme boundaries.
The Court might justly have re-
quired of them to produce
a record which showed clearly
and undeniably that possession
was given of the whole tract
before it allowed to them so large
an excess above the quantity
granted—

But by the erroneous survey of
measure the position of the parties
is reversed and the U. S. are
driven to assert the completeness
and definiteness of the record
in order to confine the claimant
within its supposed limits & oblige
him to locate his land in part
on lands ceded to the U.S.
But this assumption they have been unable
to maintain — For the record
is inaccurate incomplete & unintelli-
gible—

15

It is but just that for the claimants should at least be permitted to obtain his quantity out of the remainder of the Rancho which has been left unappropriated to Nicasio and which he is now compelled to accept to avoid a conflict with the patents ~~probably~~ or about to be issued to the owners of the latter.

I think therefor that the survey approved by the late Surveyor General June 27. 1860 should be ~~approved~~ confirmed and adopted.

223 ND
PAGE 175

225.

United States District Court.

The United States.

vs.

The Assignees of
Bezar Simmons.

Opinion adopting Murray which was approved by the U. S. Sup. Genl. June 27, 1860.

Filed December 19, 1862.

J. D. Ohevers,
Clerk.

223 ND
PAGE 176

223 ND
PAGE 177

At a stated term of the District Court of the United States of America for the Northern District of California, held at the Court Room in the City of San Francisco on the ~~Ninth~~ twentieth day of ~~August~~ December AD 1862.

Present Hon Ogden Hoffman
District Judge

The United States.

vs

The Assignees of Besa Simmons } No 223

This cause came on to be heard on the exceptions of the United States to the official survey of the land confirmed to the said Assignees of Besa Simmons And the cause having been regularly brought to a hearing Counsel for the respective parties present And due deliberation had in the premises, it is now by the Court ordered adjudged, and decreed that the said exceptions of the United States be, and the same are, hereby ~~Amended~~ overruled; And it is further ordered adjudged and decreed that the official survey of the land confirmed, the field notes whereof were approved by the Surveyor General of the United States June 27th AD 1862, and containing 8870 62/100 Acres, is a good and valid survey of the

land confirmed to the said Assignees of Beza Simmons, And that the said survey be, And the same hereby is approved and confirmed

223 ND
PAGE 178

And it is further ordered adjudged and decreed that a certified copy of said plat filed in this Court Dec 29th AD 1862 and marked "Approved December 30th AD 1862, Ogden Hoffman U S District Judge" be attached to and made a part of this decree, for a more full and particular description of the land now finally confirmed to the said Assignees of Beza Simmons

Ogden Hoffman
Dist Judge

223 ND
68 Bd

U. S. Dist Court.

The United States

v.

Asa Bezar Simmons

Final Decree

Filed December 30. 1862,
W. H. Chesnut.
Clerk.

7

21422

223 ND
PAGE 179

223 ND
PAGE 180

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 16th day of January in the year of our Lord one thousand eight hundred and sixty three.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

V.

Assignees of Bezar Simmons

No. 223.

This cause having come on to be heard on objections to the survey and location by the Surveyor General of the U. S. for California of the land heretofore confirmed to the claimants; and the Court having by its final decree made and entered December 30. 1862 affirmed the location and survey made by said Surveyor General: Now, on application of W. H. Sharp Esq. U. S. Atty, It is ordered, that an appeal in behalf of the United States from said final decree be and the same is hereby granted, and that a certified transcript of the record in said cause be sent to the Supreme Court of the United States without delay.

No 223.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States.

V.

Ass: of Bezar Simmons.

Order granting appeal in behalf of U. S.

Filed January 16, 1863.

W. H. Chevers,

Clerk.

8

23

223 ND

PAGE 181

223 ND
PAGE 182

U. S. District Court.

The United States
v.
Assignees of B. Simmons

No. 223

It is hereby stipulated and agreed by and between the parties to this cause, by their respective attorneys, that on the 2d day of July 1859, an order was entered, on application of the U. S. District attorney, directing the Surveyor General of the United States for California to return to the Court for examination this survey of the land confirmed in this cause. And it is further stipulated and agreed that this stipulation be filed in the case as of July 2. 1859 in place of said order which has been mislaid.

San Francisco, Jany 29. 1863.

Wm H. Sharp
U. S. Atty.

Shafter & Hoy Jun Esqr
Attys for Claimants

223

U. S. Dist. Court

The United States

v

Asa B. Simmons

Order to return survey & stipulation

Filed January 29, 1863,
W. B. Cheaney,
Clerk

1

223 ND
PAGE 183

223 ND
PAGE 184

U. S. District Court.

The United States
v.
Assignees of B. Simmons

No. 223

It is hereby stipulated and agreed by and between the parties to this cause, by their respective attorneys, that on the 16th Day of December, 1856, an order was entered, in pursuance of a stipulation filed in the cause on the same day, that claimants have leave to proceed under the decree of the Board of Land Commissioners as under final decree. And it is further stipulated and agreed that this stipulation be filed in the case as of December 16. 1856, in place of said order which has been mislaid.

San Francisco, Jany 29. 1863.

Wm. H. Sharp
U. S. Atty.

Chapman & Hoge
Attys for Claimants

223

U. S. Dist. Court

The United States

v.

Asa B. Simmons

Order ~~to return~~ vacating appeal
~~survey~~ & stipulation

Filed Jany 29, 1863.
W. H. Chears,
Clerk

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223 ND
PAGE 185

223 ND
PAGE 186

UNITED STATES OF AMERICA, ss.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

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

Greeting:

Whereas, lately, in the District Court of the United States, for the Northern District of California before you, in a cause between The United States, appellants and The Assignees of Bezar Simmons, appellees, the decree of the said District Court was in the following words, viz:

"This cause came on to be heard on the exceptions of the United States to the official survey of the land confirmed to the said assignees of Bezar Simmons, and the cause having been regularly brought to a hearing, Counsel for the respective parties present, and due deliberation had in the premises, it is now by the Court ordered, adjudged and decreed that the said exceptions of the United States be and the same are hereby overruled, and it is further ordered, adjudged and decreed that the official survey of the land confirmed, the field notes whereof were approved by the Surveyor general of the United States June 27th A.D. 1860 and containing 8870 62/100 acres, is a good and valid survey of the land confirmed to the said assignees of Beza Simmons, and that the said survey be, and the same hereby is, approved and confirmed.

And it is further ordered, adjudged and decreed that a certified copy of said plat filed in this Court Dec. 29th A.D. 1862, and marked "Approved December 30th A.D. 1862 Ogden Hoffman U.S. dist. judge" be attached to and made a part of this decree for a more full & particular description of the land now finally confirmed to the said assignees of Beza Simmons."

as by the inspection of the transcript of the record _____

_____ of the said District

Court, which was brought into the Supreme Court of the United States, by virtue of an appeal

agreeably to the act of Congress, _____

_____ in such case made and provided, fully and at large appears.

223 ND
PAGE 188

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and Sixty four the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel: **On consideration whereof,** it is now here ordered, adjudged and decreed by this Court that the decree of the said District Court in this cause be and the same is hereby affirmed. 13 Feb;

You, therefore, are hereby commanded that such ______ proceedings be had in said cause, ______

as according to right and justice, and the laws of the United States ought to be had, the said appeal notwithstanding:

Witness the Honorable Salmon P. Chase Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and sixty four.

COSTS OF
Clerk...... $
Attorney... $

$

~~Taxed by~~ D. W. Middleton

Clerk of the Supreme Court of the United States.

No 223 ND
6860

No. 123 December Term, 1864

MANDATE

SUPREME COURT UNITED STATES.

U. States v. Simmons, assignees

Filed June 11th 1865
Geo. W. Gorham
Clk
per Saml. Sullivan
D. Clk

223 ND
PAGE 189

223 ND
PAGE 190

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Wednesday the 4th day of June in the year of our Lord one thousand eight hundred and sixty-five

Present;

The Honorable OGDEN HOFFMAN, District Judge.

The United States

v.

The Assignees of Borja Simmons

No. 223.

The Mandate of the Supreme Court of the United States overruling the exceptions of the United States to the official Survey approved by a decree of this Court made December 30th 1862, containing 8870 62/100 acres of land having been received - by which said Mandate it appears that said Decree is in all respects affirmed

It is now Ordered, that said Mandate be filed, and that said Survey do stand finally confirmed.

PAGE 190
223

No 223

United States District Court,

Northern District of California.

The United States

v.

The Assignees of Beza Simmons

Order to file Mandate & that Survey stand finally confirmed

Filed June 14th 1865

Geo. E. Gorham *Clerk.*

Jno. Wm. Sullivan Deputy

12

223 ND

PAGE 191

223 ND
PAGE 192

U. S. District Court.

The United States

v. } No. 223.

Assignees of Bozar Simmons "Novato"

San Francisco, July 9, 1861.

Messrs. Shafter, Hydenfeldt & Wold.
Attorneys for Claimant.
Gentlemen:

You are hereby notified that on Monday next, the 15th day of July instant, at 11 o'clock, a. m. or as soon thereafter as counsel can be heard, I will move the Court to fix a time within which the proofs in the above entitled cause shall be closed and the case set for a hearing.

Yours &c.

Wm. H. Sharp
U. S. Atty.

U.S. District Court

No. 223. N

United States

vs

Assignees of Berar Seminoles

Notice to close proofs.
Rec'd a copy of the within
July 9. 1861.
Shafter & Hayden for Claimants.

223 ND
PAGE 193

BERKELEY NATIONAL

United States
v
Assignee of
B. Simmons

U. S. Dist Court.

On Exceptions to Survey.

223 ND
PAGE 194

Two leagues - called "Novato Rancho"
granted to Fernando Feliz -
Departmental junta appd grant in 42
Judicial possession given -
Peninsula sought to be embraced in
survey about 6 miles in Extent - east &
west containg about 3000 acres.
It was not included by the act of
judicial measurement -
Claimants insist that it is embraced
within decree - -

The U. S. presents two questions
for the consideration of the Court.
1. Is this peninsula included by the
terms of the decree?

2. If so, Is that decree now conclusive
upon this point.

The decree, as to its Effect,
must be confined to the abstract question
of the validity of the grant & its quantity
not to its boundaries & identity.

These remain open subject to the further
consideration of the Court, until patent
or final confirmation of an official survey.
If it depended on the law of March 3d only
the decree could not be conclusive as
to the boundaries or identity.
The Supreme Court in U. S v Fossatt (21 How

223 ND
PAGE 195

450.

"The opinion of the Court is that the "power of the District Court over the "cause, under the act of Congress does "not terminate until the issue of a "patent,

The Surveyor Genl does not by his survey carry into execution the final judgment or decree.

There is no analogy between his action & that of a Sheriff.

The proceedings in these land are ~~of~~ ~~after the nature~~ analogous to ~~status~~ of proceedings in Chy - The parties & ~~cause~~ case remain in Court until a complete execution of the decree -

The Mater reports his actions - The Court confirms or rejects - It matters not whether he proceeds under a final or interlocutory decree - If exceptions are filed the Report is set for argument.

The duties of the Surveyor genl are in some respects ~~as~~ the same as those of a Master

The extent, boundaries & location of the land are subjects of judicial inquiry -

It demands the production of Evidence & the application of legal

223 ND
PAGE 196

rules.

Of necessity the decree must refer to it in general terms, describe some body of land — The grant must have a location — but its true location or extent cannot be known with certainty until a survey made & reported to this Court.

The decree might describe the land but not accurately before survey made & submitted to the test of judicial investigation

This conviction was forced upon the mind of the Supreme Court — hence — the power of the court is recognized over the cause until the whole subject matter is disposed of — and its jurisdiction extends for the purpose identifying & defining the land — until that is done the whole proceeding must be regarded as in fieri.

Nevada Ranchos

223 ND
PAGE 197

223 ND
PAGE 198

United States } U.S. Dist. Court. Cal.
v.
Assignees of B. Simmons } Exceptions to Survey.

The land granted, in this case to Fernando Feliz, is called the Novato Rauch, and is discribed as containing two leagues.
The grant received the approval of the Departmental Junta, and afterwards - in 1842 juridical possession was given to the grantee. The colindantes are represented to have been — on the South Ygnacio Pacheco, on the North Camilis - an Indian, and on the West, Juan Martin. The boundary on the East extends from the Estero of Petaluma to the Estero of Novato. Between these Esteros a narrow neck of land connects with the main land, a peninsula of about six miles in extent - east and west, and containing about three thousand acres of land.
The officed survey, in question, includes this point of land (potrero), and that forms the ground of exception.
That it was not included by the act of judicial measurement, is evident, as will be shewn hereafter; but, it is contended, by the claimants, that it

223 ND
PAGE 199

is included by the terms of the decree of confirmation pronounced in this case, and it is insisted that the decree is now conclusive upon the point in dispute. Is it so?

I

We contend, on behalf of the United States, that, however conclusive the decree may be as to the abstract validity of the grant, yet, that questions as to the boundaries & identity of the land granted and confirmed, remain open subject to the further consideration of the Court, until a patent issues or until the final confirmation of an official survey.

It is too late to refer to the law of Congress of March 1851, as prescribing a different rule; inasmuch as that law has received a decisive construction by the Supreme Court of the U. S.

It might have seemed, to the casual reader, from the letter of that Act, that, this Court, by ~~the~~ pronouncing a decree of confirmation, exhausted its power over the subject matter; and that it had no jurisdiction to examine official surveys - to allow or disallow them, or otherwise to investigate their character or correct their errors.

223 ND
PAGE 200

such a view, however, was repugnant to all well conceived notions of Constitutional law. It would have been less so, had the functions of the Surveyor General been limited to the making of surveys, in case of inchoate grants, to the political department of the Government, for its action. But when the rejection or confirmation of grants is made the subject of judicial enquiry and determination alone, it would seem strange indeed, that so important a part of the procedure as the identification or location of the land should be left to the arbitrary action of a ministerial officer.

It is not known what particular view may have been entertained by the Supreme Court of the United States, or whether the point engaged their attention at all, until it was unavoidably presented, for the first time, in The United States v. Fossatt (21 How Rep. 450.)

"The opinion of the Court," there," is that the power of the District Court over the cause, under the Act of Congress, does not terminate until the issue of a patent, conformably to the decree."

The Surveyor General does not by

223 ND
PAGE 201

his survey merely carry into execution the final judgment or decree of the Court. There is no analogy between his action and that of a Sheriff in executing the final process of a Court of law, after the parties have gone hence without day. If the Sheriff proceeds erroneously under execution at common law, there could be no redress except by a new suit, which was in theory and fact a new suit.

But in Chancery, the parties are supposed to remain in Court until there has been a complete execution of the decree; and the master is required to report his action or proceeding to the Court, for its approval or disapproval — confirmation or rejection. It is a matter of no importance whether the master proceeds under what is termed a final or interlocutory decree. If no exceptions are filed to his report within a given time after it is brought into Court, it is, generally, a matter of course to confirm it. But if exceptions are filed, it is set down for argument before the Chancellor.

The proceedings of this Court in this class of cases are analogous to proceedings in

Chancery, and the duties & functions of the Surveyor are, in some respects the same as those of the Master.

The extent, boundaries & location of the land granted are proper subjects of judicial inquiry, as the abstract validity of the grant itself,— an enquiry which demands the production of evidence and the application of legal rules.

The survey itself, though, in one sense, the subject of investigation is, at the same time one of the mediums of proof upon which the Court is to proceed.

Of necessity, the decree of confirmation must refer to and, in general terms at least, describe some body of land upon which the grant is supposed to operate;— the grant must have a potential location to be of any validity, but its true location and extent cannot be known or described with certainty until after a survey has been made and reported.

It is true that, the decree of confirmation in the first instance might possibly so describe the land as to define its true boundaries; but it is almost impossible that such description should be known to be accurate until a survey had been made and submitted to the test of judicial investigation.

223 ND
PAGE 203

This conviction was forced upon the mind of the Supreme Court, in the case above cited; and hence they recognized the power of the Court as continuing over the whole subject until the issuance of a patent; or at least until a final survey had received a judicial sanction.

Now, for what purpose and to what extent does the jurisdiction of the Court extend?

Obviously, for the purpose of finally disposing of the whole subject matter of the litigation, by identifying and defining the particular parcel of land, the title whereof had been confirmed. The jurisdiction of the Court must necessarily co-extensive with that end: for until all that has been accomplished the whole proceeding must be regarded as <u>in fieri</u>, subject to the further consideration of the Court.

II.

We are not disposed to question the proposition that, where juridical possession has been regularly made, under the Mexican Government, the boundaries whereof have been well estotitished and defined, nothing remains to be done, but to ascertain such

223 ND
PAGE 204

boundaries by a survey & map. These boundaries must be ascertained, however, before they can be marked on the ground by the surveyor, or exemplified by a map. they, therefore become, at once, the subject of judicial investigation

It will appear by the proceedings of the juage who gave jurid ical possession that, the adjoining neighbors on the North, South & West, were summoned and appeared: that the measurement commenced at the mouth of the arroyo de Aviche S.E. corner of the Rancho, thence it continued westwardly, northwardly & Eastwardly to a point on the (falda) slope of the "Olimpale" near some horse-chesnut trees - where the interested party erected a pile of stones. There the measurement toward the East stopped. From thence to the mouth of the Aviche a straight line would exclude the whole peninsula and over some of the main around the foot of Olimpale. This piece of land extends eastwardly into the Petaluma Estuary as will appear from an inspection of the map.

The deposition of Briones - one of the assisting witnesses is conclusive as to the exclusion of the peninsula.

U. S. District Court

223 - MD

The United States

vs

Assignees of B. Simmons

223 ND
PAGE 205