

CASE No.

108

SOUTHERN DISTRICT

ZANJONES GRANT

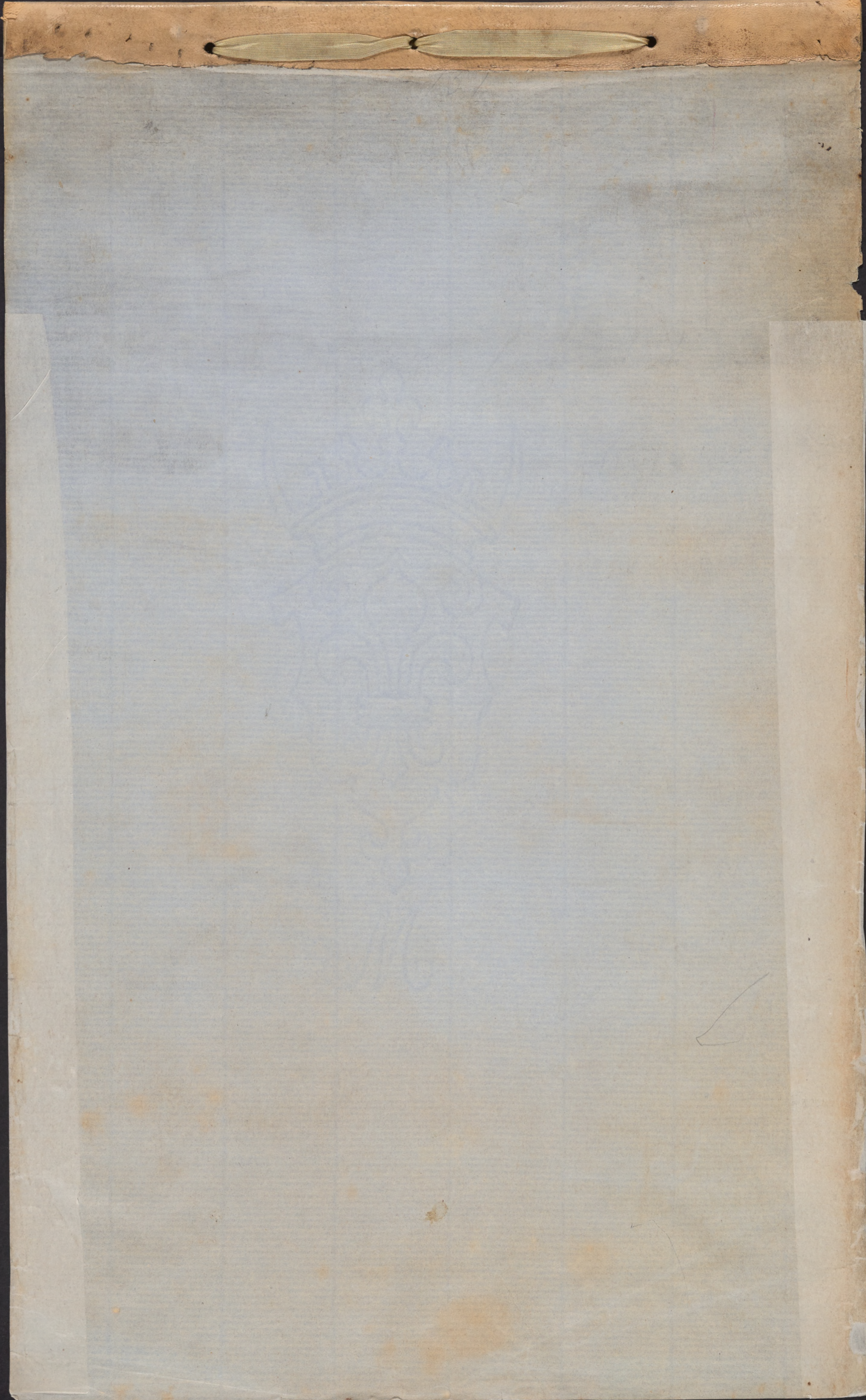
MARIANO MALARIN, EXR. VC

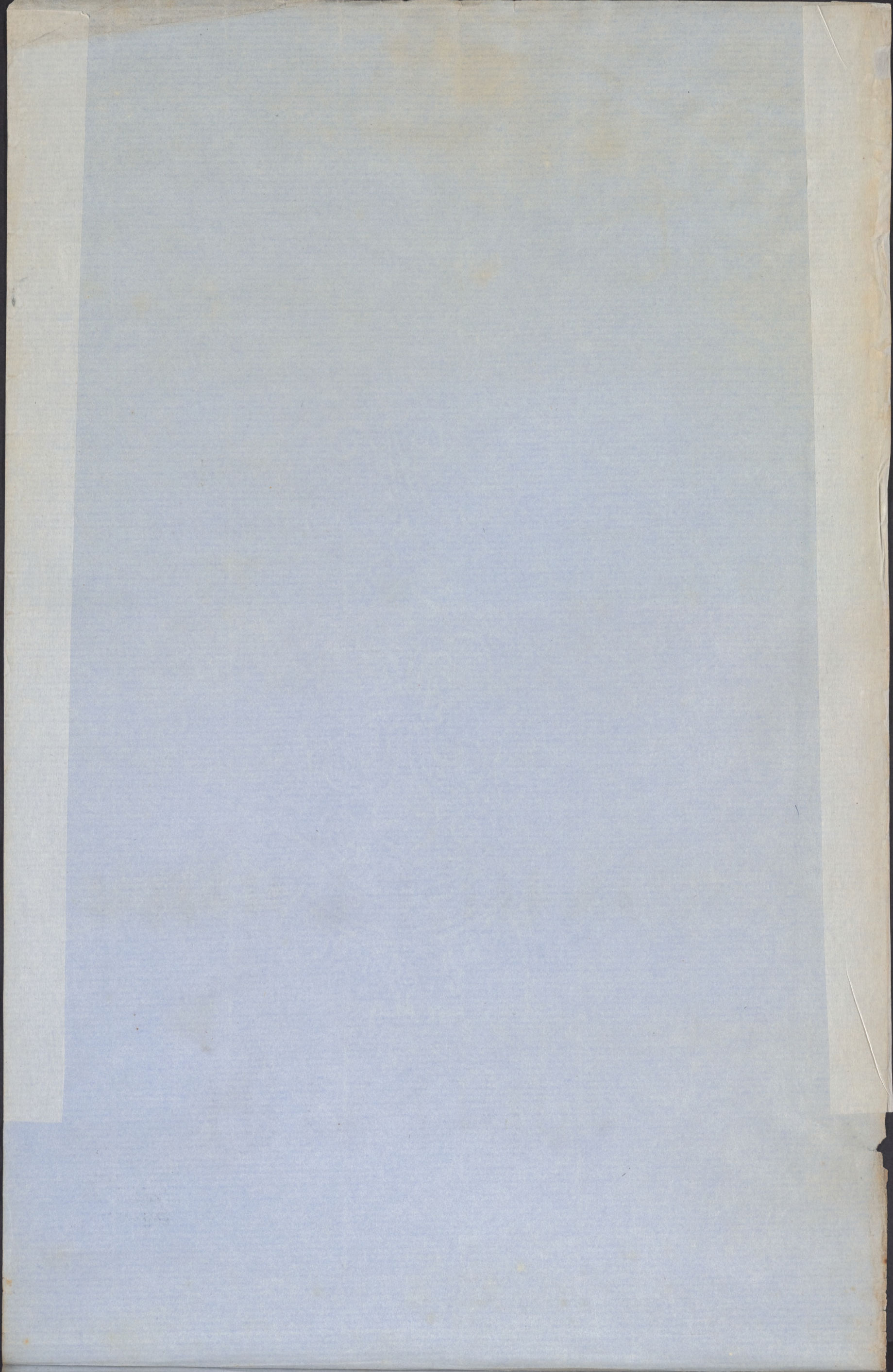
CLAIMANT

LAND CASE 108 SD 177 pgs.

FEB 26 1963

*Permanized*  
PLOVER BOND  
25% COTTON FIBER  
U.S.A.





108 SD  
PAGE 1

# TRANSCRIPT

OF THE

# PROCEEDINGS

IN CASE

NO. *157*

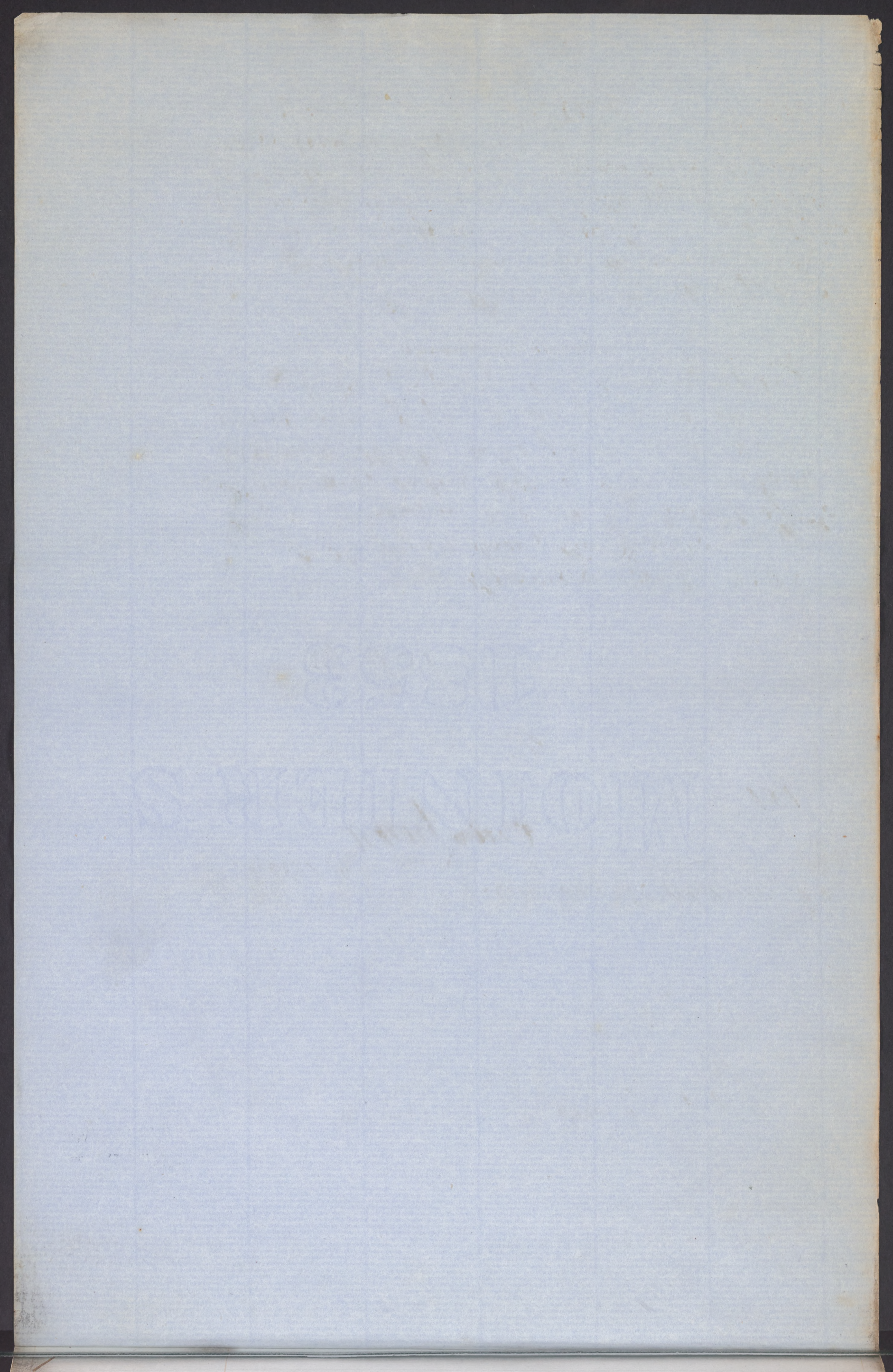
*Mariano Malavin, Ex. &c.* CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

*"Danyones."*



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

108 SD

PAGE 2

Be it Remembered, that on this second day of April, 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 *Mariano Malaini, Executor, vs. —* for the Place named *'Sanjones'*, was presented, and ordered to be filed and docketed with No. 151 and is as follows, to wit;

(Vide page 4 of this Transcript.)

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

San Francisco, April 7, 1852.  
In the same case, the Deposition of David Spence, a witness in behalf of the Claimant, taken before Commissioner, Melana Hall, was filed, and is in the words and figures as follows, to wit:  
(Vide page 3½ of this Transcript.)

San Francisco, March 29, 1853.  
In the same case, the Deposition of David Spence, a witness in behalf of the Claimant, taken before Commissioner, Mary S. Thornton, was filed, and is in the words and figures as follows, to wit:  
(Vide page 8 of this Transcript.)

9  
San Francisco, April 11, 1853.  
In the same case, on motion of the  
United States Associate Law Agent, placed  
on the Trial Docket —

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108 SD  
PAGE 3

In the same case, the Counsel for  
the Claimant presented an amended  
Petition,  
Ordered to be Recorded and filed  
among the papers in the case;  
which Amended Petition is as  
follows, to wit.  
(Vide page 5 of this Transcript.)

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San Francisco, Sept 23, 1853.  
Case No. 151 was submitted on briefs  
and taken under advisement by the Board.

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In the same case, Mr. Waller, the Coun-  
sel for the Claimant, filed the following  
motion, to wit —  
(Vide page 47 of this Transcript.)

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San Francisco, Feb'y 14, 1854.  
In the same case, Commissioner,  
Alpheus Fitch, returned the Decision of  
the Board upon the Motion heretofore, to  
wit, on the 23<sup>rd</sup> September, last, filed by  
the Claimant's Counsel, granting the said  
Motion,  
Whereupon, the following Order was  
made, to wit —  
(Vide page 47 of this Transcript.)

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In conformity with which Order



<sup>certified copy of the</sup>  
The Secretary filed the Deposition of David Spence, the Copy of Juan Malasini's mill, and a Translation thereof, as decreed in the said Order; which deposition is in the words and figures as follows, to wit:

(Vide page 7 of this Transcript.)

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San Francisco, Feb. 21, 1854.  
In the same case, Commissioner, Thompson Campbell, delivered the Opinion of the Board, confirming the Claim. - (Vide page 48 of this Transcript.)

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San Francisco, Aug. 15, 1854.  
In the same case, on motion of the U. S. Law Agent, the following order was made, to wit:

(Vide page 51 of this Transcript.)

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This deposition should follow the Petition of the Claimant, on page 4. which  
by a clerical error was copied in the wrong place. Geo. Fisher

3 1/2

San Francisco April 7th 1852. On this day before me  
I see one of the Commissioners for Ascertainment of Mining private  
Land claims in the State of California name David Spence  
a witness proceeded on the part of the claimant in the case  
of Mariano Malvarin being petition No. 151 on the docket  
of the Commissioners & was duly sworn. The Law agent was  
duly notified & attendance by Mr Greenro

Deposition  
of David Spence

108 SD  
PAGE 5

In answer to questions propounded by the claimant, the  
witness testifies as follows: My name is David Spence  
my age is fifty three & I reside in Monterey & have resided  
there ever since 1824. I am acquainted with the names  
of Josey Fernandez, Florencio Terrano, Manuel  
Castro Gabriel de la Torre, Jesus Real, Antonio Mas Oro  
Manuel Jimeno Francisco Ace, Gorn do Luis Teodoro  
Gonzales and Juan Alcala & know their signatures  
The signatures of the several persons which appear  
upon an original paper relating to the title & proceeds  
of paper in this case which is now shown me are all  
genuine. My own signature appears upon said paper  
in several places & as Alcalde gave proceeds of paper  
of the Land as stated in said papers I have compared  
said original paper with a paper marked on file  
in the office of the Secretary of the Board in this case  
and the latter is a true copy of the former. I am acquai-  
nted with the Land. I have built built a substantial  
adobe house on the land before me & received proceeds of paper  
of iron ore and received it himself with his family  
until he sold to Malvarin in 1842. Malvarin and his  
heirs have been in peaceable possession ever since  
I know of no conflicting Claimant

D. S. Spence

Sworn & Subscribed

Before me Alan Hall Comr

Taken in office April 7th 1852

Geo Fisher Secy

4  
Petition of M.  
Malarin Ex<sup>or</sup> &c

108 SD  
PAGE 6

To the Honorable the Board of Commissioners to settle  
land claims in the State of California  
Marciano Malarin Executor of the estate of the late  
Don Juan Malarin of Monterey State of California  
respectfully represents to your Hon. Body that he claims  
a tract of Land known by the name of Sanjones in the  
County of Monterey and aforesaid State, granted un-  
der the Mexican Government to Captain Gabriel <sup>de la</sup> Torre  
on the 20th of August 1839 by Don Manuel Jimeno who  
was acting at the time as Governor of California. That  
said Grant to Gabriel de la Torre was approved by  
the Departmental Legislature on the 22<sup>nd</sup> of May A.D.  
1840 and that Judicial possession of said Land so gran-  
ted was given to said Gabriel de la Torre by the Justice  
of the Peace of Monterey on the 11<sup>th</sup> day of December  
1840 and the boundaries agreed by the neighbors. That  
the quantity of Land claimed in the grant aforesaid is  
of one square League and a half little more or less  
which will be seen by the Title and Judicial posses-  
ion — Your petitioner would represent that this  
tract of Land was sold by Gabriel de la Torre to the  
late Juan Malarin as can be seen by bill herein ann-  
exed, and that ever since he bought the same Land he  
has always remained in quiet undisturbed and peaceab-  
le possession of the same, that there are no conflicting  
claims to the said Land or any controversy about their  
boundaries for ten years. Your petitioner files herewith  
full copies of his Original papers and a translation  
of the same, to which he would respectfully refer  
your Honors and states that he will present his Origin-  
al papers and proofs thereof to your Honors further  
inspection and approval. Whereof your petitioner res-  
pectfully prays your Honorable Board to confirm the  
grant aforesaid to the said Sanjones and to decree  
the Title to be valid. And he your petitioner will ever pray  
Marciano Malarin

The Deposition  
of David Spence  
(over)

Filed in Office April 2<sup>nd</sup> 1852 Geo. Fisher Sec.

Copies on the preceding page of this Transcript, ought to follow here, in its Chronological Order, which was copied on page 3<sup>rd</sup> of this Transcript by a clerical error, and this note is made as a Correction of that Error.

108 SD  
PAGE 7

Geo. Fisher  
Surg.  
U.S. Land Commissioner

5-

To the Honorable Commissioners to settle private  
Land claims in California

The Amended petition of Mariano Malaren Executor &  
in claim No. 151.

108 SD  
PAGE 8

The petitioners Mariano Malaren one of  
 the Executors of the will and tutor of the minor children  
 of the late Juan Malaren, Josefa Estrada, widow, &  
 Ysabel Mariano, Concepcion Ramones, Urbano, Ma-  
 ria, Refugio, Josefa, Cristobal and Ygnacio Malaren  
 children of the late Juan Malaren deceased, respect-  
 fully shew: That on the 20th day of August A.D. 1839  
 Manuel Jimeno Governor of California by virtue of  
 Authority in him vested granted to Gabriel de la Torre  
 the tract of Land called "San Jones" in the present  
 County of Monterey with the boundaries described  
 in the grant and map, and containing one and a half  
 square leagues of Land which grant was duly approv-  
 ed on the 22nd day of May 1840 and the Successor pop-  
 ular given in the month of December of the same  
 year. Which tract in 1840 was sold and conveyed  
 to Juan Malaren by Juan de la Torre all of which  
 is shown by the Original title papers on file in this  
 case - And the petitioners further represent that the  
 said Juan Malaren died in latter part of 1848 in  
 Monterey leaving these petitioners his heirs as shown  
 by his last will and testament proved in this case  
 The petitioners also represent that the said Juan Malaren  
 and the petitioners have been for 14 years, and that  
 the petitioners now are in the quiet and peaceable  
 possession of the said tract of Land  
 The petitioners rely for Confirmation of Title upon the  
 Original papers filed in this case, upon the Archives  
 of the former Government upon the evidence already  
 adduced and upon such further proof as they may  
 be advised are necessary

6

Wherefore they pray the Commissioners to Conform to  
them the before mentioned tract of Land

By their Atty  
Halleck Peckham & Billings

108 SD  
PAGE 9

Filed in Office April 11<sup>th</sup> 1853

Geo. Fisher Secy

7  
Deposition of  
D. Spence.  
Copy of

San Francisco March 29. 1853

On this day before H. J. Thorton Com. came David Spence a witness in behalf of the claimant Mariano Malvarin petition No. 152 and was duly sworn his words were being given in English

In answer to inquiries by the Counsel for the claimant the witness testified as follows

My name is David Spence my age is 53 years. I reside in Monterey and have lived in California about 29 years

I have examined the Document attached to this Deposition and marked Exhibit No 1 and dated September 1<sup>st</sup> 1848 and purporting to be the last will of Juan Malvarin. It is a genuine Document. It was executed in my presence and the signature of D. Spence is my own signature, all the other signatures are also genuine. Juan Malvarin died a short time after executing this will, he left no other children than those mentioned in this will. The widow and children there mentioned are still living. The Rancho called Guadalupe and mentioned in this will as containing a little more or less than six leagues is made up of four Spanish grants called "Guadalupe", "Llano de los Corcos", "Sanjuno" and "Chenala" all of which tracts lie together and constitute the Rancho called "Guadalupe" my own Rancho lies next to this land and I am perfectly well acquainted with it

D. Spence

U. S. Land Agent present  
Sworn to and subscribed

Before me this 29<sup>th</sup> March 1853  
Henry J. Thorton Com.

108 SD  
PAGE 10

This is a true copy of the original as shown to me by the witness.  
H. J. Thorton  
March 29 1853

J

108 SD

PAGE 11

I George Fisher Secretary to the United States Land  
Commission to ascertain and settle the private land  
claims in the State of California do hereby certify  
that the foregoing is a true and correct copy of a  
document in case No 152 - wherein Mariano  
Malaren claims the Rancho of Guadalupe  
now on file in this case

I testify whereof I have hereunto subscribed  
my name. Office of the Secretary of the above nam  
ed Commission. San Francisco California this four  
teenth day February A.D. 1854

Geo. Fisher Secy



S

San Francisco March 29. 1853

Deposition of  
Duccio Spence

On this day before Comr H. J. Stanton came Duccio  
Spence a witness in behalf of the Claimant Mariano  
Malarin, petition No. 151 and was duly sworn his  
evidence being given in English

108 SD  
PAGE 12

In answer to inquiries by the Counsel for the Claimant  
the witness testified as follows

My name is Duccio Spence my age is 55 years I  
reside in Monterey and have lived in California  
about 29 years.

I have examined the document attached to my depo-  
sition marked Exhibit No. 1 in case No. 153 and  
dated September 1<sup>st</sup> 1848 and purporting to be the last  
will of Juan Malarin. It is a genuine document. It  
was executed in my presence and the signature of D  
Spence is my own signature. Juan Malarin died  
at that time after executing this will; he left no other  
children than those mentioned in this will. The  
widow and children thus mentioned are still living  
The Rancho called Guadalupe and mentioned in  
this will as containing a little more or less than six  
leguas is made up of four separate grants  
called "Guadalupe" "San de los Hornos" "Laynes"  
and "Chacala" all of which tracts lie together and  
constitute the Rancho called "Guadalupe" my own  
Rancho lies next to this land and I am perfectly  
well acquainted with it

U. S. Law Agent present

D Spence

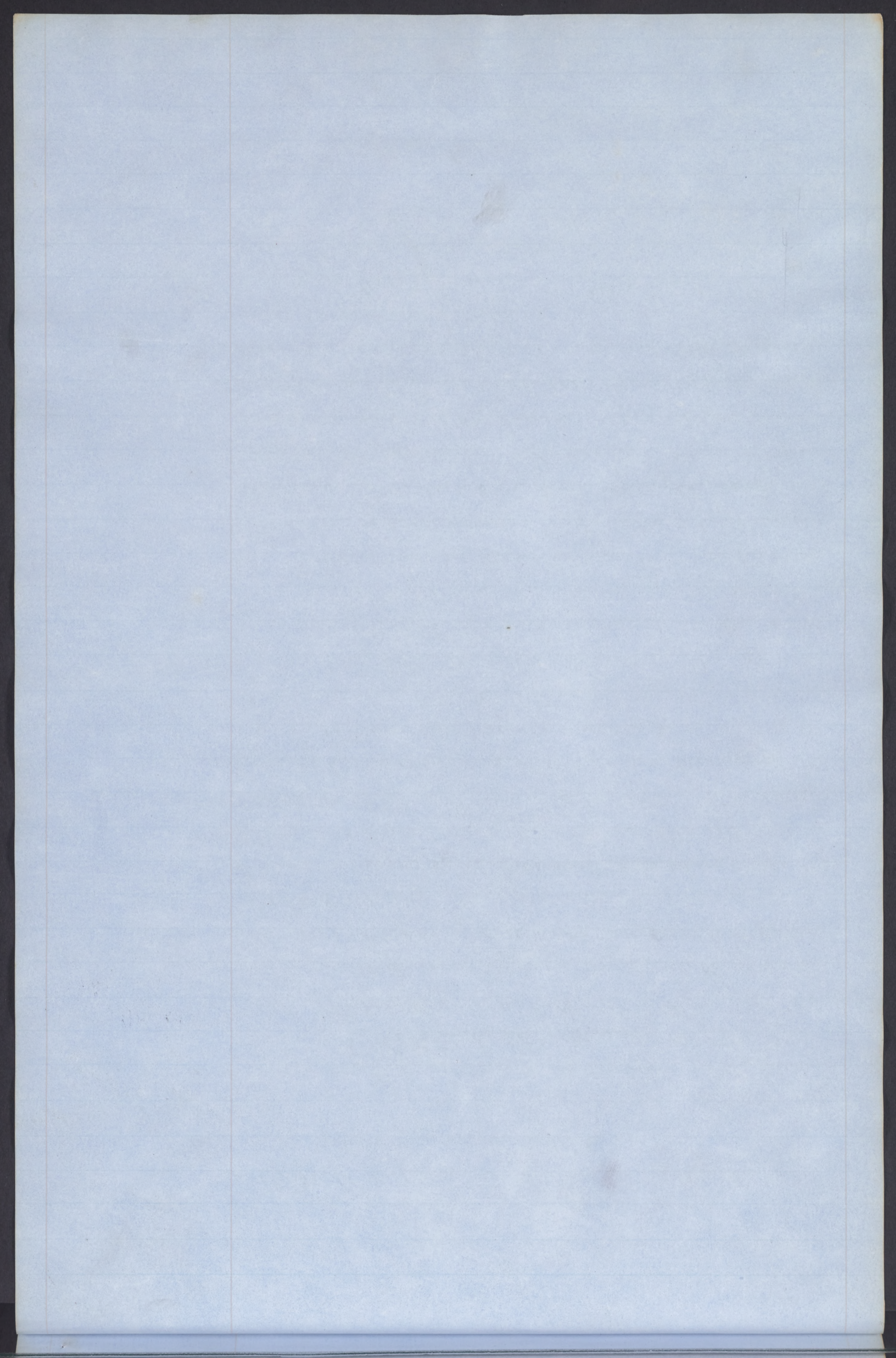
Sworn to and subscribed

Before me this 29th March 1853

Harry J. Stanton Comr

Taken in Office March 29th 1853

Geo. Fisher Secy



9

Monterey

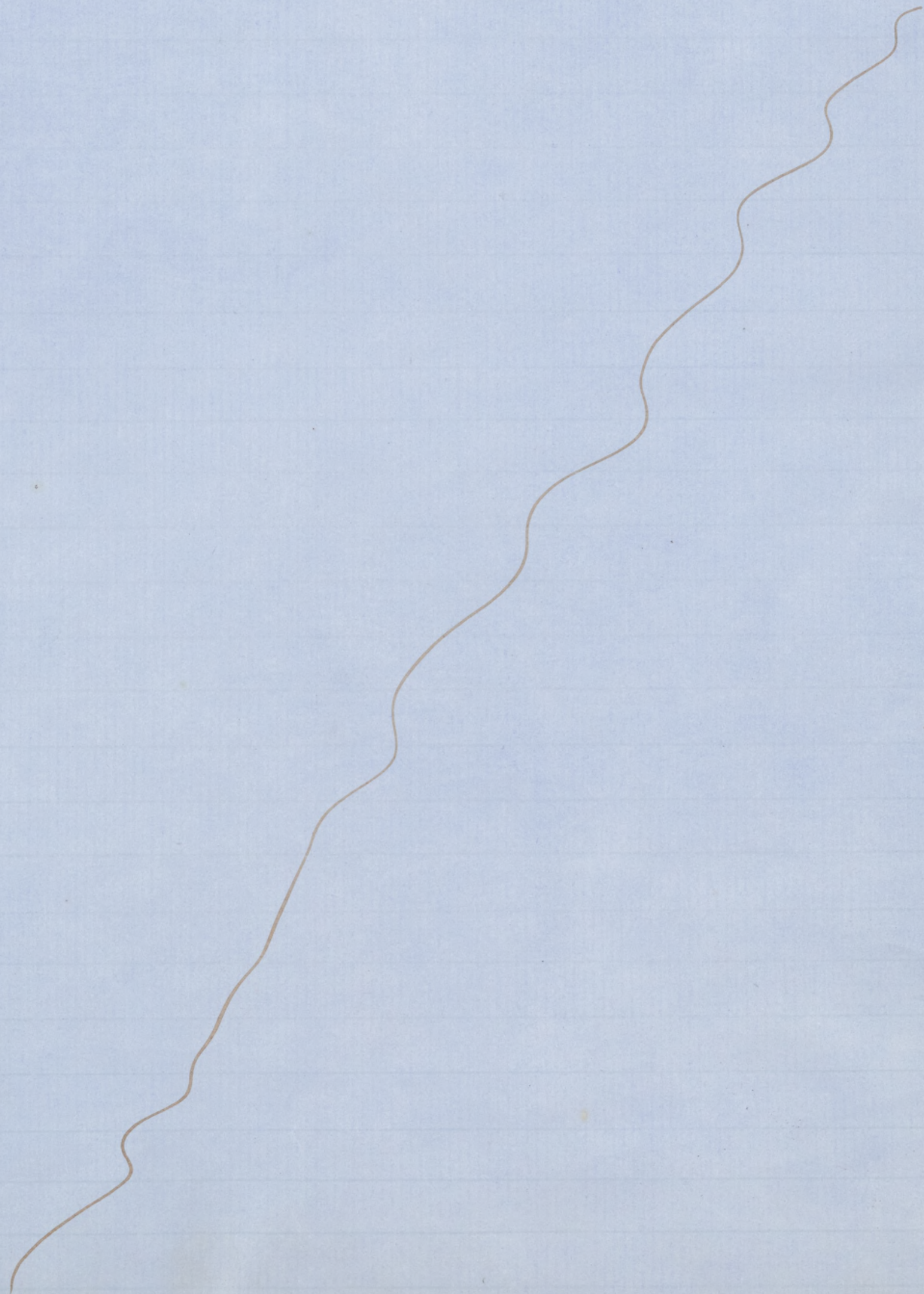
1840

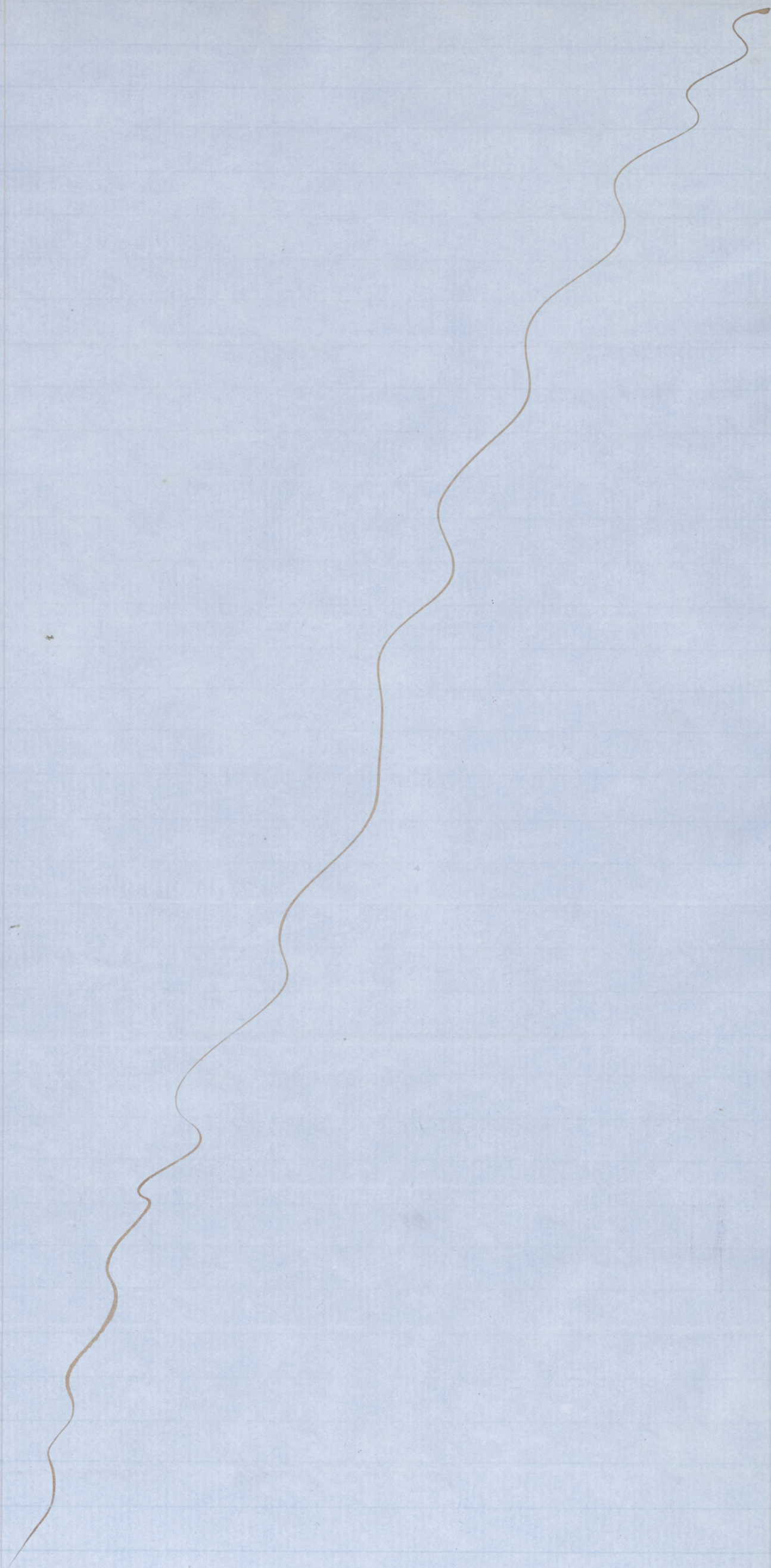
Original  
Title Papers.

108 SD  
PAGE 13

Concesion y posesion  
del Rancho nombrado Sanjones  
al Ciudadano Gabriel de la Torre,  
el dia once de Diciembre de mil  
ochocientos cuarenta.

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10

Copy of Doc "C" and  
original referred to  
in deposition of David  
Spain p 3 1/2.

Sello Segundo Doc Reales.  
Habilitado provisionalmente por la Aduana  
maritima de Monterey para los años  
de 1839 y 1840

Abarado. Antonio M. Osio.

Valga para el año de 1842

Abarado. Antonio M. Osio.

108 SD  
PAGE 14

*[Decorative flourish]*

En el pueblo de Monterey del  
Departamento de las Californias, á los  
catorce dias del mes de Enero de mil  
ochocientos cuarenta y dos, ante mi Jose  
D. Fernandez Juez de Primera instan-  
cia de este Distrito, y ante los testigos de  
asistencia, con quienes actuó en la forma  
establecida por falta de Escribano pu-  
blico, á mas de los instrumentales de que  
al fin se hará mención, pareció de pre-  
sente el Ciudadano Gabriel de la Torre,  
vecino de esta Jurisdicción, Mayor de  
veinte y cinco años, cuya persona hoy  
sé congozo y dijo: que por sí y á nom-  
bre de sus herederos y sucesores, y de  
quien de ellos hubiere título, voz y for-  
ma en cualquier manera, vende y  
dá en venta nacional y publica y una-  
guacion perpetua, por juro de heredad,  
y para siempre parras á Don Juan Ma-  
larin de esta Ciudad, á quien tambien  
hoy sé congozo un Rancho titulado San-  
jones que le pertenece en propiedad  
por concecion que de él le hizo el Gobi-  
erno de este Departamento, segun con-  
sta del título original que presento,

colindante con el rancho del Chualar y el de Don Teodoro Gonzalez, comprendiendose la casa y corrales que aqui se hallan, y de-claro no tenerlo vendido ni enajenado ni enajenado, y que esta libre de todo gravamen publico, perpetuo, temporal, especial, tacito, o expreso, y como tal se lo vende en posesion y cantidad de ciento treinta pesos de man-tanga, recibiendo ochenta de estos en el proximo mes de Junio y los cincuenta restantes en el mismo mes del año entrante: y sobre no parecer presente la entrega renuncia las leyes de ella las de su for-ma y pago del resibo como en ello se contiene: Asimismo declara que tiene por justo precio y verdadero valor de dicho rancho casa y corrales el valor de las expresadas cosas, que no vale mas y si mas valor pudiere del exceso en mucha o poca suma, hace a favor del comprador de sus herederos y sucesores gracia y donacion justa perfecta e irrevocable que en derecho se llama inter vivos irrevocacion y donacion firmes y legales, renunciando la ley cuarta titulo siete libro quinto de la Reco-pilacion, y las demas que hablan en mas o menos de la mitad del jus-to precio, y los cuatro años que profi-za para su rescision o suplemento los que da por presados; y desde hoy en adelante se despende para siempre del dominio, posesion, titulo, recurso u otro cualesquiera derecho que le computa al mencionado Rancho Su Ca-

la y Corralis, y lo renuncia y traspasa  
 en el comprador para que disponga de  
 ellos como de cosa propia, y le confiere  
 poder irrevocable, amplio, bastante y  
 valioso como libre franco y general  
 administrador, para que de su autori-  
 dad apruebe la tenencia y posesion  
 que por arriba le compete, obligandose  
 el otorgante á que esta venta le será  
 cierta, segura y efectiva, y nadie le  
 inquietara ni moverá pleito en su  
 propiedad ó posesion, ni contra el ran-  
 cho y casa aparciará gravamen algu-  
 no, y si se le inquietare saldrá á la  
 defensa hasta dejar al comprador en qui-  
 eta y pacifica posesion, y si no conse-  
 guiere será devuelto el importe de las  
 expresadas cosas en la especie que mejor  
 le convenga que ha de existir con las  
 mejoras, útiles que tenga el Rancho y  
 su casa, y todos los costos perjuicios  
 y menoscabos que se le siguieren —  
 Y á la observancia de lo referido obliga  
 el otorgante sus bienes presentes y futu-  
 ros, y con ellos se somete al fuero y  
 jurisdiccion de los Tres Jueces que  
 de sus causas puedan y deban cono-  
 cer conforme á derecho, para que á  
 su cumplimiento lo compelan y aprue-  
 min como por Sentencia definitiva con-  
 sentida y pasada en autoridad de cosa  
 juzgada que por tal la reputa: re-  
 nuncia las leyes que en el caso le  
 favorecan y la general del derecho  
 en forma. Que cuyo testimonio así

lo otorgo y firmo conmigo y el comprador en este registro y los de asistencia, siendo los instrumentales los Srs Don Antonio M.<sup>a</sup> Osio, Don David E. Spined, y D.<sup>o</sup> Rafael Estrada presentes y vecinos doy fe = José L. Fernandez = Gabriel de la Torre = Juan Malerin = de assist.<sup>a</sup> Manuel Castro = de assist.<sup>a</sup> Florencia Serrano.

Es copia fielmente sacada de su original que obra en este registro á que me remito. Sacose este testimonio p.<sup>a</sup> la parte de D.<sup>o</sup> Juan Malerin en un pliego de papel del sello segundis siendo testigos de verla copiar, corregir y concertar el Sr. José Abrego de esta vecindad

Monterey Enero 14 de 1842.

José L. Fernandez,  
de as.<sup>a</sup> ast.  
Florencia Serrano. Manuel Castro.

Para que conste y obre en todo tiempo digo yo Gabriel de la Torre, que tengo recibidas del Sr. Don Juan Malerin ciento y treinta reses de Matanza p.<sup>a</sup> precio del Rancho llamado Sanjones en culla cantidad fue vendido p.<sup>a</sup> mí á dho. Sr. y consta en la escritura otorgada al efecto; y siendo satisfecho del referido importe y en los mismos plazos que sega la susodicha escritura, queda p.<sup>a</sup> esto sin valor alguno cualquier recibo anterior que apareciere



en referente á lo mismo.

Y para q<sup>d</sup> tenga toda fuerza  
y validacion, firmo en presencia de D.  
Antonio M<sup>o</sup>. Osio y el Rev<sup>o</sup>. P.<sup>o</sup> Fr. Jose  
M<sup>o</sup>. Real en Monterey á 20 de junio de  
1843.

Gabriel de la Torre

Fr. J. M<sup>o</sup>. del R. S. del Real  
Antonio M<sup>o</sup>. Osio.

Doc<sup>o</sup> "C" continuado.

Manuel Jimeno Casarin primer Vocal pro-  
prietario de la Exma Junta del Depar-  
tamento de las Californias en ejercicio  
del Gobierno del mismo.

Por cuanto el Ciudadano Ga-  
briel de la Torre ha pretendido para su  
beneficio personal y el de su familia  
el terreno conocido con el nombre de  
San Jones, colindante con el Rancho de  
los Señores Estradas con el del Sr. Pedro-  
ro Gonzalez con el Rio de Monterey y  
Chupadero que esta hacia el Norte,  
practicadas previamente las diligencias  
y averiguaciones concernientes segun lo  
dispuesto por leyes y reglamentos, usando  
de las facultades que me son conferi-  
das á nombre de la Nacion Mexicana,  
he venido en concederle el mencionado  
terreno declarandole la propiedad de él por

presentes letras sujetándose á la aprobación de la Excm. Junta Departamental y á las condiciones siguientes.

1.<sup>a</sup> Podrá cercarlo sin perjudicar las travesías caminos y servidumbres: lo disfrutará libre y exclusivamente destinándolo al uso ó cultivo que mas le acomode; pero dentro de un año fabricará casa y estera habitada.

2.<sup>a</sup> Solicitará del Juez respectivo que le dé posesión jurídica en virtud de este despacho por el cual se demarcarán los linderos en cuyos límites pondrá á mas de la costumbre algunos arboles frutales ó silvísticos de alguna utilidad.

3.<sup>a</sup> El terreno de que se hace mención es de un sitio y medio de ganado mayor segun se explica el diseño que corre en el expediente. El Juez que diere la posesión lo hará medir conforme á ordenanza quedando el sobrante que resulte á la Nación para los usos comunales.

4.<sup>a</sup> Si contraviniera á estas condiciones perderá su derecho al terreno y será denunciado por otro.

En consecuencia mando que teniendo por firme y válido este título se tome razon de él en el libro que corresponde y se entregue al interesado para su resguardo y demás fines. Dado en Montevideo á veinte de Agosto de mil ochocientos treinta y cinco.

Man. Jimeno.  
Francisco Arce, Oficial 1.<sup>o</sup>

Linda Formada segun en este Despacho  
en el libro de acientos sobre adjudicacion  
de terrenos baldios. a f. 70 v.  
Arce.

108 SD

PAGE 20

### Titulo Tercero Dos Reales.

Loc "C" continued

Habilitado provisionalmente por la Adu-  
ana Maritima del puerto de Monterey  
en el Departamento de las Californias, para  
los años de mil ochocientos cuarenta y  
mil ochocientos cuarenta y uno.

El inwend. Antonio Maria Osio.

Manuel Jimeno Casarin primer vocal  
de la Junta de este Departamento,  
en ejercicio del Gob.<sup>no</sup> del mismo.

La Exma Junta de este De-  
partamento en sesion ordinaria, del  
dia 22 de Mayo ultimo, aprovo el dis-  
tamen de la Comision de Agricultura,  
que conoio en el Expediente promovido  
por el Ciudadano Gabriel de la Torre,  
en pretension del terreno, conoio con  
el nombre de Sanjones, cuyo act.  
conque concluye dice asi.

"Se aprueba la concesion  
hecha por el Gobierno Departamental con  
fha 20 de Ag.<sup>to</sup> de 1839 en la persona del  
Ciudadano Gabriel de la Torre, del terreno  
conoio con el nombre de Sanjones."

Y acordante con el decreto de  
20 de Agosto del año pp.<sup>to</sup> constante en el  
referido Expediente se libra al interesado

17

La presente en confirmacion del terreno  
mencionado.

Monterey Diciembre 15 de 1840.

Man. Jimeno.

José W. Fernandez  
Srio int.

108 SD  
PAGE 21

Sello Terreno Los Reales.

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

Asimov. Antonio Maria Osio

Sor Juez de Paz Constitucional  
Gabriel de la Torre G. Mejierno ante  
la justificacion de V. como mas haya  
lugar en dho parecer y dice: que ha-  
biendo obtenido la concesion propia del  
terreno conocido con el nombre de San-  
jones; ocurre ante V. para que en vir-  
tud de estar aprobado por la Exma  
Junta Departamental dho terreno se  
sirva darle la posicion juridica con-  
forme esta prevenido en el articulo se-  
gundo de cuyo titulo que se le espidio  
con fecha veinte de Agosto de mil ochocientos  
treinta y nueve que devidamente  
acompana e igualmente la confirmacion  
respectiva p. que todo obré en los efectos  
desuados.

P. T. á V. Suplica se sirva ponerlo  
en la posicion que solicita de lo que re-

civil mercader y justicia.

Monterrey Diciembre 7 de 1840  
Gabriel de la Torre.

108 SD  
PAGE 22

Monterrey Diciembre 7 de 1840

Por presentado y admitido, procedase por mi el presente Juez de Paz a la Medicion de los amos y posesion judicial q. solicita el interesado en esta instancia finalandose por ejecutarse el dia once de presente mes para lo que se citaran con bolita de embocando a los colindantes. Asi yo el juez de Paz Constitucional lo decreto mande y firmé con los de asistencia.

Dno Spence.

as.<sup>a</sup>

as.<sup>a</sup>

Juan Flores. Manuel Castro.

En la gha presente el Sr. Gabriel de la Torre se le notifico el auto que =  
Sello Fecero Dos Reales.

Habilitado provisionalmente por la Aduana Maritima del Puerto de Monterrey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

Hicimos. Antonio Maria Osio.

= antecedente y interesado dijo; que lo oye y lo da por citado firmando conmigo y los de as.<sup>a</sup>

Spence.

En la misma gha se libraron las bolitas que se mandan en el antecedente auto

y para su constancia lo anoto y rubrico.  
Spence.

Campo de los Sauzonos 11 de Diciembre  
de 1840.

108 SD  
PAGE 23

Presentes los colindantes Do<sup>r</sup> Teodoro Gonzales  
y Do<sup>r</sup> Juan Malanin nombrados por medidores  
a los C. C. Serafin Gabino y Ygnacio Arro-  
yo p.<sup>a</sup> la medicion final ant.<sup>a</sup> de linderos  
y posesion del C. Gabriel de la Torre, quienes  
previo la aceptacion y juram.<sup>to</sup> procederan  
al cumplimiento de su encargo. Asi yo el  
Juz de Paz Constitucional de esta De-  
marcacion lo averite mande y firme con  
los de asistencia.

Do<sup>r</sup> Spence.

as.<sup>a</sup> Gen<sup>do</sup> Flores. as.<sup>a</sup> Manuel Castro.

Que la misma Jhu presentes los C. C. Se-  
rafin Gabino y Ygnacio Arroyo se les no-  
tifico el auto de su nombram.<sup>to</sup> y de él  
entendidos dijeron lo oyen que aceptaban  
y aceptaron aceptarian y aceptasen jurando  
p.<sup>a</sup> Dios Nuestro Señor y la Señal de la  
Cruz conforme a derechos de usarlo fiel  
y legalm.<sup>te</sup> a todo su leal saber y entender  
sin fraude contra persona alguna y no fir-  
maron por no saber hacerlo yo con los de as.<sup>a</sup>  
Spence.

as.<sup>a</sup> Gen<sup>do</sup> Flores. as.<sup>a</sup> Manuel Castro.

Yn =

Sello Tercero Dos Reales.

Habilitado provisionalmente por la Adcomon Meritina del punto de Monterrey en el Departamento de las Californias, para los años de mil ochocientos Cuarenta y mil ochocientos cuarenta y uno.

Hechos. Antonio Maria Esio.

— Continente yo el referido Alcalde mandé traer el cordel con que se habian de medir las tierras y los expresados medidores lo tomaron y ante mí con una vara de medir usual Mexicana midieron cincuenta varas p.<sup>a</sup> hacer la medida y lo firmé con los de vist.<sup>a</sup> de que voy fe.

Esencia.

es.<sup>a</sup>

Juan P.<sup>o</sup> Flores.

es.<sup>a</sup>

Manuel Castro.

En el mismo parage cinco dias y uno sin más las once del día yo el presente juez de Paz Constitucional de esta jurisdicción mandé á los medidores mostrados se dispusiesen p.<sup>a</sup> la medición de tierras que se le havia de hacer al C. Gabriel de la Torre y puestos junto á los Sanitos linderos de D.<sup>o</sup> Juan Malerin hasta los diez alijos del Llano Este cuanto al Sur se midieron ochenta y cuatro cordales de á cincuenta varas, y desde los mismos alijos Este cuanto al Nor Este (dejando adentro el Chupadero que era mas al Este) hasta el Sanjon) de la boca de la Cañada linderos de los S. S. Malerin y Gonzalez se midieron ciento cincuenta y seis cordales y desde otro linderos hasta el encino que queda entre las dos casas á la

Orilla del río Sur cuanto al Sur oeste  
siento ochenta y dos corrales, y desde allí por  
la orilla del mar hasta volver a los  
mismos Sarcitos en donde se empezó la  
medida se contaron ciento cuarenta y dos  
corrales formando el sitio un triángulo  
entre los términos de los expresados S. S.  
Malarin y Gonzalez. En cuyas medi-  
ciones cuando se formaron las mojeras  
correspondientes que señalaron los límites que  
le pertenecen. El terreno medido correspon-  
de a un sitio y medio de ganado mayor  
poco mas ó menos y lo firmaron como  
yo los señores el interviniente y testigos  
de as<sup>ta</sup>.

Don Juan  
Juan Malarin. Teodoro Gonzalez  
G. de la Torre.  
as<sup>ta</sup> as<sup>ta</sup>  
Juan<sup>do</sup> Floris. Manuel Castro.

Sello Tercero Dos Reales.  
Habilitado provisionalmente por la Adua-  
na Marítima del Puerto de Monterey en el  
Departamento de las Californias, para los  
años de mil ochocientos cuarenta y mil  
ochocientos cuarenta y cinco.  
Atestamos. Antonio Maria Esio.

En el Rancho de los Sanjones a los once  
días del mes de Diciembre de mil ocho-  
cientos cuarenta y cinco Juez de Paz de Mon-  
terrey y su jurisdicción, después de de  
practicadas las medidas del menciona-  
do rancho, por lo que resultó tener un



Sitio y medio de ganado mayor pues unas  
ó menos y presentos los colind<sup>tes</sup>. D<sup>o</sup> Teodoro  
Gonzales y D<sup>o</sup> Juan Malvarin, siendo esto  
conforme con lo demás que consta de autos,  
mandé q<sup>e</sup> entrasen en posesion del nomi-  
nado rancho el Sr. Gabriel de la Torre vajo  
las medidas citadas y formalidades acor-  
tadas en estos casos, lo que verificó  
inmediatamente amancando yerras y hacien-  
do demarcaciones como dueño del terreno  
de que se le ha dado juridica posesion, cu-  
ya validacion la autorizo firmando con  
los colind<sup>tes</sup> interesados y de est<sup>os</sup>:

Don Spence. Teodoro Gonzalez  
G. de la Torre. Juan Malvarin  
ast. ast.  
Juan<sup>o</sup> Floris. Manuel Castro.

Montreay 14 de Dic<sup>o</sup> de 1840  
Tomase razon en el libro de posesiones  
y rubricase este Exped<sup>to</sup> original al  
interesado p<sup>o</sup> los fines que mas le con-  
viengan. Asi qual Juez de Paz consti-  
tucional Sr. David Spence lo decreto man-  
dió y firmó con los de est<sup>os</sup>.  
Spence.

En el mismo dia mes y año se tomo  
razon de la presente posesion a fojas  
trece del libro que corresponde, y se le  
devolvió este Expediente al Sr. Gabriel  
de la Torre, y para que conste lo a-  
noto y rubricó

Rubricó.

23

Filed in Office Apr 2<sup>d</sup> 1853.  
(Signed) Geo. Fisher,  
Scrib.

108 SD  
PAGE 27



Seal of the second class. Twelve Nials  
 Authorized provisionally by the Maritime Collectors of  
 the Maritime Custom House of Monterey for the  
 years 1839 and 1840

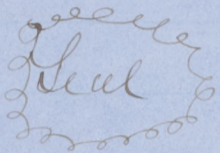
(Signed) Alvarado (Signed) Antonio Maria Osio

Let this be valid for the year 1842

(Signed) Alvarado (Signed) Antonio Maria Osio

108 SD

PAGE 28



In the port of Monterey in the Department of California, on the 14<sup>th</sup> of January Eighteen hundred and forty two, before me Jose L. Fernandez Judge of first instance of this Justice and before the aforesaid Witnesses with whom I act for want of a Notary Public and before the instrumentally mentioned at the end, appeared citizen Gabriel de la Torre of more than twenty five years of age, lawfully known to me and said that for himself and in the name of his sons he has and signs he sells and conveys forever to Juan Malvarin of this neighborhood also known to me, a rancho called Sarjones belonging to him by grant made to him by the Government of this Department - it appears by the Original title, which he presents bounded by the Rancho of Ahualar and that of D. Federico Gonzales, he sells it together with the house and Corals standing on the said lands and further he declares neither to have sold it nor alienated nor mortgaged it before and that it is free of any kind of encumbrance; and in consideration he sells it in the amount of one hundred and thirty head of killing cattle receiving firstly in the month of June the number of Eighty and he will receive the other fifty in the month of June of next year and not having been received the same in this moment he renounces the Laws which favor him in this case. And further he declares that he considers a just and true value of the Rancho house and corals the value of the aforesaid number of

cattle, and if it is worth more he makes a gift of the surplus in favor of the purchaser his heirs and assigns for ever which in Law is called inter vivos renouncing the Law fourth title the Seventh Book the fifth of the Recoleccion and the other regarding to the half more or less of the true value, that he consents past the four years fixed for the cancellation of the conveyance (cession) and from this date he renounces all the right title and possession which he has to the said Rancho, houses and corrales in favor of the purchaser in order that he may use it as his property and that he confers him the power of a free and general administrator using it with the authority that the Law allows him. Imposing the vendor himself the obligation of securing the thing sold to the purchaser and that nobody will trouble a claim his right or possession, that will never appear any incumbrance upon the farm and house, and if he is disturbed the vendor obligates himself to defend until the purchaser remains in quiet and peace possession of the thing sold. And if he cannot do it he will return him the value of the before mentioned cattle with the value of the improvement made in the house & farm and with all the costs and damages received. And in fulfillment of the aforesaid the vendor answers with his present and future property and submits himself to the authority of the Judges for they may compel him to the fulfillment as in a case true and he renounces all the Laws which may favor him in the case. In testimony whereof thus he does before and sign with me and the purchaser in the Register and the assisting witnesses, being the instrumentals D. Antonio Maria Ochoa, D. Dario Spence and Rafael Estrada here present and

Neighbors. Attest: Agnes Jose Leon Fernandez  
Juan Malara, Gabriel de la Cruz  
Attest. Attest. Manuel Quispe = Attest. Attest. Honacio Terrano

This is a faithful copy taken from the Original file in this register which I refer to; this testimony is taken for the party interested of D. Juan Malerin on a sheet of paper of the Seal of the Secon class having witnessed the copy, the amendment and the comparison, Witness Jose Abrego of this neighborhood Monterey January 14<sup>th</sup> 1843-

Witness Jose Leon <sup>of</sup> Fernandez  
(Witness) Francisco Surano  
(Witness) Manuel Castro

Know all men by this present that Gabriel de la Torre have received of D. Juan Malerin one hundred and thirty heads of killing cattle as the value of the Rancho called Sanjones in which amount I sold to the said Malerin as appears in bill of sale agreed to that effect - and having received the said cattle in the same terms stated in the Bill I hereby annul every other receipt which may appear in reference to this. and for further validity I assign this, being present D. Antonio Marcos Osio and the Notary Public, Jose Marcos de Reyes in Monterey the 20<sup>th</sup> of June 1843

(Signed) Gabriel de la Torre. Fray Jose Marcos del R. P. del Real. Antonio Marcos Osio.

Manuel Jimeno Casarin former Vocal propietario of the most Excellent Departmental Legislature of California and acting as Governor of the same Whereas Witness Gabriel de la Torre has solicited for his personal benefit and that of his family the land known by the name of Sanjones bounded by the Ranchos of Mejias Estrada, of Teodoro, Gonzales, by the river of Monterey and the Chapadero - situated on the north; the requisite proceedings and investigations being previously taken in conformity

Seal

108 SD  
PAGE 31

with Laws and regulations, I have in virtue of the powers conferred upon me in the name of the Mexican Nation, granted unto the Sr Dn Gabriel de los Rios the Sr Dn Lanes, declaring him the owner of them by the present letters, subject to the approval of the Most Excellent Departmental Superintendant on the following conditions

- 1<sup>st</sup> He may enclose it without prejudice to the crops in q roads and privileges, he shall enjoy a free & exclusively destining it to the use and cultivation which may suit him best within one year at full that he shall build a house and it must be inhabited
- 2<sup>nd</sup> He shall select the respective Magistrate to give him possession in virtue of this title and said Magistrate shall designate the boundaries, on the limits of which he shall besides the lamed marks place some fruit trees or other ones of some utility
- 3<sup>rd</sup> The land whereof donation is made to him consists one square league and a half (Sitio of Medio de ganado Mayor) as appears by the plan annexed to the proceedings - The Magistrate who gives the possession shall cause it to be measured according to Laws, in order to designate the boundaries, and the surplus which may result shall remain for the Nation for the necessary uses
- 4<sup>th</sup> If he transgresses these conditions he shall lose his right to the land and it shall be denounced by another - I consequently command that these present having him as a title and being held to be firm and valid, be recorded in the corresponding Book and delivered to the party interested for his safety and further ends -

Given in Monterey the twentieth of the month of August eighteen hundred and twenty nine -

(Signed) Manuel Jimeno  
(Signed) Francisco Oro 1<sup>st</sup> Officer

A record of this title has been made in the Book  
of Entries of Titles upon the adjudication of  
Vacant Lands at Folio Eleventh  
(Signed) Ace

108 SD  
PAGE 32

Seal of the Third Class = Two Reels  
Authorized provisionally by the Collector of the Mari-  
time Custom House of the Port of Monterey in the Depar-  
tment of California for the years One thousand Eight  
hundred and Forty and One thousand Eight hundred  
and Forty One  
(Signed) Simeno (Signed) Antonio Maria Osio

Manuel Simeno Casarin Just Vocal proprietor of  
the Most Excellent Legislature of this Department  
and acting as Governor of the same -

The Most Excellent Legislature  
of this Department in the Session of the 22<sup>a</sup> of last  
May approved the proposal of the Committee of  
Agriculture who manifested the expedients of lands  
Sanjones selected by citizen Gabriel de la Torre who  
in last article says the following: "This grant made  
by the Departmental Government on the 20th of August  
1839 to Citizen Gabriel de la Torre of the Lands known  
by the name of Sanjones is approved"

In view of the decree of the 20th of August of last  
year as appears in the expediente expediente let this  
testimony be given to the party interested in conforma-  
tion of the land mentioned  
Monterey December the 15<sup>th</sup> 1840

(Signed) Manuel Simeno  
(Signed) Jose Y Fernandez Sec. pro. Tem.

29

To the Constitutional Justice of the Peace.  
 Gabriel de la Torre a Mexican Citizen says that  
 having obtained the proper grant of the Land  
 known by the name of Sangre requests that in  
 virtue of the approval of the of the most Excellent  
 Departmental Legislature you would be pleased to  
 give him judicial possession in conformity with  
 the requirements of the 2<sup>o</sup> Article of the title to  
 said Land, which was given on the twentieth of  
 August Eighteen hundred and thirty nine, and which  
 is duly accompanied together with the respective  
 approval in order that the whole may produce  
 the desired effect - And therefore I request that you  
 would be pleased to give me the possession which  
 I solicit whereby I shall receive favor and justice  
 Monterey December the 7<sup>th</sup> 1840

(Signed) Gabriel de la Torre

Monterey December the 7<sup>th</sup> 1840 - Considered  
 as present and admitted I the present Justice of  
 the Peace will proceed to the measurement designa-  
 tion of boundaries and judicial possession solici-  
 ted by the party interested in this petition, fixing  
 as the day for putting it into execution the eleventh  
 day of the present month, in order to which the  
 neighboring Land holders shall be summoned  
 Thus I the Constitutional Justice of the Peace do  
 decree command and sign with the assisting  
 Utepses

(Signed) David Spence

(Asst Utepses) Guineendo Flores

(Assisting Utepses) Manuel Castro



On the same date citizen Gabriel de la Torre was  
 notified of the foregoing decree, and having understood  
 it said that he heard it and considered himself  
 as summoned signing it with me and the assisting  
 witnesses

108 SD  
 PAGE 34

(Signed) Spence

On the same date the summons ordered in the forego-  
 ing decree <sup>were</sup> dispatched and in testimony thereof I note  
 it down and sign with my scroll

(Signed) Spence

Rancho of San Jones 11<sup>th</sup> of December 1846  
 Being present the owners of the adjoining Ranchos  
 D<sup>ya</sup> Teodora Gonzales and Don Juan Malvar I appoi-  
 nted as measurers citizens Serafino Gavino and  
 Ygnacio Anoy for the measurement designation of  
 boundaries and possession of Gabriel de la Torre  
 who after accepting the appointment and taking oath  
 will proceed to comply with their Commission.  
 Thus I the Constitutional Justice of the Peace of this  
 Township did decree command and sign with  
 the assisting witnesses (Signed) David Spence  
 (Assisting Witnesses) Guineo Flores  
 (Assisting Witnesses) Manuel Castro

On the same date the decree of the appointment was  
 notified to citizens Serafino Gavino and Ygnacio  
 Anoy who having understood it said that he  
 heard it, that they accepted it and did accept  
 and swore by the Lord and God and the sign of the  
 cross that they would exercise the functions of said  
 appointment faithfully and legally to the best of  
 their knowledge and ability, without fraud or  
 avarice any passion and they did not sign because  
 they said that they could not write and I

Signed with the assisting witnesses  
 (Signed) Spence  
 (Assisting Witness) Guimencando Flores  
 (Assisting Witness) Manuel Castro

108 SD

PAGE 35

At the same moment I the said Alcalde ordered  
 the Case where with the land was to be measured to  
 be brought into my presence and that the measurers  
 should make it of the length of fifty varas and  
 I signed it with the assisting witnesses  
 (Signed) Spence  
 (Assisting Witness) Guimencando Flores  
 (Assisting Witness) Manuel Castro

On the same spot day month and year at Eleven  
 O'clock of the day I the the present Constitutional  
 Justice of this Jurisdiction commanded the appointed  
 measurers to get ready to measure the land to Pedro  
 Gabriel de la Torre and placing themselves in the  
Saucetos the boundaries of the Don Juan Malarin  
 going  $E\frac{1}{4}$  S until the ten Alisos situated on the  
 eighty four Cords of fifty varas were counted,  
 from said Alisos going  $E\frac{1}{4}$  N.E. (Remaining the  
 Chaparral which is now at the East within the  
 boundaries of Gabriel de la Torre) until the Saucos  
 in the entrance of the Rancho the boundaries of  
 Malarin and Gonzalez one hundred and fifty  
 six Cords were counted and from said Saucos  
 in the direction  $S\frac{1}{4}$  S.W. until the Oak tree situa-  
 ted on the Banks of the Arroyo between the two  
 houses, one hundred and eighty two Cords; and  
 from that point following the limits of the woods  
 until the same Saucetos, where the measurement was  
 commenced, one hundred and fifty two Cords were  
 counted, forming the Land measured a triangle  
 situated between the lands of the said Malarin

and Gonzales at which Points I ordered the corresponding land marks to be formed in Order to designate the boundaries belonging to him -  
The land measured consists of One Square League and a half - and the party interested and the Owners of the adjoining Ranos and the assisting Altitripes signed with me.

(Signed) David Spence

(Assisting Altitripes) Guinecas Flores } Rodon Gonzales  
(Assisting Altitripes) Manuel Castro } Juan Malerin  
Gabriel de la Torre

In the Rancho of Sanjones on the Eleventh day December One thousand Eight hundred and forty. I the Justice of the Peace of Monterey and its Jurisdiction, after having concluded the measurement of the said farm which gave a result of One Square League and a half little more or less and being present the Owners the Owners of the immediate adjoining Ranchos I Rodon Gonzales and Juan Malerin and agreeing to all that appears in the proceedings. I command that citizen Gabriel de la Torre to enter into precise possession of said Rancho according to the aforesaid measurement and the formalities customary in like cases, which he put into execution, immediately leaving us gone and making demonstrations as Owner of the Land whereof possession has been given to him, the validity of which I authorize and signed with the Owners of the adjoining farms, the party interested and the assisting Altitripes. (Signed) David Spence  
Rodon Gonzales = Juan Malerin = Gabriel de la Torre. (Assisting Altitripes) Guinecas Flores  
(Assisting Altitripes) Manuel Castro

Monterey 14th December 1840

Let a record be made in the Book of possession & let this Original Expediente be returned to the party interested for the ones which may suit him -

Thus I the Constitutional Justice of the peace do  
 decree Command and Sign with the assisting  
 assisting clerks (Signed) Spence

108 SD  
 PAGE 37

On the same day month and year a record was  
 made of the aforesaid possession on the 13<sup>th</sup> folio  
 of the corresponding Book and this Expediente  
 was returned to Citizen Gabriel de la Torre in  
 testimony whereof I note it down and Sign with  
 my Seal

(Signed) with the Seal and Seal

Filed in Office April 2<sup>nd</sup> 1852  
 Geo. Fisher Secy

Doc No. 1. 1.  
Annex to the  
Deposition of  
David Spence.

Testamento de  
Juan Malarin otorgado  
el 1<sup>a</sup> de Septiembre de 1848.

108 SD

PAGE 38

En el nombre de Dios Todopoderoso,  
Amén. Yo Juan Malarin, natural de  
la Ciudad de Lima, y vecino de este punto, hijo  
legítimo de legítimo matrimonio de D. Nicolás  
Malarin y de D<sup>a</sup>. Cecilia Tiron, difuntos, natu-  
rales también de Lima, hallándome por la divi-  
na Misericordia bueno y sano, y en mi pleno ju-  
icio, creyendo y confesando, como firmemente creo y  
confieso, el Misterio de la Trinidad, Padre, Hijo y  
Espíritu Santo, tres personas que aunque realmente  
distintas tienen los mismos atributos, y demás  
Misterios y Sacramentos que creo y confieso nues-  
tra Santa Madre la Iglesia Católica, Apostólica,  
Romana, en cuya verdadera fe y creencia he vivi-  
do, vivo, y protesto morir, como Católico fiel cristiano,  
tomando por mi intercesora y protectora a la siem-  
pre Virgen e inmaculada Reyna de los Angeles,  
María Santísima, Madre de Dios y Señora  
Nuestra, del Santo Ángel mi Custodio, los de  
mi nombre y devoción, y demás de la Corte Ce-  
lestial, para que impetran de Nuestro Señor  
y Redentor, Jesucristo, que por los infinitos me-  
ritos de su preciosísima vida, pasión y muerte  
me perdone todas mis culpas y lleve mi al-  
ma a gozar de su presencia; temeroso de la

Muerte, que es tan natural y precisa á toda Criatura humana, como incierta su hora, para estar prevenido con disposicion testamentaria quando llegue; resolver con maduro acuerdo y reflexion todo lo concerniente al descargo de mi consciencia; evitar con claridad las dudas y pleitos que por su defecto pueden suscitarse despues de mi fallecimiento, y no tener á la hora de este algun cuidado temporal que me obste pedir á Dios de todas horas la remision que espero de mis pecados: otorgo, hago y ordeno mi testamento en la forma siguiente:

Comenciendo mi alma á Dios, Nuestro Señor, que de la nada lo crió, y mando el Cuerpo á la Tierra de que fue formado; el cual hecho Cadáver, quiero se amortaje del hábito de Nuestro Seráfico Padre San Francisco, y sepulte en donde mis dolientes consigan.

Es mi voluntad que el dia de mi entierro, siendo hora, y si no en el inmediato se celebre por mi alma Misa Cantada de Cuerpo presente.

Declaro que hallo casado legitimamente con D<sup>a</sup> Josefa Estrada, en cuyo Matrimonio hemos procreado y tenemos por nuestros hijos legitimos á Isabel, Mariano, Concepcion, Ramona, Urbano, Maria Refugio, Josefa, Cristina y Ygnacio Malarin, menores en la edad pupilar, menos el Lic. mi hijo Mariano y Concepcion que es casada, de los cuales y de los demas que procrearemos constante el, usando de las facultades que me confiere la Ley 3<sup>a</sup> Tit. 16 de la Partida 6, nombro á mi hijo el Lic. D. Mariano Malarin, por Tutor y Curador de mis menores hijos. Por lo que suplico al Señor Juez ante quien se presente Testimonio de esta clausula, apruebe y confirme este nombramiento.

Declaro tener una casa en esta poblacion, que es en la que habito.

Item Declaro tener un Rancho llamado "Guadalupe" el cual contiene seis sitios poco mas, de ganado mayor, con dos casas de adobe, una techada con teja, y la otra con tule, y dos corrales.

Item Declaro tener tres mil reses, poco mas o menos, entre rodedeanos y Chichiquo.

Item Declaro tener en poder de D. Anastasio Carrillo setenta y seis yeguas, las que tiene con la tercera parte de la nacionalia desde el año de 1843 y consta por su carta que esta incluida en este mi testamento.

Item Declaro tener en poder del hijo de Juan Rosales una manada aburrada, por el sueldo que consta en el libro de Cuentas del Rancho; y todas las yeguas, mulas y caballos que tengan mi fierro son de mi propiedad, menos el burro que pertenece a D. Antonio M<sup>a</sup>. Oris.

Item Declaro deberme el Gobierno Mexicano la cantidad de siete mil doscientas ochenta y dos pesos seis reales tres grs. como consta por el certificado del S. Tesorero que va incluido en este mi testamento.

Item Declaro tener en mi rancho quinientas bovedas de mi pertenencia, y ciento setenta que estan unidas a las mias, son de la propiedad de D. David Somo.

Para cumplir todo lo que contiene este testamento, nombro por mis Albaceas testamentarios, a mi esposa, D<sup>a</sup>. Josefã Estrada, a mi hijo el Lic. Don Mariano Malarin, y a mi hijo politico D. Rafael Estrada que se halla casado con mi hija Concepcion y cada uno in solidum, y les confiero amplio poder para que luego que fallerca se apoderen de mis bienes.

Hago presente a mis referidos Albaceas, que

108 SD  
PAGE 41

si posterior à la fecha que otorgo este testamento adquiriese alguna deuda, ya sea por documento mío, ó que aunque sea sin este, la acredite persona de conocida probidad, con quien puedo tener cuenta corriente, sea pagado de mis bienes.

Y sustituyo por mis únicos y universales herederos á los ~~representados~~ ~~Ysabel, Mariana, Bernabey,~~ Ramona, Urbano, Maria, Refugio, Josefa, Cristina, y Ygnacio Malarin, mis diez hijos y de la referida D<sup>a</sup> Josefa Estrada, mi mujer, y á los demás descendientes de legítimo matrimonio que tubiere al tiempo de mi muerte y deban heredarme, para que los hagan y lleven por su orden y grado, según su representación y lo dispuesto por las leyes, con la bendición de Dios y la mía.

Y por el presente revoco y anulo todos los testamentos y demás disposiciones testamentarias que antes de ahora he formalizado por escrito, de palabra ó en otra forma, para que ninguno valga ni haga fe judicial ni extrajudicialmente excepto este testamento que quiero y mando se estime y tenga por tal y se observe y cumpla todo sin con- teste como mi última deliberada voluntad, ó en la vía y forma que mejor lugar haya en derecho. Así lo otorgo y firmo á primeros de Septiembre de mil ochocientos cuarenta y ocho; siendo testigos de su otorgamiento los vecinos de este lugar D. David Spina, D. Santiago Watson, D. Jose A. mestí, D. Salvador Munras y D. Rafael Sanchez.

|                  |                   |
|------------------|-------------------|
| D. Spina.        | Juan Malarin.     |
| Santiago Watson. | Rafael Sanchez.   |
| Salvador Munras. | José de A. mestí. |

Jose Abrego. Tesorero Departamental de



Californias.

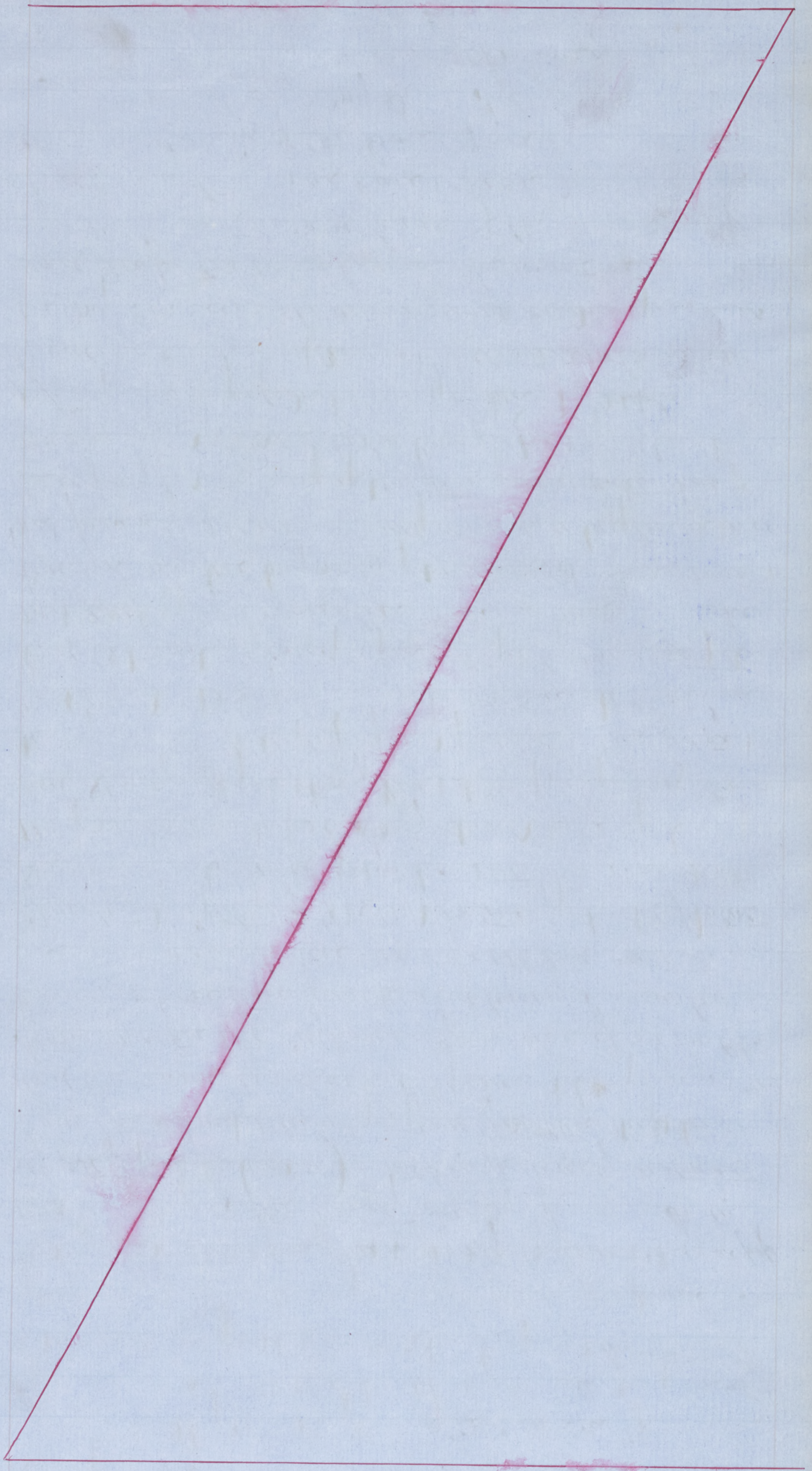
Certifico: q. p. el ajuste hecho por esta Oficina al Sr. Ministro Esante del Supremo Tribunal de Justicia de este Departamento, D. Juan Malariu alcanza la cantidad de siete mil doscientos ochenta y dos pesos seis reales tres granos.

(\$ 7282.6.3.)

Monterrey Junio 30 de 1846.  
José Abrego.

I George Fisher Secretary to the United States Land Commission to ascertain and settle the private land claims in the State of California, do hereby certify that the foregoing is a true and correct copy of a Spanish document in Case N<sup>o</sup>. 152 wherein Mariano Malariu claims the Rancho of "Guadalupe", now on file in this Office.

In testimony whereof, I have hereunto subscribed my name. Office of the Secretary of the above named Commission, San Francisco Calif. this fourteenth day of February A.D. 1854.  
(Signed) Geo. Fisher  
Secy.



Official copy In the name of Almighty God, Amen, I Juan

Official copy  
of Juan Malaino  
Well

108 SD  
PAGE 43

In the name of Almighty God, Amen, I Juan Malain, born in the City of Lima and resident of this Port legitimate son of the lawful wedlock of Don Nicholas Malain and Dona Beata Tom de casa, natives also of Lima, being by the grace of God of sound mind and full judgment believing and confessing as I firmly believe and confess the mystery of the truly Father, Son and Holy Ghost, three persons who although really distinct have the same attributes, and the other mysteries and Sacraments which I believe and confess, our Holy Mother the Catholic Apostolic Roman Church, in whose true faith and belief I have lived and hope to die as a faithful Catholic Christian, taking for my intercessor and protector the ever Virgin and immaculate Queen of the Angels, Mary Most Holy Mother of God and Our Lady, of the Holy Angel my guardian those of my name and devotion, and the others of the Celestial Court, that they impetrate of Our Lord and Redeemer Jesus Christ, that by the infinite merits of his precious life, Passion and death he pardon me all my sins and take my soul to enjoy his presence: fearing death which is natural and necessary to every human creature and as its hour is uncertain, in order to be provided with a testamentary disposition when it comes; to resolve with mature consideration and reflection whatever rests on my conscience to avoid with clearness the doubts and disputes, which arise for want of it after my death and to not have at the hour of (my death) any temporal care which might interfere with my asking of the God of all truth the remission which I hope of my sins, I declare make and Ordain my will, in the following form: Recommending my soul to God Our Lord who made it from nothing and consigning the body to the

earth of which it was formed which body I desire may be inscribed in the dress our Seraphic Father San Francisco, and buried where my will bears may consign it -

This is my will that on the day of my burial if there be time and if not on the next day there be celebrated for my soul "Misa Cantada de cuerpo perente". I declare that I am legitimately married to Dona Josefa Estrada in which wedlock we have begotten and have as legitimate children Ysabel, Mariano, Concepcion Ramon, Urbano Maria Refugio, Josefa, Cristina, and Ygnacio Malvarin Minus subject to guardianship except the Decentales, my son Mariano, and Concepcion who is married, of whom & the others whom I may beget be it known I using the powers conferred by law 3<sup>rd</sup> tit 16 Partida 6 appointing my son the Decentales Don Mariano Malvarin tutor and guardian of my minor children - wherefore I pray the Judge before whom testimony of this clause may be presented to approve and confirm this appointment.

I declare that I own a house in this town which I now inhabit -

Item. I declare that I own a Rancho called "Suda" which contains a little more or less than six square leagues, with two adobe houses, one covered with tile and the other with tile and two corals -

Item. I declare that I have three thousand heads of cattle, a little more or less including great and small.

Item. I declare that I have in the possession of Antonio Carrillo, twenty six mares of which he is to have one third of the increase since 1843 as shown by his letter which is included in this my will.

Item. I declare that I have in the possession of the Son of Juan Rosales a band of mares with jack as shown by the entry in the book of accounts of the Rancho; and all the mares mules and horses which have my iron are my property except the jack which belongs to Don Antonio Manuel Osio

Item. I declare that the Mexican Government owes me the sum of \$7282. 67 39 as shown in the certificate of the Treasurer included in this my will

Item. I declare that I have on my Rancho 500 sheep belonging to me, and 170 with the others which belong to Don Juvenal Spencer

To carry into effect what is contained in this will I appoint for my testamentary executors my wife Dona Josefa Estrada and my son the Licentiate Don Mariano Malerin and my son in law Don Rafael Estrada the husband of my daughter Concepcion and each one in solidum and I confer on them ample power to take possession of my property immediately after my death

I direct my executors that if subsequent to the date of this will any debt is contracted whether by my written document or proved by the testimony of a person of known probity, it be paid from my property

I constitute as my only and general heirs the Sucees Isabel, Mariano, Concepcion, Ramona, Urbano, Maria, Refugio, Josefa, Custodia, and Ygnacio Malerin my ten children and my Sucee wife Dona Josefa Estrada, and the other legitimate descendants which I may have at the time of my death and who may be entitled to inherit to have and to hold according to the Order made and representation of each and as provided by Law with the blessing of God and of me - And I revoke and annul all wills and testamentary dispositions made by me heretofore in writing, by

word of mouth or in other manner, that they shall have no validity in Court or extrajudicially except this will alone which I pray and direct to be considered received and observed in all its parts as my best will in the way and form of Law

Thus I Order and sign this first day of September A.D. 1848 being witnesses of its Execution the residents of this place, Don David Spence Don Santiago Watson, Don Jose Amesta, Don Salvador Munras and Don Rafael Sanchez,  
 David Spence, Santiago & Juan Malerin  
 Watson Salvador Munras  
 Jose Amesta Rafael Sanchez

108 SD  
 PAGE 46

I George Fisher Secretary to the United States Land Commission to ascertain and settle the private land claims in California do hereby certify that the foregoing is a true and correct copy of a document in case No. 152 wherein Mariano Malerin claims the Ranch of Guadalupe.

In testimony whereof I have hereunto subscribed my name Office of Secretary of the above named Commission San Francisco Calif<sup>a</sup> this fourteenth day of February A.D. 1854

Geo. Fisher  
 Secy

Filed in Office Feb. 14 1854  
 Geo. Fisher  
 Secy

Copy of Will  
filed with petition

108 SD  
PAGE 47

In the name of Almighty God Amen!  
 I Juan Malerin born in the City of Lima and  
 a resident of this port legitimate son of the lawful  
 wedlock of Don Nicolas Malerin and of Dona  
 Beccesim de cesaca natives also of Lima, by the  
 grace of God, of sound mind and full judgement  
 believing and confessing as I firmly believe and  
 confess the mystery of the <sup>of</sup> Trinity Father Son and  
 Holy Ghost, three persons, who although really  
 distinct have the same attributes, and the other 8  
 Sacraments which I believe and confess Holy Mother  
 the Catholic Apostolic Roman Church in whose  
 true faith and belief I have lived, live, and hope  
 to die as a faithful Catholic Christian trusting  
 for my intercession and protection the ever Virgin and  
 immaculate Queen of the Angels Mary most  
 Holy Mother of God, our Lady of the Holy Angel  
 my Guardian, Those of my name and devotion  
 and the others of the Celestial Court that they  
 impetrate of our Lord and Redeemer Jesus Christ  
 that by the infinite merits of his precious life  
 passion and death he pardon me all my sins  
 and take my soul to enjoy his presence; fearing  
 death which is natural and necessary to every  
 human creature, and as its hour is uncertain, in  
 order to be provided with a testamentary dispo-  
 sition when it comes; to resolve with mature  
 consideration and reflection whatsoever rests  
 on my conscience, to avoid with clearness the  
 doubts and suspicions which may arise for want  
 of it after my death, and to not have at the hour  
 (of my death) any temporal care which might  
 interfere with my asking of the God of all truth  
 the remission which I hope of my sins  
 I declare make and Ordain my will in the  
 following form - Recommending my soul to God  
 our Lord who made it from nothing and consigning

the body to the earth of which it was formed  
which body I desire may be interred in the church  
of our Saviour Santa San Francisco and buried  
where my soul desires may consign it

It is my will that on the day of my burial if there  
be time and if not the next day that be celebra-  
tion for my soul "Misa cantada de Campo presente"  
I declare that I am legitimately married to Don  
Josefa Estrada in which wedlock we have  
begotten and have as legitimate children Ysabel  
Marciano, Concepcion, Ramona, Urbano, Maria  
Refugio, Josefa, Cristina, and Ygnacio Malvar  
minor subject to guardianship, except the Secen-  
tate my son Marciano and Concepcion, <sup>who</sup> is married  
of whom and the others, whom I may beget be it  
known I using the power conferred on me by the  
Law 3<sup>rd</sup> tit. 16 of Partida 6 appointing my son  
the Secentate Don Marciano Malvar tutor and  
guardian of my minor children wherefore I pray  
the Judge before whom testimony of this clause  
may be presented to approve and confirm this  
appointment

I declare that I own a house in this town which  
I now inhabit

Item. I declare that I own a Rancho called Guadalupe  
which contains a little more or less than  
six square leagues with two Adobe houses, one  
covered with tile the other with tiles and two  
Corrales

Item. I declare that I have three thousand heads  
of cattle a little more or less including great and  
small

Item I declare that I have in the possession of Don  
Antonio Corrallo twenty six mares of which he is  
to have one third of the increase since 1843 as  
shown by his letter which is included in this my will

I declare that I have in the possession of the Son



I declare that I have in the possession of the Son of Juan Rosales a band of mares with foals as shown by the entry in the books of accounts of the Rancho and all the mares and mules and horses which have my iron are my property except the Suck which belongs to Antonio Marco Osio

Item. I declare that the Mexican Government owes me sum of \$7282. 67 3/4 as shown in the certificate of the Treasurer included in this my will

Item. I declare that I have in my Rancho 500 Sheep belonging to me and 170 with the Others which belong to Don Juana Spence.

To carry into effect what is contained in this will I appoint for testamentary Executors my wife Dona Josefa Estrada my Son the Legitimate Don Mariano, Maluan, and my Son in Law Don Rafael Estrada the husband of my daughter Concepcion and each one in Solemn. And I empower them amply to power to take possession of my property immediately after my death

I direct my said Executors that if subsequent to the date of this will any debt is contracted whether by written document or proved by the testimony of a person of known probity, it be paid from my property -

I constitute as my only and general heirs the said Ysabel, Mariano, Concepcion, Romano Urbano Maria Refugio Josefa Cristina and Ygnacio Maluan my ten children and my said wife Dona Josefa Estrada and the other legitimate descendants which I may have at the time of my death and who may be entitled to inherit to have and to hold according to the Order given and representation of each and as provided by Law with the blessing of God and of me And I revoke and annul all wills and testamentary dispositions made by me heretofore in writing by word

108 SD  
PAGE 50

of mouth or in any other manner, that they shall  
 have no validity in court or extra judicially  
 Except this will alone which I pray and desire  
 to be considered received and observed in all its  
 parts as my last will in the way and form of Law  
 Thus I read and sign this first day of September  
 A.D. 1848 Being Mediceps of its execution the res-  
 dents of this place Don Juvenal Spence Don Santiago  
 Melton, Don Jose Amista, Don Salvador Mamas  
 and Don Rafael Sanchez

|                 |   |             |
|-----------------|---|-------------|
| Juvenal Spence  | ~ | Juan Melara |
| Santiago Melton | ~ |             |
| Salvador Mamas  | ~ |             |
| Jose Amista     | ~ |             |
| Rafael Sanchez  | ~ |             |

Filed in Office April 9th 1853  
 Geo. Fisher Secy

6005

47.

No. 151

Claim of M. Malarin Executor &c

Motion

Moved. That the amended petition filed in this case on the 11<sup>th</sup> of April 1853 be admitted and considered as a substitute for the original petition

108 SD

PAGE 51

Walleck Peachy & Bellings  
Attys for Claimants

Filed in office Sept. 23<sup>rd</sup> 1853

Geo. Fisher Secy

Motion & Order  
of Court

On motion of A. C. Peachy it was ordered by the Court, that the Will of Jean Malarin as filed and proved in case No. 152 may be filed in case No. 151 & 154 and shall be considered as being in evidence in said cases and as proved to the same extent as it is proved in the case where it was originally filed. It is further ordered that the Secretary shall file certified copies of said will in cases 151 & 154 together with certified copies of the depositions by which the same is proved in the case in which the said deposition was taken

Filed in Office Feb. 14<sup>th</sup> 1854

Geo Fisher Secy

*[Faint, illegible handwriting, likely bleed-through from the reverse side of the page.]*

Josefa Estrada Urdano  
and Mariano, Ysabel, Mariano  
Concepcion, Romon Urbano  
Mariano, Refugio, Josefa, Cristina  
and Ygnacio Malerin heirs of  
Juan Malerin deceased

108 SD  
PAGE 52

vs  
The United States

Opinion of Board  
by Com Lambell

The petitioners in this case establish their claim as presented in their petition by the following document proofs. First - A grant made by Manuel Jimeno to Don Gabriel de la Torre dated the 20th of August 1839. Second - a certificate showing that said grant was duly approved on the 22<sup>nd</sup> day of May 1840 and the record of said record possession made in the month of December of the same year. Thirdly - A decree of conveyance executed according to the laws then in force made by the Sr Dn Gabriel de la Torre to Juan Malerin bearing date the 14<sup>th</sup> of January A.D. 1842 for the premises in question.

The foregoing records and documents are all proved to be genuine and in proper form.

It is proved by the deposition of Juven Jimeno that Gabriel de la Torre the original grantee built a substantial adobe house on the land before said record possession was given and that he occupied it himself with his family, until he sold to Malerin in 1842 and that the latter further states that Malerin and his heirs have been in peaceable possession since.

The grant in this case was made in August 1839. Record possession was given in December 1840. The proof is that the grantee had built an adobe house on the land before record possession was given. I think the inference from the facts in the case may be drawn that the house was

49

108 SD  
PAGE 53

constructed within the time prescribed by the conditions of the grant. The improvements were of the most substantial character and required time for construction - This is a very different case from one where the party merely constructed a temporary hut for the use of his voguerias and owned herd of cattle on the lands which he may remove in as short a time as it requires to place them there - I am therefore of opinion that the evidence shows a substantial compliance with the conditions of the Law - The premises are defined with sufficient accuracy by the officers who made the judicial measurement and gave the possession to the grantee, to be ascertained with certainty - The heirs of the petitioner to Juan Malaren and their right to demand of the Government of the United States a relinquishment of her interest in the premises in question has been satisfactorily established - A decree of Confirmation will accordingly be entered

In office Feb. 21. 1854

Geo. Fisher Deey

Josefa Estrada widow and Mariano,  
 Ysabel Mariano, Concepcion, Ramonca,  
 Urbano, Maria, Refugio, Josefa, Cristina  
 and Ygnacio Malamin heirs of Juan  
 Malamin deceased

108 SD  
 PAGE 54

vs  
 The United States

Decree

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said Petitioner is valid, and it is therefore decreed that the same be confirmed. The lances of which confirmation are hereby made are known by the name of "Sanjones" and are bounded and described as follows, to wit, commencing at the point known as the "Saccetas" being at the time of the grant the boundary of Don Juan Malamin and running thence East  $\frac{1}{4}$  South four thousand two hundred varas to the ten Alisos situated on the plain, thence East  $\frac{1}{4}$  North East seven thousand eight hundred varas to the Saccetas on the entrance of the Cañada, the boundary of which Malamin and Gonzales thence running in the direction South  $\frac{1}{4}$  South West nine thousand one hundred varas, to the Oak tree situated on the Banks of the River between the two houses and thence from that point following the limits of the Alisos seven thousand one hundred varas to the same Saccetas where the measurements was commenced. Containing in all one and a half Square Leagues, and forming a triangle situated between the Lances of Malamin and Gonzales. It is hereby further decreed that the respective proportions of the said petitioners are as follows to wit: To Josefa Estrada the one undivided half of the Lance place called Sanjones, and

57

to the legal heirs of the said Juan Malvar deceased  
the remaining undivided half of said place  
Calle Sanjones as tenants in common

Alpheus Felch  
Thompson Campbell  
R. Mag. Thompson

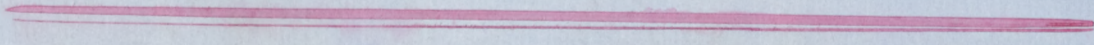
Deeded  
Commenced

108 SD  
PAGE 55

Filed in office Feb 21. 1854

Geo. Fisher Secy

And it appearing to the satisfaction of this  
Court that the land hereby adjudicated is sit-  
uated in the Southern District of California  
it is hereby ordered that two true and correct  
copies of the proceedings and of the decision in this case  
and of the papers and records upon which  
the same are founded be made and duly  
certified by the Secretary one of which transcripts  
shall be filed with the Clerk of the United  
States District Court for the Southern Dist-  
ric of California and the other be transmitted  
to the Atty General of the United States



572





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 *fifty one* pages, numbered from 1 to *51*, 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. *157* on the Docket of the said Board, wherein *Mariano Malain, Executor &* is the Claimant against the United States, for the place known by the name of "*Darjones*"

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

*Geo Fisher*

**108**  
U. S. DISTRICT COURT,  
*Southern* District of California.

No. 108, *Docket*

THE UNITED STATES,

vs.

*Mariano Malvarin, Exr. de,*

*"Lanjes."*  
**108**

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 151.

Filed, *November 8th*, 1854,

*J. E. Fair*  
Clerk

**108**

*151 1/2 N*

108 SD

PAGE 57

Office of the Attorney General of the United States,

Washington, 17th January 1855.

Mariano Malerin *Exr.*

*vs.*

The United States.

} 151.

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 28th day of September 1854 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

*Anthony*

Attorney General.

N<sup>o</sup> 108.

U. S. District Court  
Southern District

The United States  
vs -  
Mariano Malanin,  
Exr -

Notice of appeal from atty. Gen.

Filed Feb 27<sup>th</sup> 1855.

J. C. Law  
clerk.

108 SD

PAGE 58

IN THE DISTRICT COURT OF THE UNITED STATES,  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

Los Angeles,.....December Term, 1855.

108 SD  
PAGE 59

*Mariano Malari Et. al.*

.....

|                |            |   |  |
|----------------|------------|---|--|
| VS.            | APPELLEE§  | } | No. <i>108.</i>  |
|                |            |   | (No. <i>157.</i> of Transcript.)                       |
| UNITED STATES, | APPELLANT. |   | On Appeal from the United States Land Com-<br>mission. |

On motion of P. ORD, Attorney of the United States for the Southern District of California, it is hereby

ORDERED by the Court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this Court against the said United States in the above entitled cause, rendered on or about the 11<sup>th</sup> day of January A. D. 1856.

*P. Ord*  
*Dist. Ct.*

No. 108.

U.S. District Court  
Franklin District of California

Monica Malarin Ex. Et als  
appellee

vs  
The United States  
Appellants

Notice of Appeal S.C.

Filed August 27th 1886

C. E. Coan Clerk

By C. Morgan Deft

Office of the Attorney General of the United States,

Washington, 17th January 1855.

108 SD

PAGE 61

Mariano Malvarin exa.

vs.

The United States.

} 151.

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 28th day of September 1855., the appeal in the district court of the United States for the ~~San~~ ~~Francisco~~ district of California will be prosecuted by the United States.

*Clarking*

Attorney General.

No. 108.

U. S. District Court,  
Southern Dist. of Cal.

The United States,

vs.

Manano Malamin, Exr.

Appeal Notice.

Filed March 8<sup>th</sup> 1855.

J. E. San.  
Clerk.

108 SD  
PAGE 62



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

The United States, appellants }  
vs. } Transcript No 151.  
Heirs of J. Malarin appellees }

108 SD  
PAGE 63

In this case it being suggested by counsel for appellee that the Transcript of the Record from the Board of Commissioners is imperfect, it is ordered by the court, the District Attorney being notified and consenting thereto, that the Original Transcript be returned to the office of the Secretary of the Commissioners by the clerk of this court, that the said Transcript may be amended, or that a perfect copy of the original documents may be submitted to this court.

In this case it having been ordered by the Court that the Transcript be returned by the clerk of this court to the Secretary of the Board of Commissioners for amendment, it is hereby stipulated and agreed that no rights of the United States or of the claimant are to be affected by said order.

Halleck Peachy & Bellinger  
Attys for appellees.

J. P. ...

one separation entirely omitted

No 108

The United States  
vs.

Hirs of J. Malarin

Stipulation & order to return  
Transcript for amendment,

Filed Oct 19<sup>th</sup> 1855  
J. S. fan

UNITED STATES OF AMERICA, }  
Southern District of California, } SS.

108 SD

The President of the United States,

TO PAGE 65

*Mariano Melam Esq of Juan Melam  
Drufa Estrada widow and Isabel, Mariana  
Concepcion, Ramona Urbano Maria Refugio  
Drufa, Cristina & Ignacio Melam children of  
the late Juan Melam decd.*

Greeting :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against *you & each of you* in the District Court of the United States, in and for the Southern District of California, on the 3<sup>o</sup> day of January, in the year of our Lord one thousand eight hundred and fifty-six, at the City and County of Los Angeles, in said District, by

*your next of kin for the  
Southern Dist of Cal<sup>a</sup>, praying the Court to  
review the decision of the US Land Commission  
confirming your claim to a tract of land  
called Sanjones*

and that *you & each of you* are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said Petition, or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal  
of said Court, at the City of Los Angeles, this 4<sup>th</sup>  
day of January A. D. 1856.

*J. E. Fay  
by Acting Deputy*

CLERK.

March 1st  
Copying Summons to  
Serving Sum & Petition C.  
\$ 6.00

No. 108.

UNITED STATES OF AMERICA,  
Southern District of California,  
U. S. District Court.

Marcus Malarin Exr  
appellee  
vs  
The United States appellee

SUMMONS.  
Received January 3<sup>d</sup> 1856

108 SD  
PAGE 66 Edward Hunter  
U. S. MARSHAL.  
Jr. Mc Goodman  
Deputy

I served this Summons, together with a certified copy of the Petition, upon *Frederic*  
*Billings* Atty for the within named  
Parties

at *Los Angeles* in the Southern District of California, on  
the *third* day of *January* A. D. 1856.

Sworn to and subscribed before me, *the 4<sup>th</sup>*  
*day of January* A. D. 1856.

*J. E. San*  
*by Morgan* Clerk

*Edward Hunter*  
U. S. MARSHAL.  
*Jr. Mc Goodman*  
Deputy

UNITED STATES OF AMERICA, } SS.  
Southern District of California,

108 SD  
PAGE 67  
TO

The President of the United States,

Manans Malam Ex<sup>o</sup> of Juan Malam. Inefa  
Echada widow, and Isabel. Manans Concepcion. Ramon  
Urbanos. Maria. Refugio Inefa Cristina and Ignacio  
Malam. Children of the late Juan Malam deceased

Greeting:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed  
against *you each of you* in the District Court of the United States, in and for the  
Southern District of California, on the *31* day of *January*,  
in the year of our Lord one thousand eight hundred and fifty-*six*, at the City and County of  
Los Angeles, in said District, by

*Pro vs vrat atty for*  
*the S Dist of Cal<sup>ca</sup> praying the Court to*  
*review the decision of the U.S. Land Com<sup>rs</sup>.*  
*Confirming your claim to a tract of*  
*land called Sanjones*

and that *you each of you* are required to appear at said Court, in said City, within ten days  
after the service hereof, if served on you within the County of Los Angeles, and within twenty days  
if served on you in the County of San Diego or San Bernardino, and within forty days if served  
on you in any other County of said State, exclusive of the day of service, and answer said Petition,  
or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal  
of said Court, at the City of Los Angeles, this *45*  
day of *January* A. D. 1856.

*J. Clay*

*by Oettinger*  
*deputy*

CLERK.

71. 108.

Marshals Cost

Copying Summons 60

Serving do 3-

Petition 3-

6. 60

UNITED STATES OF AMERICA,

Southern District of California,

U. S. DISTRICT COURT.

Mariano Malum Esq  
vs  
appellus

The United States vs

SUMMONS.

Received January 3<sup>d</sup> 1856

Edward Hunter  
U. S. MARSHAL.  
Dr. M. Goodman  
Deputy

108 SD  
PAGE 58

I served this Summons, together with a certified copy of the Petition, upon *Frederic Billings Atty for the within named parties*

at *Los Angeles* in the Southern District of California, on  
the *third* day of *January* A. D. 1856

Sworn to and subscribed before me, *this 4<sup>th</sup>*  
*day of January A.D. 1856*  
*C. E. Carr* CLERK.  
*by Wm. L. Ledy*

*Edward Hunter*  
U. S. MARSHAL.  
*Dr. M. Goodman*  
Deputy

UNITED STATES OF AMERICA, }  
Southern District of California, } SS.

108 SD

PAGE 69  
TO

The President of the United States,

Mariano Melam Ex<sup>o</sup> of Juan Melam  
Josefa Estrada widow, and Isabel, Mariano Caspicio  
Ramon. Urban. Maria. Rufino Josefa Cuchino  
and Synacio Melam children of the late Juan  
Melam deceased.

Greeting:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed  
against *you each of you* in the District Court of the United States, in and for the  
Southern District of California, on the 30 day of January,  
in the year of our Lord one thousand eight hundred and fifty-4, at the City and County of  
Los Angeles, in said District, by

*I do not want any part  
of the tract of Cal. praying the Court  
to review the decision of the U.S. Land Com<sup>rs</sup>  
confirming your claim to a tract of  
land called "Sargones"*

and that *you each of you* are required to appear at said Court, in said City, within ten days  
after the service hereof, if served on you within the County of Los Angeles, and within twenty days  
if served on you in the County of San Diego or San Bernardino, and within forty days if served  
on you in any other County of said State, exclusive of the day of service, and answer said Petition,  
or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal  
of said Court, at the City of Los Angeles, this 4  
day of January A. D. 185 4

*J. Evans*

CLERK.

*by A. Morgan Deputy*

March 1st

Copying Summons  
Serving Sum & Petition

60  
6.00

U. S.

UNITED STATES OF AMERICA,

Southern District of California,

U. S. District Court.

Mariano Malvar Esq

ad  
appellee

The United States appellee

SUMMONS.

Received January 3<sup>d</sup> 1856

108 SD  
PAGE 70

Edward Hunter

U. S. MARSHAL.

Dr. M. Goodman  
Deputy

I served this Summons, together with a certified copy of the Petition, upon *Frederic Billings* Atty for the within named parties

at *Los Angeles* in the Southern District of California, on  
the *third* day of *January* A. D. 1856.

Sworn to and subscribed before me, *this 14<sup>th</sup>*

*day of January A. D. 1856*

*J. E. Can* CLERK.

*W. M. Morgan* Deputy

*Edward Hunter*  
U. S. MARSHAL.

*Dr. M. Goodman*  
Deputy



UNITED STATES OF AMERICA, } SS.  
Southern District of California,

The President of the United States,

TO *Mariano Malamin Ex<sup>r</sup> of Juan Malamin and afterwards  
to wit Infa Estrada widow, and Isabel. Mariano. Concepcion.  
Ramona. Urbano. Maria. Refugio. Josefa. Cristina. and  
Ignacio Malamin. children of the late Juan Malamin  
deceased.*

108 SD

PAGE 71

Greeting :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against *you & each of you* in the District Court of the United States, in and for the Southern District of California, on the *3<sup>d</sup>* day of *January*, in the year of our Lord one thousand eight hundred and fifty-*six*, at the City and County of Los Angeles, in said District, by

*Ord. U.S. Dist. atty. for the  
South Dist. of California. praying the Court  
to review the decision of the U.S. Land  
Commissioners confirming your claim to  
a tract of land called San Jones.*

and that *you & each of you* are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said Petition, or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this *4<sup>th</sup>* day of *January* A. D. 1856.

*A. C. Law*

CLERK.

*by O. Morgan  
clerk*

Marchab Cost

Copying Summons 60  
Serving Sum of Petition 60  
\$ 6. 00

U. S.

UNITED STATES OF AMERICA,  
Southern District of California,  
U. S. DISTRICT COURT.

Mariano Malarm <sup>Ex</sup>  
*appellee*

vs

The United States *appellts*

SUMMONS.

Received January 3<sup>d</sup> 1856

108 SD  
PAGE 72

Edward Hunter

U. S. MARSHAL.

Dr. Med Goodman  
Deputy

I served this Summons, together with a certified copy of the Petition, upon *Frederic Billings Atty* for the within named parties

at *Los Angeles*  
the *third* day of *Januy*

in the Southern District of California, on  
A. D. 1856.

Sworn to and subscribed before me, *the 7<sup>th</sup>*  
day of *January* A. D. 1856.

*Belan* CLERK.

by *O. Morgan* Deputy

*Edward Hunter*  
U. S. MARSHAL.

*Dr. Med Goodman*  
Deputy

UNITED STATES OF AMERICA, } SS.  
Southern District of California,

108 SD

PAGE 73

The President of the United States,

TO

Marian Melam, Exr. of Juan Melam  
Juana Estrada widow, and Isabel Melam, Concepcion  
Ramons Urbans Refugio manna, Juana Cristina, &  
Ignacio Melam children of the late Juan Melam  
deceased

Greeting:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed  
against ~~you each of you~~ in the District Court of the United States, in and for the  
Southern District of California, on the 30 day of January,  
in the year of our Lord one thousand eight hundred and fifty-six, at the City and County of  
Los Angeles, in said District, by

For U.S. Dist. Ct. for the South.  
Dist. of California praying that Court to review  
the decision of the U.S. Land Commission concerning  
your claim to a tract of land called "Sanjones"

and that ~~you each of you~~ are required to appear at said Court, in said City, within ten days  
after the service hereof, if served on you within the County of Los Angeles, and within twenty days  
if served on you in the County of San Diego or San Bernardino, and within forty days if served  
on you in any other County of said State, exclusive of the day of service, and answer said Petition,  
or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal  
of said Court, at the City of Los Angeles, this 4<sup>th</sup>  
day of January A. D. 1856.

C. E. Law  
by O. Morgan Deputy

CLERK.

F. U. N. S.

Marshals Cost

Copying Summons  
Serving Sum & Petition  
6.  
6.  
6.  
\$ 6.60

UNITED STATES OF AMERICA,

Southern District of California,

U. S. DISTRICT COURT.

Marcus Malm <sup>Ex</sup>

appellee  
ad

The United States appellee.

SUMMONS.

Received January 3<sup>d</sup> 1856.

108 SD  
7A  
PAGE  
Edward Hunter  
U. S. MARSHAL.  
Dr. M. d. Goodman  
Deputy

I served this Summons, together with a certified copy of the Petition, upon

Billings Atty for the within named parties

Frederic

at the

Los Angeles  
third

day of January

in the Southern District of California, on

A. D. 1856.

Sworn to and subscribed before me,

the 4<sup>th</sup>  
day of January A. D. 1856.  
J. C. Can

CLERK.

Edward Hunter  
U. S. MARSHAL.

Dr. M. d. Goodman  
Deputy

by Morgan Deputy

UNITED STATES OF AMERICA, }

SS.

Southern District of California,

108 SD

PAGE 75

The President of the United States,

TO Mariano Malarin Exor of Juan Malarin,  
Josefa Estrada Widow, Yoabel, Mariana, Concepcion,  
Ramona, Urbano, Maria, Refugio Josefa,  
Cristina and Ygnacio Malarin children of  
the late Juan Malarin decd.

Greeting :-

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against ~~You and each of You~~ in the District Court of the United States, in and for the Southern District of California, on the *third* day of *January*, in the year of our Lord one thousand eight hundred and fifty-*six*, at the City and County of Los Angeles, in said District, by

*P. Ord U S Atty for the  
Southern Dist praying the court to  
review the decision of the U S Land  
Commissioners confirming your claim  
to the Land called*

*'Sanjones'*

and that ~~You and each of You~~ are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said Petition, or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this *third* day of *January* A. D. 185*6*.

*C. E. Law  
by A. Morgan  
deputy*

CLERK.

A. D. 1856

Marshals Cost

Copying Summons - 60  
Serving Sum & Petition 6

\$ 6.60

UNITED STATES OF AMERICA,  
Southern District of California,  
U. S. DISTRICT COURT.

Mariano Malarm Et  
appellee

The United States appellee

SUMMONS.

Received January 3<sup>d</sup> 1856

Edward Hunter

U. S. MARSHAL.

Mr. W. Goodman  
Deputy

108 SD

PAGE 76

I served this Summons, together with a certified copy of the Petition, upon *Frederic Billings* Atty for the within named parties

at *Los Angeles* in the Southern District of California, on  
the *third* day of *January* A. D. 1856.

Sworn to and subscribed before me, *thys 4<sup>th</sup>*

*Mayor of January 1856*  
*G. E. Fay* CLERK.  
*by Morgan DePy*

*Edward Hunter*  
U. S. MARSHAL.  
*Mr. W. Goodman*  
Deputy

UNITED STATES OF AMERICA, }  
Southern District of California, } SS.

108 SD

PAGE 77  
TO

The President of the United States,

Maniaco Malain Exr. of Juan Malain  
Inefa Estrada widow and Isabel, Maniaco  
Concepcion Ramona Urbano Refugio Maria  
Louisa Cristina & Ignacio Malain children  
of the late Juan Malain deceased.

Greeting :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against *Jacob of you* in the District Court of the United States, in and for the Southern District of California, on the *30* day of *January*, in the year of our Lord one thousand eight hundred and fifty-*04*, at the City and County of Los Angeles, in said District, by

*And U.S. Dist. Atty for the  
South Dist of Cal. praying the Court to review  
the decision of the U.S. Land Commission  
conforming your claim to a tract of land  
called Laupones*

and that *Jacob of you* are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said Petition, or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this *4<sup>th</sup>* day of *January* A. D. 185*6*.

*J. E. Farr*

CLERK.

*by Attorney*

Marshall's Cost

Copying Summons - 60  
Serving Same & Return 6.  
\$ 6.60

U. S.

UNITED STATES OF AMERICA,

Southern District of California,

U. S. District Court.

Marcus Malarin Esq  
vs  
appellee

The United States appellee

SUMMONS.

Received January 3<sup>d</sup> 1856

108 SD  
PAGE 78

Edward Hunter

U. S. MARSHAL.

J. M. Goodman  
Deputy

I served this Summons, together with a certified copy of the Petition, upon *Frederic Billings* Atty for the within named parties

at *Los Angeles* in the Southern District of California, on the *third* day of *January* A. D. 1856.

Sworn to and subscribed before me, *the 4<sup>th</sup>* day of *January* A. D. 1856  
*J. E. Carr* CLERK.  
*by Acton* Deputy

*Edward Hunter*  
U. S. MARSHAL.  
*J. M. Goodman*  
Deputy



The President of the United States,

Mariano Malarin Exor of Juan Malarin,  
Josefa Estrada Widow, Ysabel, Mariana Concepcion  
Ramona, Urbano, Maria, Refugio, Josefa, Cristina  
and Ygnacio Malarin, children of the late  
Juan Malarin decd.

Greeting :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed  
against *You and each of You* in the District Court of the United States, in and for the  
Southern District of California, on the *third* day of *January*,  
in the year of our Lord one thousand eight hundred and fifty-*six*, at the City and County of  
Los Angeles, in said District, by

*P. Oct U S Atty for*  
*the Southern Dist of Calif* praying  
the Court to review the decision of the  
U S Land Commissioners confirming  
your claim to the Land called  
"Sanjones"

and that *You and each of You* are required to appear at said Court, in said City, within ten days  
after the service hereof, if served on you within the County of Los Angeles, and within twenty days  
if served on you in the County of San Diego or San Bernardino, and within forty days if served  
on you in any other County of said State, exclusive of the day of service, and answer said Petition,  
or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal  
of said Court, at the City of Los Angeles, this *third*  
day of *January* A. D. 1856

*J. Egan*  
*by Acton & Co. Deput*

CLERK.

Marshals Cost

Copying Summons - 60  
Serony Sum & Petition 6  
J. B. Co

No. 108

UNITED STATES OF AMERICA,  
Southern District of California,  
U. S. District Court.

Mariano Malarm Ezer  
vs  
The United States appellee

The United States appellee

SUMMONS.  
Received January 3<sup>d</sup> 1856

108 SD  
PAGE 80  
Edward Hunter  
U. S. MARSHAL.  
Frank Goodman  
Deputy

I served this Summons, together with a certified copy of the Petition, upon *Frederic Billings* Atty for the within named parties

at *Los Angeles* in the Southern District of California, on  
the *third* day of *January* A. D. 1856.

Sworn to and subscribed before me, *Jan 4<sup>th</sup> 1856*  
*J. Egan* CLERK.  
by *Wm. J. DePuy*

*Edward Hunter*  
U. S. MARSHAL.  
*Frank Goodman*  
Deputy

The President of the United States,

TO *Mariano Malerin Exor of Juan Malerin  
Josefa Estrada Widow, Yoabel, Mariana  
Concepcion Ramona, Urbano, Maria Refugio,  
Josefa, Cristina and Ygnacio Malerin  
children of the late Juan Malerin decd.*

Greeting :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against *You and each of You* in the District Court of the United States, in and for the Southern District of California, on the *thirt* day of *January*, in the year of our Lord one thousand eight hundred and fifty-~~six~~, at the City and County of Los Angeles, in said District, by

*P. Ord U. S. Atty for  
the South Dist of California, praying  
the court to review the decision of  
the decision of the U S Land Commissioners  
confirming your claim to the Land  
called  
"Sanjones"*

and that *You and each of you* are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said Petition, or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this *thirt* day of *January* A. D. 1856.

*J. E. Law*

CLERK.

*by A. Morgan  
Deputy*

Marshals Cost

Copying Summons - 60  
Serving Sum & Petition 60  
\$ 6. 60

Jan 1856

UNITED STATES OF AMERICA,  
Southern District of California,  
U. S. District Court.

Mariano Malarm Ed  
vs  
appeller  
The United States appellee

SUMMONS.  
Received January 3<sup>a</sup> 1856

Edward Hunter  
U. S. MARSHAL.  
Fr. M. L. Goodman  
Deputy

108 SD  
PAGE 82

I served this Summons, together with a certified copy of the Petition, upon *Frederic Billings* Attorney for the within named parties

at *Los Angeles* in the Southern District of California, on  
the *third* day of *January* A. D. 1856

Sworn to and subscribed before me, *the 4<sup>th</sup>*  
*day of January 1856*  
*R. E. Gray* CLERK.  
*by O. M. Gray Deputy*

*Edward Hunter*  
U. S. MARSHAL.  
*Fr. M. L. Goodman*  
Deputy

UNITED STATES OF AMERICA, } SS.  
Southern District of California,

108 SD

PAGE 83

The President of the United States,

TO Mariano Malarin Executor of Juan Malarin  
Josefa Estrada Widow Yabel, Mariana, Concepcion  
Ramona, Urbano, Maria, Refugio, Josefa, Cristina  
and Ignacio Malarin, children of the late Juan  
Malarin deceased

Greeting:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you and each of you in the District Court of the United States, in and for the Southern District of California, on the 3<sup>d</sup> day of January, in the year of our Lord one thousand eight hundred and fifty-six, at the City and County of Los Angeles, in said District, by

P. Oro U. S. Atty for the  
Southern Dist of Calif<sup>a</sup> praying the court  
to review the decision of the U. S. Land  
Commissioners confirming your claim  
to the Land called

"Sanjones"

and that you and each of you are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said Petition, or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this 3<sup>rd</sup> day of January A. D. 1856.

C. E. Law  
by O. Morgan  
Deputy

CLERK.

Marchab Cost

Copying Summons - 60  
Serving Sum & Petition 6. --  
\$ 6. 60

U. S.

UNITED STATES OF AMERICA,  
Southern District of California,  
U. S. DISTRICT COURT.

Mariano Malara Est  
vs  
Appellee

The United States appellee

SUMMONS.

Received January 3<sup>d</sup> 1856

108 SD  
PAGE 84

Edward Hunter

U. S. MARSHAL,

for M. d Goodman  
Deputy

I served this Summons, together with a certified copy of the Petition, upon *Frederic Billings Atty* for the within named parties

at *Los Angeles* in the Southern District of California, on  
the *third* day of *January* A. D. 1856.

Sworn to and subscribed before me, *the 23<sup>rd</sup>*  
*day of January 1856.*  
*J. E. Far*  
CLERK.  
*Thomas D. Far*

*Edward Hunter*  
U. S. MARSHAL.  
*for M. d Goodman*  
Deputy

in the United States District Court for the  
Southern District of California

108 SD  
PAGE 85

The United States, appellants }  
vs. } Answer of appellees  
The Heirs of Juan Malarin, appellees

Mariano Malarin, Executor of last will of Juan Malarin,  
deceased, Josefa Estrada de Malarin, widow, and Gabriel  
Malarin, Mariano Malarin, Concepcion Malarin,  
Ramona Malarin, Urbano Malarin, Maria  
Malarin, Refugio Malarin, Josefa Malarin,  
Cristina Malarin, and Ygnacio Malarin, children  
and heirs of Juan Malarin deceased, the appellees,  
appear by their Attorneys and for answer to the  
petition of the United States filed herein, say:

That their title to the land called "Lanzones"  
as set forth and described in their amended  
petition to the Board of Commissioners, and  
in the documentary and other evidence filed  
in this case is a good and valid title. The  
land claimed is situated in the Southern  
District of California.

Wherefore they pray this Honorable Court  
to affirm the decision of the Board of Commissioners  
and to decree their title to be valid.

Halleck Peachy & Bittling  
Attys for appellees.

Marshals Court

Serving Warrant B.C.

No 108

The United States, Appellants

vs.

The Heirs of Juan Matamor, Appellees

Answer of Appellees

Filed Jan'y 3<sup>rd</sup> 1856

J. S. Jarr  
clerk

108 SD

PAGE 86

William Leachy & Rollings  
Attys for Appellees

I served this answer on Ford W. Alley by  
delivering to him personally a true copy of the same  
at Los Angeles this 21<sup>st</sup> day of January 1856.

Edward Hunter  
U. S. Marshal  
for the District of California  
Deputy





Mariano Malarin & c. appellants

vs.

The United States, appellants.

Docket No. 108.

Transcript No. 157.

**TO THE HON. ISAAC S. K. OGIER, JUDGE :**

The Petition of Pacificus Ord, a resident of said City, County, and State, Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court, in the name and behalf of the United States, represents as follows: That heretofore, to wit: on or about the second

day of April A. D. 1852, Mariano Malarin, Executor of Juan Malarin, and afterwards to wit on or about the eleventh day of April A. D. 1853, Mariano Malarin, Executor of Juan Malarin, and tutor of the minor children of Juan Malarin, Josefa Estrada, Widow, and Isabel, Marians Concepcion, Ramona, Urbano, Maria, Refugio, Josefa, and Cristina, and Ignacio Malarin, children of the late Juan Malarin, deceased, presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, when sitting as a Board, claiming a tract of land called Sargines,

----- in the County of Monterey -- State of California, which said petition <sup>is</sup> referred to for a description of the land claimed, ~~is~~ copies of which appears in the transcript hereafter referred to. That thereafter, to wit: on or about the 21<sup>st</sup> day of February A. D. 1854, the said Commissioners confirmed, by final decision, the said claim of said petitioners. That thereafter, to wit: on or about the eighth day of November A. D. 1854, a duly certified transcript of the proceedings and decision of the said Commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the Office of the Clerk of the District Court of the United States for the Southern District of California, and marked No. 157; reference to which it is prayed may be had and made part of this petition.

That on or about the 28<sup>th</sup> day of September A. D. 1854, the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said Commissioners in said cause, and the papers and

evidence on which said decision was founded. That thereafter, to wit:  
on <sup>or about</sup> the 27<sup>th</sup> day of February A. D. 1855, the said  
Attorney-General of the United States filed, or caused to be filed, in  
behalf of the United States, a notice with the Clerk of said District  
Court of the United States, that the appeal in said cause from the said  
decision of the said Commissioners, in the District Court of the United  
States for the Southern District of California, would be prosecuted by the  
United States. Your petitioner further represents, that the land claimed,  
as aforesaid, is situate in the Southern District of California, and within  
the jurisdiction of this Honorable Court. Your petitioner further represents  
and insists, that the said claim is invalid; and the said decision of said  
Commissioners is erroneous, and ought to be reviewed, reversed and set aside, for  
many errors and imperfections of law and evidence, apparent in said certified  
transcript of the proceedings and decisions of said Commissioners in said  
cause, filed and appealed from as aforesaid. And your petitioner denies all  
and singular, each and every allegation in the said petitions of said claimants  
presented as aforesaid to said Commissioners. And your petitioner further  
denies that the said claimants ~~has~~ <sup>have</sup> any valid right or title to said land claimed  
as aforesaid, or any part thereof.

108 SD  
PAGE 87A

And no sufficient proof having been made of the allegations in said pe-  
titions to said Commissioners, or in support of the said claim, no decision con-  
firming the same should have been made by said Commissioners; but the

said claim should have been rejected by them. And the said claimants having no valid right or title derived from the Spanish or Mexican Governments, to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to the United States, by virtue of conquest, and the Treaty of peace, friendship, limits and settlement, between the United States and the Republic of Mexico, made at the City of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the Act of Congress, entitled "An Act to ascertain and settle the Private Land Claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimants, or ~~his~~ <sup>their attorneys</sup> ~~attorneys~~ may be served with a <sup>copy</sup> ~~copy~~ of this petition; and that this Honorable Court will review the said decision of said Commissioners, and reverse the same; and decide on the validity of the <sup>said claim</sup> ~~same~~; and decree the alleged title to be invalid: with costs and general relief.

*J. Ord*

Attorney of the United States for  
the Southern District of California.

No 108.

U. S. Dist Court  
South Dist of Cal.

Mariano Maloin Exp<sup>t</sup>  
appellee

<sup>vs</sup>  
The United States  
appellants.

Petition for Review.

Paid Jan 3<sup>rd</sup> 1856

C. S. Park  
clk.

152  
11  
6 20  
152  
11

108 SD

PAGE 88

Pro us atty

UNITED STATES OF AMERICA, } SS.  
Southern District of California,

108 SD

PAGE 89

The President of the United States,

TO Mariano Malarin Exor of Juan Malarin,  
Josefa Estrada Widow, Gabriel, Mariana, Concepcion  
Ramona, Urbano, Maria, Refugio, Josefa,  
Cristina and Ignacio Malarin children  
of the late Juan Malarin decd.

Greeting :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed  
against *You and each of you* in the District Court of the United States, in and for the  
Southern District of California, on the *third* day of *January*,  
in the year of our Lord one thousand eight hundred and fifty-*six*, at the City and County of  
Los Angeles, in said District, by

*P. Oro U. S. Atty for the  
Southern Dist of Calif<sup>a</sup> praying the  
court to review the decision of the U. S. Land  
Commissioners confirming your claim  
to the Land called*

*Sanjones;*

and that *you* are required to appear at said Court, in said City, within ten days  
after the service hereof, if served on you within the County of Los Angeles, and within twenty days  
if served on you in the County of San Diego or San Bernardino, and within forty days if served  
on you in any other County of said State, exclusive of the day of service, and answer said Petition,  
or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal  
of said Court, at the City of Los Angeles, this *third*  
day of *January* A. D. 1856.

*C. Egan*

CLERK.

*by DeMorgan Deputy*

Marshals Court

Copying Summons - 60  
Serving Sum & Return 60

\$ 6.60

No. 108.

UNITED STATES OF AMERICA,

Southern District of California,

U. S. District Court.

Mariano Malerin Esq  
vs  
appellee

The United States appellee

SUMMONS.

Received January 3<sup>d</sup> 1856

Edward Hunter  
U. S. MARSHAL.

for M L Goodman  
Deputy

108 SD  
PAGE 90

I served this Summons, together with a certified copy of the Petition, upon

Billings Atty for the within named parties

at Los Angeles  
the third

day of January

in the Southern District of California, on  
A. D. 1856.

Sworn to and subscribed before me, this 4<sup>th</sup>

day of January 1856,

C. E. Fay  
by M. L. Goodman  
Deputy  
CLERK.

Edward Hunter  
U. S. MARSHAL.

for M L Goodman  
Deputy

UNITED STATES OF AMERICA, }  
Southern District of California, } SS.

The President of the United States,

TO *Mariano Malarin Exor of Juan Malarin, Josefa Estada  
Widow, Isabel, Mariana, Concepcion, Ramona, Urbana, Maria, Refugio  
Josefa, Cristina and Ygnacio Malarin, children of the late  
Juan Malarin decd,*

108 SD  
PAGE 91

Greeting :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against *You and each of You* in the District Court of the United States, in and for the Southern District of California, on the 3<sup>d</sup> day of *January*, in the year of our Lord one thousand eight hundred and fifty-*six*, at the City and County of Los Angeles, in said District, by

*P. Oro U.S. Atty for the  
Southern District of California praying  
the Court to review the decision of the  
U S Land Commissioners confirming  
your claim to the Land called  
"Sanjones"*

and that *You and each of You* are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles; and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said Petition, or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this 3<sup>d</sup> day of *Janey* A. D. 1856

*S. E. San*  
*by Bellman Deputy*

CLERK.

*Market Cost*

*Copying Summons do  
Serving Summons & Petition 6. —*

*\$ 6.00*

*No. 108*

UNITED STATES OF AMERICA,

Southern District of California,

U. S. DISTRICT COURT.

*Mariano Malara Est  
appellee*

*The United States appellee*

SUMMONS.

Received January 9<sup>th</sup> 1856,

*Edward Hunter*  
U. S. MARSHAL.  
*Dr. McGoodman*  
Deputy

108 SD  
PAGE 02

I served this Summons, together with a certified copy of the Petition, upon

*Frederic Billings Atty for the parties*

*Frederic*

at the

*Los Angeles*

*third*

day of *January*

in the Southern District of California, on

A. D. 1856.

Sworn to and subscribed before me, *this 4<sup>th</sup>*

*day of January A.D. 1856*

*C. Egan*

CLERK.

*by Morgan Deputy*

*Edward Hunter*

U. S. MARSHAL.

*Dr. McGoodman*  
Deputy



1839

Espediente moved by citizen Gabriel de la Torre asking for the land known by the name of Sanjones.

169.

108 SD

PAGE 93

Senor Prefect of the 1<sup>st</sup> District

citizen Gabriel de la Torre, resident of the Municipality of Monterey, before your Excellency in due form represents:

That in the year 1834 there was granted to me by the Political Government the ownership of the land known by the name of Sar Chiquito in colonization and in the same year I made a contract or exchange with Father Frisard J. M<sup>a</sup> Real charged at that time with the administration of San Carlos, of granting said land in favor of the establishment for that of Sanjones, said contract or exchange being made with the sanction or approval of the Government as is proved by the annexed certificates: since that time I have established myself in the place where I have my house a small number of large and small cattle and horses and sowings, all for the support of my large family: wherefore I hope there may be granted to me the ownership of the said land conformably to the law of colonization, for which purpose I send herewith the map which corresponds, bounding myself <sup>on one side</sup> by the lands of Esteban Joaquin Estrada and on the other by Teodoro Gonzalez.

Wherefore I pray Your Honor to be  
pleased to give to this my petition the  
proper proceedings by which I shall receive  
favor, I make the necessary oath &c

Monterey August 16<sup>th</sup> 1839.

Gabriel de la Torre

San Juan de Castro August 16<sup>th</sup> 1839.

The Justice of the Peace of Monterey will  
report on the contents of this proceeding &  
return the expediente to this Prefecture

Jose Castro

Senior Prefect of the 1<sup>st</sup> District

In compliance with the foregoing superior  
marginal decree I report: that the land  
asked for in this proceeding may be granted  
to the party interested, limiting it to the  
boundaries of the Senores Estancias and  
don Teodoro Gowales; which I submit  
to the deliberation of your Honor.

Monterey August 19<sup>th</sup> 1839.

David Spence

Monterey August 20<sup>th</sup> 1839.

Let this be sent up to the Most Excellent  
Senior Governor of the Department, to  
whom as a report I express: that know-  
ing the contents of this proceeding and  
the documents in its support, the Prefecture  
is of opinion that the Government can  
grant to the party interested the ownership  
of the land which is asked for and which  
he has for some time occupied with his property.

Jose Castro

J. Friar José Maria del Refugio Suarez del Real, Certify, so far as I can and ought and in law are permitted; that on the 14<sup>th</sup> of May 1836 the senior Comandante General and Political Chief, Don Mariano Chico sent me an official communication in which he asked me to take temporary charge of the interests and stock of the Ex-Mission of San Carlos of Monterey, in which note there was given me orders to Citizen Gabriel de la Torre to leave the place of San Chiquito which the Government had granted to him, as it thus seemed convenient, indemnifying him with the place of Sanjones which the said Mission at that time possessed: in compliance with said order I took away the cattle of the Mission, and at the request of the party interested there was marked out what the Mission occupied, which was, from the point of the <sup>point but made by me</sup> small <sup>which</sup> lies ~~at~~ on this side of the Rincon where there is a black oak on the bank of the River before reaching the Sheep Rancho which the Mission of Salcedo had in the Rincon, a straight line to the Alivos (which are on that side of the Chupaderos); the house of the Rancho of Don Joaquin Estrada serving as a boundary on the other side; adding also that in the communications which I had with said senior Don Mariano Chico, I was assured of the good intentions of the said senior Chico to favor Citizen Gabriel de la Torre, indemnifying

him by a donation of this place for the damages  
caused by reasoning from that which he  
formerly enjoyed. And as it is my  
intention, in good faith, to say all there is  
on the particular, I certify also that his  
title and possession was to be given  
gratis.

Monterey July 18 1836.

Prin. J. M<sup>a</sup> del R. S. del Real.

Monterey August 20<sup>th</sup> 1839.

Having seen the petition with which  
this expediente begins, the Report of the  
Justice of the Peace of this place, that of  
the Prefect of the 1<sup>st</sup> District, and all  
else presented and proper to be seen in  
conformity with the laws and regulations  
on the matter I declare citizen Gabriel  
de la Torre owner in property of the  
place called Sanjones bounded by the  
senores Estradas and senior Teodoro  
Gonzales, the River of Monterey and  
the Chapadero which is at the north,  
subject to the conditions which are set forth  
in the title. Senior Don Manuel Jimeno  
Casarin, first Proprietary Vocal of the  
most Excellent Junta of the Department of  
the California acting Governor of  
the same, thus decreed and signed, of  
which I certify.

Manuel Jimeno

Francisco C. Arce  
First Clerk.

Monterey May 19<sup>th</sup> 1840.

submitted to the Most Excellent Departmental Junta in session of this day and ordered to be passed to the Committee on Agriculture.

Jose L. Fernandez  
Secretary.

108 SD

PAGE 97

On the 22<sup>th</sup> of the same the Committee returned it with the accompanying report.  
Fernandez.

Most Excellent Senior

The Committee on Agriculture and Commerce charged by your Excellent body to report on the Expedientes which at the preceding session His Excellency the Governor charged with the Government, and finding them conformable to the proceedings and reports, and what else was to be seen, offers to your Excellent body the following propositions articles:

- art 1<sup>st</sup> Approved the grant made by the Departmental Government on the 20<sup>th</sup> of August 1839 to Citizen Gabriel de la Torre of the land known by the name of San Jones.
- 2<sup>d</sup> That the Expediente be returned to the Most Excellent Senior Governor for the convenient ends.

Monterey May 21<sup>st</sup> 1840.

S. Aguero.  
Jose Rafael Gonzalez.

Monterey May 22<sup>d</sup> 1840.

In vision of this day the Most Excellent Departmental Junta approved the two articles with which the preceding report concludes.

Manuel Jimeno  
President.

Jose L. Fernandez.  
Secretary.

Monterey June 13<sup>th</sup> 1840.

In view of the approval granted on the 22<sup>d</sup> of May of this year by the Most Excellent Departmental Junta, let there be issued testimony of it to the party Don Gabriel de la Torre in confirmation of the land of San Jones which he obtained on the 20<sup>th</sup> of August of last year.

Senior Don Juan B. Alvarado, Governor of the Department of the Californias thus ordered and signed.

Alvarado

No 108

The United States, appellants  
vs.  
Heirs of J. Malanin, appellees

Translation of Exhibits

Filed July 4<sup>th</sup> 1856.

J. S. Carr.  
Clerk.

108 SD  
PAGE 99

Wallace Peachey & Billings  
Attys for appellants.

108 SD  
PAGE 100

1839

Expediente promovido por el Ciudadano  
Gabriel de la Torre en pretension del  
terreno conocido con el nombre de  
Sarrjones.

169

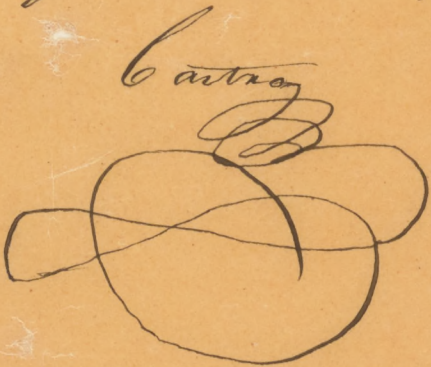
7



2  
Sr. Pto del 1º Distrito.

In Juan de  
Castro Agosto 16  
839.

El Ciudadano Gabriel de la Torre  
vecino de la municipalidad de Montevideo  
y Informe el ante V. S. como muy halla lugar en Dho  
por fuer de prae capone q. El año de 1834 se le concedio  
de Montevideo por el Gobierno Político la propiedad de  
sobre lo conteni- ~~terreno~~ <sup>terreno</sup> conuido con el nombre de Sur-  
do en esta ins- Chiquito en colonización y en el mismo a-  
tancia, y qual- ~~no~~ <sup>no</sup> tubo un contrato o cambio con el  
no por su con- P. J. J. M.º Real, encargada en aque-  
ducto el expedim- Ua Jha de la administración de S. Car-  
te a esta Pre- by sediendo por mi parte Dho. terreno a fa-  
fictural. bor del establecim<sup>to</sup>, por el de Sanjones Dho.

Castro  


Cambio o contrato, se hizo con anuncio  
o parecer del Gobierno como lo acredita  
el certificado adjunto, desde aquella Jha  
me estableci en él, en donde tengo una ca-  
sa un corto numero de Ganado Mayor ma-  
yor y Caballas, y labores, con todo lo q.  
proporciona la subsistencia de mi ca-  
sida familia, por todo lo Dho. espues sen e  
conceda la propiedad del terreno indi-  
cado conforme ala ley de colonización  
p.º lo q. acompaña el diseño que corres-  
ponde, colindando por una parte con el  
terreno del Ciudadano Joaq. Estrada y  
por la otra con Feodor Gonzales. por  
tanto.

A. T. S. Pido se sirba dar el fin que con el

Señale a esta mi solicitud, de loq. dese  
 bre gracia, por lo necesario &c.

Monterrey Ag.<sup>to</sup> 16 de 1839.

Gabriel de la Josa

Don Prefecto del 1.<sup>er</sup> Distrito.

En cumplimiento del superior decreto  
 marginal que antecede espongo, que el  
 terreno que se pretende en esta ins-  
 tancia se le puede conceder al intere-  
 sado, sugeriendole a los linderos de los  
 D<sup>os</sup> Estradas y Don Teodoro Gonzalez lo  
 que ponga a la deliberacion de V. S.<sup>a</sup>

Monterrey Agosto 19 de 1839

*[Signature]*

Monterrey Agosto 20 de 1839

Elevase al Excmo. Sr. Gobernador  
 del Departamento ante quien por via de  
 informe espongo: que impuesta del contini-  
 do en esta instancia y documentos que

25. no 1.

4

J. Jose M.<sup>a</sup> al Refugio Suares del Real

108 SD  
PAGE 103


Certifico, en cuanto puedo y debo,  
y el Derecho, me permite que con  
Jha. M. de Mayo de 1836. me pavo  
en Oficio, el Sr. Comand. Ac. Gral  
y Jefe Politico, D. Maxiano Chi  
co, en q.<sup>e</sup> me Suplica me encargue  
de Interimar de los Intereses y Bienes  
de Campo de la Emision de Carlos  
de Monterrey, en cuya nota me dise  
mande a C. B. Gabriel de la Torre  
de ocupe el sitio del Sur Chiquito  
q.<sup>e</sup> le tenia conedido el Gobierno, por  
parecer asi Combeniente. Mintegran  
dorele, con el sitio de Sanjones, que  
poseia en esa Jha. la citada Mi-  
sion: en cumplimiento de otra  
Orden, saque el Ganado de la  
Mision, y apedimento del Inter-  
sado, de Senale, lo q.<sup>e</sup> la Mision  
ocupaba, que hera, desde la punta  
del monte pequena, q.<sup>e</sup> queda deite  
lado del Rincon, a donde se alla

Un Ensim Prieto en la Orilla del Rio  
 Poco antes de llegar al Rancho de Borre-  
 gas, q.<sup>e</sup> tenia la Atision y la Solidad  
 en el Rincon, y via Recta a los Alios  
 q.<sup>e</sup> estan, y aquel lado y los Chupade-  
 ros, sirviendo de Lindero p.<sup>o</sup> la Otra par-  
 te la Casa del Rancho de D. Joa.<sup>n</sup> Esta-  
 da; Anad endo tambien, q.<sup>e</sup> por las co-  
 municaciones, habidas con dho. Ser-  
 D. Mariano Chico, me consta la bue-  
 na disposicion del Expresado Ser. Chico  
 p.<sup>o</sup> favorecen, al C. Gabriel y la Torre  
 yndemnisandolo, con la donacion en  
 este sitio por el persuisio q.<sup>e</sup> se le exi-  
 ginaba, quitandole, el que antes pose-  
 ia. Y como es mi Yntencion, Usar  
 de la Buena f.<sup>e</sup> q.<sup>e</sup> me asine, decir to-  
 do lo que hay en el particular. Certifi-  
 co tambien, q.<sup>e</sup> su titulo, y posesion  
 habia de Ser de Gracia.

Monte Plata, Julio de 1836.

J. F. del H. S. del H. S.

obra en su apoyo, la Prefectura es del  
sentir que el Gobierno pueda concederle  
al interesado la propiedad del terreno que  
pretende y que tiene ya hace tiempo  
ocupado con sus bienes.

José Castro  


Montreig 20<sup>o</sup> de Agosto de 1839

A vista la petición con que dá  
principio este expediente, el in-  
forme del Juec de Paz de este lu-  
gar, el de el Sr. Prefecto del 1<sup>o</sup>  
Distrito y todo lo demás que se  
tuvo presente y ver con sus de conformi-  
dad con las leyes y reglamentos de  
la materia declaro al C. Gabriel  
de la Torre dueño en propiedad del  
paraje nombrado Sanjones, es  
lindante con los Señores Estradas  
Sr. Teodoro Garralón y el Pío de  
Montreig y el Chupadero que  
esta asía el Norte, sujetandose  
á las condiciones que se entienden  
en el título, El Sr. D. Ma-  
nuel Jimeno Casarin primer vo-

108 SD  
PAGE 106

7  
8  
cal propietario de la Erma Jera  
ta del Departam. de las Californias  
en ejercicio del gobierno del mismo  
Lo decreto y firmo de que doy fe.

Manuel Jimeno

Francisco C. Arce  
Oficial 1.<sup>o</sup>  
# #

Monterrey 19 de Mayo de 1840.

Dada cuenta a la Erma Junta Departamen  
tal en cuion de este dia acordose para el la comision  
de agricultura.

Jose L. Hernandez  
Seco.

Veinte y los deb mismo lo devabbio la comicion con el  
 dictamen que se acompaña. *Fernando*

Monterrey trece de junio de mil ochocientos cuarenta

En vista de la aprovacion otorgada en veinte y dos  
 de Mayo del presente año por la Honra Junta Depar-  
 tamental, librase testimonios de ella a la parte de Don  
 Gabriel de la Torre en confirmacion del terreno de  
 Sanjones que obtubo en veinte de Agosto del año p<sup>er</sup>o =

El Sr. Don Juan B. Alvarado Gobernador del  
 Departamento de las Californias asi lo proveyo y firmo

Alvarado

Exmo. Sr.

La Comision de agricultura y Comercio uni-  
das encargada p. S. E. de dictaminar  
los Expedientes q. en la seccion anterior  
acompañó el Exmo. Sr. Gobernador  
y condesioz. el mismo Gobierno, y  
encontrandolos conformes segun lo  
actuado e informes y demas q. ser  
se ha podido, propone ala delibera-  
cion de S. E. los articulos siguientes  
art. 1.º Sea prueba la consecion hecha p. el Gobno.  
Departamental con fecha 20 de Agosto de  
1839. en la persona de el ciudadano Ger-  
triel a la torre del terreno conocido  
con el nombre de Sanjones.  
2.º Que devuelva al Exmo. Sr. Gobernador  
el expediente p. los fines Combe-  
nientes

Monterrey Mayo 21.º de 1840

Fern. Profad  
Gonzalez  
G


S. Arriello  
Mon



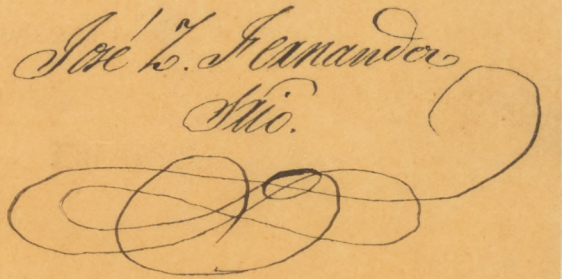
May 22 de Mayo de 1840.

En Sesion de este dia aprobó la E. Junta Departamental los dos articulos con que concluye el dictamen anterior.

Juan Jimeno  
Preside




Jac. L. Fernandez  
Seco.



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

I, JOHN C. HAYS, Surveyor General of the United States for the State of California, and as such, having in my office and in my charge and custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, by virtue of the power vested in me by law, Do hereby Certify, that the Elom preceding, and herewith annexed page of tracing paper numbered from one to Elom inclusive, exhibit a true and accurate copy of a document entitled "(1839) Expediente promovido por el Ciudadano Gabriel de la Torre en pretension del terreno conocido el nombre de Arroyos, 169," now on file and forming part of the said archives in this office.

In Testimony Whereof, I have herewith signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this nineteenth day of October — 1855

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

Extract from the 2nd Section of the Act of Congress "providing for the Survey of Public Lands in California, and for other purposes," Approved, March 3d, 1855.

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

151 Bd.  
No 108 SD

The United States, Appellants  
vs.

Heirs of Juan Malvar, Appellees

Expediente

anyone

Filed Jan 4<sup>th</sup> 1856.

J. E. Lang  
clerk

Wm. B. Beasley & P. B. B. B.  
Attys for Appellants

The U.S. Appellants vs Heirs of J. Malvarin.

108 SD

PAGE 111

The Transcript in this case contains:

- I Petition to Commissioners by M. Malvarin as Ex<sup>r</sup> p 4
- II Amended Petition in name of Heirs p p 5 & 6.
- III Motion & order allowing Amended petition p 47.
- IV Deposition of S. Spence proving grant, approval, judicial possession, deed of transfer, & occupation p 3 1/2
- V 2<sup>d</sup> Deposition of S. Spence proving Malvarin's will, names of heirs, and what constituted "Grandalupa Rancho", as named in will. p 7
- VI 2<sup>d</sup> Deposition of S. Spence, repeated p 8.
- VII Grant, Certificate of approval, deed of transfer, and judicial possession. p p 9 to 22.
- VIII. Translations of above papers p p 24 to 33
- IX. Malvarin's will p p 34 to 37.
- X. Translation of Malvarin's will p p 39 to 42.
- XI. Above repeated p p 43 to 46.
- XII. Opinion of Commissioners p p 48 & 49.
- XIII. Decree of Confirmation p 50.

## Proceedings in U.S. Dist Court.

- 1<sup>st</sup> Transcript from Commission filed Nov 8<sup>th</sup> 1854
- 2<sup>d</sup> Notice of appeal " Feb 27<sup>th</sup> 1855
- 3<sup>d</sup> Petition on appeal "
- 4<sup>th</sup> Answer "
- 5<sup>th</sup> Expediente "
- 6<sup>th</sup> Translation of Expediente "

The Expediente in this case contains:

Petition of Torre, dated August 16<sup>th</sup> 1839; a Map of the land asked for; Reports of local authorities; Decree of grant by Gov. Jimeno dated August 20<sup>th</sup> 1839; Approval of Departmental

grants dated May 22<sup>d</sup> 1840; and Governor Alvarado's decree of Final Title or Testimonio of approval, dated June 13<sup>th</sup> 1840.

Note. It will be noticed that this land of Tanjones was granted to Torre before the grant of Amalar was made to Malvarin, and consequently this tract is described as bounded on one side by "the señores Estrados," they being then the owners of Amalar, not having transferred or surrendered their right in this land to Malvarin till Sept of that year. This expediente and the documentary evidence in this case will therefore be better understood if taken in connection with claim No 110 for Amalar.

This is a complete & perfect title in respect; and the deed of transfer from Torre to Malvarin is a judicial act, the original expediente or record of which act was made evidence before the commission. The testimony of Spence shows that this tract is a part of the "Guadalupe Rancho" mentioned in Malvarin's will.

This claim and Nos 109 & 110, form one and the same Rancho, and they should properly be considered and decided together.

No 108

The United States, appellants  
vs.  
Heirs of J. Malain, appellees

Index of case

Langes

Filed Aug 4. 1856.

J. E. Carr.  
clerk.

108 SD

PAGE 113

Hallen M. Beatty & Billings  
Attys for appellees.

United States District Court  
Southern District California

Mariano Malarin.  
Executor of the estate of Juan Malarin dec'd  
Appellee

December Term 1855

ad  
The United States  
Appellants



No 108  
Transcript from Land  
Commissions No 151

This Cause coming on to be heard on an appeal from the decision of the Commissioners to ascertain & settle private Land Claims in the State of California under an Act of Congress Approved March 3<sup>d</sup> 1851. upon the transcript of the proceedings <sup>and decision</sup> and the papers and evidence on which said decision was founded. And it appearing that said Transcript has been duly filed according to Law. And Counsel for the respective Parties having been heard. It is ordered adjudged & decreed that the decision of the Commissioners be affirmed. and that the claim of the said Appellee is good and valid. and the same is hereby confirmed to the said Mariano Malarin. Executor as aforesaid to the extent of one and a half square Leagues and no more. within the boundaries described in the Grant, and map to which it refers, and more fully described in the act of judicial possession. provided that if the quantity within said boundaries be less than the said quantity of one and a half square Leagues then Confirmation is hereby made of such less quantity.

Charles McKee  
U.S. Dist. Judge

No. 108.

U. S. Dist. Court  
South Dist of California

Manano Malamin Ex<sup>or</sup>  
appellu

vs

The United States  
appellants

Recd

108 SD

PAGE 115

Filed March 7<sup>th</sup> 1856

C. E. Can  
clerk

by Morgan  
Recorda July 20<sup>th</sup> 1856  
on pg 90,



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

108 SD  
PAGE 16

The United States } D.C. No 108  
Appellants }  
vs } "Sanjones"  
Mariano Malerin & }  
Appellee } S.C. No 151.

Now comes the said Appellee by his  
Attorney Isaac Hartman and suggests to  
the Court that the survey of the premises  
claimed by the Appellee in this case  
heretofore made by the Surveyor General  
of the United States for the State of Cali-  
fornia, is not made in conformity with  
the final decree in the case, and that  
said Appellee will be injured thereby;  
and the said Appellee now moves the  
Court for an order upon the said Sur-  
veyor General directing him to return into  
Court forthwith the approved plat of  
the survey aforesaid for the further ac-  
tion of this Court.

Isaac Hartman  
Atty for Appellee.

No 108.

Mariano Malerin &

vs

The United States

~~~~~

"Suzon"

~~~~~

Motion for the  
return of money

~~~~~

Filed Feb 4. 1862

John Whelan

108 SD Clk

PAGE 117

Reston

for Applicant.

The United States

Appellants

vs

Mariana Malanin & Co.

Appellee

No 108

"Sanjous"

108 SD

PAGE 118

It being suggested to the Court that the survey of the land claimed in this case made under final decree and approved by the United States Surveyor General for California does not conform to said decree and is erroneous and that said survey will be to the injury of the party applicant; an application of Isaac Hartman Attorney of the Appellee, it is ordered that the said Surveyor General return to this Court the plan of said approved survey and that the Appellee be it is further ordered that a certified copy of this order be served upon the Surveyor General for his information.

Walter M. Doughty  
U.S. District Judge, South District of California

No 108

Mariano Melanin Esq

At

The United States

San Jones

Order for return of

Summers

Filed Feb 4, 1862

John P. Whelan  
Clerk

108 SD

PAGE 119

U. S. Dist Court.  
Southern Dist California

108 SD  
PAGE 120

The United States } No 108  
-vs- } "Sanjones"  
M. Malarin Est. }

To the Hon. F. M. Staight U. S. Dist  
Judge.

In compliance with an order from  
your honorable court dated 4<sup>th</sup> July 1862  
I herewith file a certified copy of plat  
of the Rancho "Sanjones" confirmed to  
M. Malarin Est.

I would state for the  
information of the Court that in com-  
pliance with the act of Congress of  
June 14<sup>th</sup> 1860, the approval of the plat  
was advertised and retained in office  
for four weeks and no objections made  
thereto as will fully appear by reference  
to annexed certificate —

The law  
having been fully complied with, the  
plat and Survey according to Sec 5,  
of said Act was finally determined  
by said publication, and by the same  
section is declared to have the same  
effect and validity in law as if a  
patent for the land so surveyed  
had been issued by the United

States - It became my duty therefore according to said Section 5 " to transmit, without delay, the plat or Survey of the said Claim to the General Land Office " for the issuance of a patent.

I have complied therewith and the plat descriptive notes etc of this Survey are now in General Land Office for patent.

U. S. Sur. Genls Office } Very Respectfully  
San Francisco Cal } Your Obedt Servant  
March 4th 1862 } E. H. Peale,  
W. S. Sur Genl.

Office of the Surveyor General of the United States, }  
FOR CALIFORNIA. }

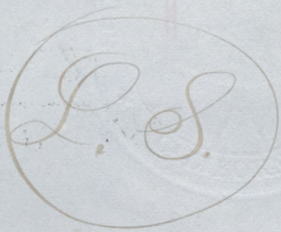
I, J. W. MANDEVILLE, United States Surveyor General, for the State  
of California, do hereby certify that the Rancho 'Zanjones'

108 SD

PAGE 122

confirmed to *M. Malarin Esq*  
has been surveyed by this office, and that the survey and plat was approved by  
the U. S. Surveyor General, on the *Third* day of *May* 1859  
~~1860~~; that I have caused to be published, once a week, for four weeks suc-  
cessively, in two newspapers, to wit: the "*Pacific Sentinel*"  
published in the County of *Santa Cruz*, State of California,  
being the newspaper published nearest to where the said Rancho is located, the  
first publication being on the *twenty first* day of *September* 1860,  
and the last, on <sup>the</sup> *twelfth* day of *October* 1860; also, in the  
*Los Angeles Star*  
a newspaper published in the *City and County* of  
*Los Angeles*, State aforesaid  
the first publication being on the *twenty ninth* day of *September* 1860,  
and the last on the *Twentieth* day of *October* 1860, a notice  
that the said land had been surveyed, and a plat made thereof, and the survey  
and plat approved by me. And I do further certify, that the said survey  
and plat were retained in my office during all of said four weeks, and until the  
expiration thereof, subject to inspection; and I further certify, that no order  
for the return thereof to the U. S. District Court, has been served upon me.

In Testimony Whereof, I have hereunto signed my name  
officially, and caused my Seal of office to be affixed, at the City  
of San Francisco, this *First* day of  
*January* 1861.



*J. W. Mandeville*

U. S. Surveyor General for California.

U. S. Surveyor General's Office

San Francisco March 4<sup>th</sup> 1862

I certify the above to be a full true and correct  
Copy of the original record of this Office

*E. J. Gale,*  
U. S. Surveyor General.

152 39  
No. 108 SD

U. S. Dist Court  
South, Dist Cal

Mariano Malarin  
appu

vs

The United States  
appels

Plat of Survey

Filed March 25, 1862.

John O Whelan  
clk

108 SD

PAGE 123



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

108 SD

PAGE 124

|                   |   |              |
|-------------------|---|--------------|
| The United States | } | D.C. No 108. |
| Appellants        |   | "Sanjones"   |
| vs                |   |              |
| Mariano Malerin   | } | D.C. No 151. |
| Appellee          |   |              |

Now comes the said Appellee by his Attorney Isaac Hartman and excepts to the final survey of the land claimed in this case made by the Surveyor General of the United States for the State of California. The lines of said final survey to which exceptions are hereby taken are more particularly described as follows to wit.

Beginning  
at the point marked witness post N.P. 69  
& S.D. 3 N.P. 3  $67\frac{1}{2}^{\circ}$  E 5.20 chs from corner.

Thence to Sycamore S.D. 1 ~~Beginning (marked)~~  
~~Canada~~. See C 8 & S.D. 4 (Old corner)

Thence to Sycamore S.D. 1 Beginning  
(marked) Canada.

Thence to witness Post S.D. 2 N.P. A  $51\frac{1}{2}^{\circ}$   
E. 8.50 chs from corner.

Isaac Hartman

Atty for Appellee.

Given a true copy of the within upon  
B. C. Whiting U.S. Deputy at the Town  
of Monterey on the 7<sup>th</sup> day of March 1862

H. J. Barrows  
U.S. Marshal.

Deputy, Jacob B. Leese.

108 SD

PAGE 125

Rec. Service 2.<sup>00</sup>

Trans. 12

Copy 3/8  
\$ 2.42

State of California 3  
Santhern District 3

Isaac Hartman  
being duly sworn upon his oath says  
that the foregoing receipts are true  
as he is in possession and receipt of them  
Isaac Hartman

Sworn to and subscribed before me  
this 8<sup>th</sup> day of April A.D. 1862

John Wheeler  
Clerk

No 108

Meriano Merino

Ad  
The United States

~~~~~

Exceptions to Summary

~~~~~

Filed March 26, 1862

John Wheeler  
Clerk

Noted by pub. Sent 4/2

108 SD  
PAGE 126

W. H. ...  
Abraham

In the District Court of the United States  
*Southern*  
FOR THE ~~NORTHERN~~ DISTRICT OF CALIFORNIA.

108 SD  
PAGE 127

The United States,

IN LAND CASES.

Dist. Court No. 108

Land Com. No. 157

*Marians Malasin*

BE IT REMEMBERED, that on this third day of April A. D., 1862,  
at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS,  
a Commissioner duly appointed by the Circuit Court of the United States for the Dis-  
tricts of California to take acknowledgments of bail and affidavits, and also to  
take depositions of witnesses, in civil causes depending in the Courts of the United  
States, pursuant to the Acts of Congress in that behalf, personally appeared  
Clement Cox a witness produced in behalf of  
the Claimant in the above entitled cause, now  
pending in said Court under the Acts of Congress to ascertain and settle the private land  
claims in the State of California, who, being duly sworn, testified as follows: his  
evidence being interpreted by taken by Consent  
a sworn interpreter.

PRESENT: Isaac Hartmann Esq  
Counsel for Claimant, and  
J. C. Whiting Esq. Counsel for  
the U. S.

QUESTIONS IN BEHALF OF THE Claimant

Question 1st,

What is your name, age  
and place of residence?

Ans.

My name is Clement Cox, my  
age is 32 years, and I reside

in San Francisco.

2.

What is your occupation or profession?

108 SD

PAGE 128

Ans.

I am a Surveyor and Civil Engineer.

3.

State what knowledge you have of the final survey of the land claimed in this case called the Rancho of "Sanjones" made by the Surveyor General of the U. S. or one of his deputies. Whether you assisted in making the same and in what capacity and upon what data the same was made. Whether the same was run for quantity or according to the act of juridical paperation, and anything or everything else you may know concerning the same.

Ans.

I was employed by James E. Ferrell the Deputy Surveyor

as his assistant in making

as his assistant in making  
the survey referred to. He  
did not follow the lines of  
the judicial paperation, but  
run the lines merely to include  
the quantity called for in  
the Decree of confirmation  
and by the instructions of  
the Surveyor General. The  
quantity, we located within  
the boundaries of the judicial  
paperation.

Cross examination waived.  
Deposition closed.

Clement Cox

Subscribed and sworn to this 23<sup>rd</sup>  
3<sup>rd</sup> day of April A. D. 1862, before me

H. Dr. Chevers,

U. S. Comm:

No 108

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

THE UNITED STATES

V.

*Marians Malarin.*

DEPOSITION OF

*Clement Cox,*  
on part of *Claimant.*

Filed

*Apr 4<sup>th</sup> 1862*  
*John D. Whelan*  
Clerk.

108 SD  
PAGE 130

District Court of the United States  
Southern District of California.

THE UNITED STATES vs. MARIANO MALARIN, Ex'tor.  
"SANJONES." No 108.

NOTICE is hereby given that the final survey of the lands claimed by the parties to the record in this case has been returned into Court and objected to. All parties in interest in said lands are therefore hereby admonished to appear and intervene for the protection of their interests under the rules of the Court.  
JOHN O. WHEELER, Clerk.  
Monterey, April 2, 1862—3 w

United States of America }  
Southern Dist of California }

108 SD  
PAGE 131

John McElroy being duly sworn deposes and says that he is one of the Editors and proprietors of the Pacific Sentinel, a newspaper published in Santa Cruz, in the Southern Judicial District of California, and that he published in said newspaper the annexed notice, for three successive weeks, the first publication being made on the second day of April, A. D. 1862, and the last, on the 18<sup>th</sup> day of April, A. D. 1862

John McElroy

Subscribed before me this  
17<sup>th</sup> day April A. D. 1862

John Wheeler }  
U. S. Dist Court Santa Cruz Cal }



District Court of the United States  
Southern District of California.

THE UNITED STATES vs, MARIANO MALARIN, Ex'or.  
"SANJONES." No 108.

NOTICE is hereby given that the final survey of the lands claimed by the parties to the record in this case has been returned into Court and objected to by all parties in interest in said lands are therefore admonished to appear and intervene for the purpose of asserting their interests under the rules of the Court.  
JOHN O. WHEELER  
Monterey, April 2, 1862—3 w

United States of America }  
Southern Dist of California }

108 SD  
PAGE 131

John McElroy being duly sworn deposes and says that he is one of the Editors and proprietors of the Pacific Sentinel, a newspaper published in Santa Cruz, in the Southern Judicial District of California, and that he published in said newspaper the annexed notice, for three successive weeks, the first publication being made on the second day of April, A. D. 1862, and the last, on the 18<sup>th</sup> day of April, A. D. 1862

John McElroy

Subscribed before me this  
14<sup>th</sup> day April A. D. 1862

John Wheeler }  
Ck U.S. Dist Court Sout Dist Cal }

No. 108

U. S. Dist Court  
South Dakota

McKinnon &

an  
Attorney at Law

Assistant of Publication

Philadelphia, Pa.  
J. M. Whelan

108 SD  
PAGE 132

UNITED STATES DISTRICT COURT,  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA. }

108 SD  
PAGE 133

The United States appellants  
Mariano Malarin appellee

No. 108  
"Suzines"

It being suggested to the Court that the survey of the land claimed in this case, made under final decree, and approved by the U. S. Surveyor General for California, does not conform to said decree and is erroneous and that said survey will be to the injury of the \_\_\_\_\_

Party Applicant  
on application of Isaac Naitman attorney of the appellee  
it is ordered that the said Surveyor General return to this Court \_\_\_\_\_  
the plat of said <sup>approved</sup> survey, and that the appellee \_\_\_\_\_

be allowed 20 days, from and after the return thereof, to file exceptions thereto; and it is further ordered that a certified copy of this order be served upon the said Surveyor General for his information.

Stetson M. Haight  
I. S. K. OGIER, U. S. District Judge.

UNITED STATES OF AMERICA, SOUTHERN DISTRICT OF CALIFORNIA. }  
COUNTY OF LOS ANGELES. Montevideo  
John Whelan  
I, C. Sims, Clerk of the United States District Court for the Southern District of California, do hereby certify that the above and foregoing is a full true and correct copy of the original order, made and entered on the 4th day of February, 1862, in said case, No. 108 on the docket of said Court, wherein Mariano Malarin is the claimant against the United States, as appears of record in my office.

In witness whereof I herewith set my hand and affix the seal of said Court this the 4th day of February, 1862  
John Whelan, Clerk.



UNITED STATES OF AMERICA, }  
SOUTHERN DISTRICT OF CALIFORNIA. }

THE PRESIDENT OF THE UNITED STATES,  
To ~~J. W. MANDAVILLE~~, U. S. Surveyor General, for California—Greeting:

You are hereby notified that the United States District Court, for the Southern District of California, at the Intermediate Term of said Court, 1862, in case No. 108 on the docket of said Court, wherein Mariano Malarin is the claimant against the United States, made and caused to be entered an order, of which the above and foregoing is a certified copy herewith transmitted to you for your information, and you are hereby required to take notice of the same.

Witness the Hon. ISAAC S. K. OGIER, Judge of the United States District Court, for the Southern District of California, this the 4th day of February, 1862

Attest my hand and the seal of said Court the day and year last above written  
John Whelan, Clerk.



The within order was served  
on Es. J. Beale U.S. Surveyor  
General at San Francisco  
on the 12th day of February  
1862 by delivering a copy  
of the same to the said  
U.S. Surveyor General  
Henry D. Barrows  
U.S. Marshal  
S. Dis. Cal.

70708

James M. Adams

an

of the United States

"Shaynes"

Order for Return of  
Survey

Served Feb 13/62  
Filed April 25/62

John M. McKim Clk

108 SD

PAGE 134

108 SD  
PAGE 135

United States District Court for the District of California

Abrahan Salazar & Co

No # 108

The United States

Claim for Damages  
on Receipt of Survey

Be it known that on this day July 29<sup>th</sup> 1865 at my office in the town of Monterey, County of San Luis Obispo State of California, at 4 o'clock, P.M. before me John D. Wheeler Clerk of said Court of said District & Officer of said Commission duly authorized to take depositions to be used in the Courts of the United States, came Teodoro Gonzalez a Writing on behalf of Claimants in the above entitled Cause now pending in the said Court of said District of California who being duly sworn was duly examined, and his testimony given through John D. Gallagher a sworn Interpreter

Present, David Jack on behalf of Claimants  
and J. Whiting Dist. Atty on behalf of the United States.

~~~~~

Questions by Commission

108 SD  
PAGE 36

Ques. What is your name, age, Residence & Occupation

Ans. Fedoro Gonzalez; 61 years of age, reside in Monterey  
& am a Ranchero

Questions by "

David Jacks, on part of Claimant

\* Ques. Are you acquainted with the Rancho called  
Sanjones

Ans I do

How you do know it.

Ans. Since I came to this Country I know the  
Rancho of Sanjones by the Mission Priests.

Ques. Do you know of the Judicial possession  
of that Rancho

Ans. I do, the Judicial possession was given  
by David Spence, who was Alcalde, he gave  
the possession to Juan Malarin.

Ques. Was the Rancho at that time not the property  
of Estrada?

108 SD  
PAGE 137

Ans. I thought I was speaking of the Rancho  
of Chular. The judicial possession of the rancho  
was given by Spence as alcalde to Gabriel  
de la Torre, which said Rancho adjoins mine,  
to a certain point

Ques.

Ques. Do you recollect where the judicial possession  
of the Rancho commenced

Ans. At the River.

From thence where did it then run.

Ans. From the River the line ran along my line.

Ques. From thence, where did it then, or from the  
river in what direction did the line run

Ans. From the Willows They started from the Willows  
near the river, and run to the three Sycamore  
trees, and from there to the mouth of the Cañada,  
adjoining my Rancho, taking in <sup>the</sup> three Springs

which are within the Mouth of the Cauada, and there the survey stopped, they did not then measure any more on the Zaunjes, but went on to measure the Chualar.

Ques. Did they measure more than one line of the Zaunjes

Ans. They measured from the three willows to the three Dycamores thence to the Mouth of the Cauada, and then continued the measurement of the Chualar adjoining my boundary.

Ques. Witness is here shown Exhibit "A", P. 4. Look on Exhibit, and say where the line was run from the Cauada.

Ans. After they got to the mouth of the Cauada they turned back and measured along my line to the river, and along the river to the place of beginning. I can fix no point on the river where the line above mentioned ran to, I recollect now that it reached the river at a point about half way between my house & that of Gabriel de la Forres, and from thence along the river to the point of beginning.



Ques. Is your house the same house that was on the  
Rancho at that time and marked on Exhibit B, 24  
now shown you, as "Gonzalez House"

108 SD  
PAGE 39

Ans. It is the same. —

Ques. What became of the ownership of the  
Rancho afterwards?

Ans. Gabriel de la Torre sold to John Malara's

Ques. In what year was the Juridical Possession  
given?

Ans. So many years since that I cannot recollect

Ques. Has there been any dispute who has been  
in possession of the Rancho since that time  
to this? —

Ans. First Gabriel de la Torre then Juan Malara's  
and then David Jacks. —

Ques. What kind of possession has it been?  
peaceable and quiet?

Ans Quiet and peaceable

108 SD  
PAGE 140

Ques, Corp Exemption

Questions by Mr Dist Atty.

Ques Were you one of the assisting witnesses  
when this judicial possession was given by  
David Spence

Ans. No I was not, I was there present by  
virtue of citation. being an adjoining land owner

Ques Who were present beside yourself

Ans Gabriel de la Torre, Juan Malvarin Guadalupe  
Cantua, Julian Gaersers.

Ques Was the measurement of your Rancho  
made on the same day

Ans It was

Ques Was judicial possession given you  
on that day also

Ans Yes

Qut, Was the measurement and juridical possession  
of the Chualar given on the same day

108 SD  
PAGE 141

Ans I do not know, but they commenced  
to measure the Chualar along my lands  
into the hills, and I stopped & did not follow  
them up

Qut Do you know the jurid. poss. of the Chualar  
& if was given on the same day that the  
Zangones was given, or not

Ans I do not know, but they continued  
measuring when I left them

Qut At what point on map marked Exhibit A  
S. G. did you separate from the Party

Ans At the mouth of the Canada

Qut Was that before <sup>they</sup> ran the line down to  
the point between the two houses, or after

Ans. They measured all the lines of the  
Zanjones up to the Cuada, before I separated  
from them, & then they continued into the hills,

Ques. Who was the owner of the Zanjones,  
on the day of that measurement,

Ans. Gabriel de la Torre

Ques. Who was the owner of the Chualar on  
that day

Ans. Juan Melarue

Ques. How long after that was it that de la Torre  
sold out the Zanjones,

Ans. I cannot say, I think it was about  
2 years more or less

Ques. Do you know whether there was ever any  
other measurement of those two Ranchos  
Chualar & Zanjones, other than those you  
have spoken of.

Ans. None except those made by the S. Genl of U.S

Q. Do you know the quantity of land in the  
Zayner Rancho

A. No I do not know

Do you know how much land there is  
in the Chualar

I don't know

Was it stated at the time Pence was  
giving judicial possession how much  
land he was giving

I don't know

Re Examination resumed

Q. How far along the line of the Chualar  
did you go with them when they were  
giving judicial possession

Question objected to on the ground that  
Witness has stated that he stopped <sup>at the mouth of canyon</sup> & did not go  
with them in the measurement of the Chualar

Ans. I stopped at the mouth of the Cauadas  
and they went up into the hills, -

108 SD  
PAGE 144

Tedoro G. G. G. G.

Presented before me this the 29<sup>th</sup> day of July  
AD 1868

John D. Wheeler  
Clerk of the Court  
of the County of ...

W 108  
W. P. Deak Comt  
Santa Barbara

Nathan Halarin

<sup>in</sup>  
The United States

Dept of S. Gonzalez  
Witness for Claim

Filed July 29<sup>th</sup> 1863

John Wheeler  
clerk

United States District Court for the Southern District  
of California

Marciano Malarin & Co.

vs  
No 108

108 SD

PAGE 146

The United States

As it is known that on this 1<sup>st</sup> Day of August at the  
City of Monterey in the Southern District of California came before  
me John O. Whelan, Clerk of the United States District  
Court for the Southern District of California, and  
H. O. New, United States Commissioner duly authorized  
to take depositions to be used in the Courts of the United  
States, Marciano Malarin, a witness in behalf of the  
Claimant in the above entitled Cause now pending  
in the said Court of the United States for the Southern  
District of California, who being duly sworn  
testified as follows to wit;

That David Jack, on behalf of Claimant  
and the U.S. Attorney on part of the United  
States.



Questions by Commissioners

What is your name age. Occupation & place  
of Residence

108 SD

PAGE 147

Ans. Mariano Malara, 36 years, Rancher  
& residence Monterey

Questions by David Jacks Esq on part  
of Claimant

Quest. Are you acquainted with the Ranches of  
Chualar & Gonzales in Monterey County

Ans. Yes I am

Quest. How long have you been acquainted with  
those Ranches

Ans. Since 1849. I came to California in  
1849, having previously left the State in 1837

Quest. Look at the diagram marked Exhibit A. 5. 4  
and point out therein the boundaries of Chualar

I was not present at the judicial possession

of the Chualar, but I was acquainted with the Juridical possession and also of that of the Rancho Tangueros, from having examined several times the original papers, & from the directions given to me by the Alcalde who gave the Juridical possessions, and by places marked by the said Alcalde when the possession was given, which are so standing now on the places. according to that <sup>Juridical Possession</sup> Survey, I directed myself, the Deputy Surveyor of the U.S. when the survey was made by order of the United States. The Surveyor commenced at the bank of the river, adjoining the boundary of David Spence and passing by an oak tree between the boundaries of Chualar and David Spence, he followed the course to the 3 Alisos at the foot of the hills, from and at a point I now mark on said Exhibit N.M. From there we followed the same boundary line of David Spence to a place in front of small Cañon where the Spring of the Chualar runs. from that place we run the line by that small Cañon to the head of that Spring to an oak tree marked by the Alcalde, and fixed now on said Exhibit as "N.M. 2." from there we followed this small Cañon to the

Cañon of the Chupaderos. - which latter point I now  
mark on said Exhibit as M. M. 3. - and adjoining  
the boundary of Ledoro Gonzalez. - from there  
we came down following the same Cañon of the  
Chupaderos, to a sycamore tree a little outside of  
the mouth of the Cañon, because we could not find  
the poplar tree, nor the elder tree at the mouth of  
the Cañon mentioned in the original paper of the  
juridical possession - from the sycamore tree  
we run the line to the river, to an oak tree  
about 50 yards to the North West of Ledoro  
Gonzalez's House, from the sycamore tree to the  
last named point on the river is the South Eastern  
boundary of the Zangones.

Next we commenced at the place  
of beginning, at the river between the boundary  
of Spence & the Chualar. from there we followed  
the meandering of the river to some willows, standing  
at that time, - but now disappeared - and marked  
now on said Exhibit as M. M. 4. which willows were  
in the boundary line between Chualar & Zangones,  
from the willows the line was run to the 10 alios  
in the plain forming the boundary line between Chu-  
alar & Zangones. which 10 alios are now marked  
on said Exhibit as M. M. 5. from thence the line was  
run to the sycamore a little outside of the

Cañon of the Chupedera. After they had  
afterwards they ~~meandered~~ followed the meandering  
of the river to the oak tree near Gonzales  
House

108 SD

PAGE 150

Ques. These two ranches Chualar & Guzman, ac-  
cording to the boundaries of the Judicial  
possession? In what way did it leave the  
land between Federico Gonzalez and David Spence  
- Was it in a compact form taking up the  
entire extent of said land or otherwise

objected to by Dist Atty.

Ans. They were in a compact form. The land  
was included in the lines I have just mentioned  
separating the ranch of Spence from that of  
Gonzalez

Are you acquainted with the survey made  
by the U.S. Deputy Surveyor, and finally ap-  
proved by the Surveyor General

Ans. I am

Ques. Will you point out on the Diagram Marked Exhibit A. T. G. and describe the difference between the juridical possession and the U. S. Survey. —

108 SD

PAGE 151

Ans. Finding that in the Chualar there were 3000 acres more than the Surveyor wanted to allow, the Deputy Surveyor cut off as Marked on the Map. The tract thus cut off is comprised 1<sup>st</sup> in a triangle formed by the three points on said map marked respectively N.M. - G. & H. and 2<sup>d</sup>. the tract comprised within points marked thereon respectively N.M. 2 - K - I. - S - T' + N.M. 3 and acres to N.M. 2. —

Ques. Will you point out on the diagram the locality of the Cañon of the Chupaderos

Ans. The line of that Cañon is marked S - T' - N.M. 3

What is the meaning of the word a Chupadero

Ans. Small stream of water or spring

From the time that you have been acquainted with these Ranchos, what have been the kind of possession which the owner thereof have had of them, peaceable & undisputed or otherwise

108 SD

PAGE 152

Ans. The Owners were peaceably there during the whole time that I have been acquainted with these Ranchos - They occupied them peaceably & undisputed, - there have never been any squatters there - Both Ranchos within the lines marked by the Survey - ical possession and the said lines acknowledged by the Neighbouring land owners

What is the Character of the land up along the Cañon of the Chupaderos

Ans. It is Grazing land, not very rich, there are about 3 Chupaderos near the foot of the hills and spring of water in the river part of the Cañon. Those Chupaderos I thought were included in the Sauguer Ranch when the Survey was made of the said Ranch by the Deputy Surveyor

Ques. After the Survey was cut down by the  
Surveyor General, Have you any knowledge  
whether the Chupaderos were cut out or not

108 SD

PAGE 153

Ans. That is what I have said I supposed  
they were all included in the Gaussons  
Ranchos. - they were not cut out, except  
two that belonged to Gonzalez.

Prof Examination

Questions by U.S. City part of U.S. State

Ques. Have you any interest in these Ranchos

Ans. Not now sir

Ques. Did you have at the time the survey was  
made

Yes

Ques. In whom did you convey

to Mr David Jack

Did you give a quit claim or warranty deed

Ans A Quit Claim Deed

108 SD  
PAGE 154  
Ques Did you & how long after the official survey was made did you convey away the land

Ans About one year after

Ques Do you know the quantity of land included in the official survey

Ans According to the calculation made by the Surveyor there are a little over two leagues, but that the Surveyor General calculated it to be just about two leagues, and his instructions to the Surveyor Mr. Tyronell were to survey it for two leagues just.

What quantity would there have been according to the instructions which you gave to the Deputy Surveyor, within the exterior limits of the Chualar

Ans About 12389 acres. The instructions



The quantity of land included in the lines I showed to the Deputy Surveyor were about 12000 acres for the Chuska Rancho

The Deputy Surveyor showed me his instructions from the Surveyor General's Office to the effect that he must survey according to the Juridical possession, but if there was more than two leagues, it must be cut down to two leagues and if less than that amount was within said boundaries then the survey was to be confined to the said less quantity.

I showed the lines of the Juridical possession to the Surveyor.

Did the Deputy Surveyor at that time or afterwards inform you that there was more than two leagues and that he would have to cut it down.

Ans. He did

Did you have any conversation with him as to what part should be cut off - if any.

Yes.

Did you give him any directions or have any understanding with him as to what part of the land he should cut off

108 SD

PAGE 156

Yes I told him that I wanted to keep all the water. He asked of the Surveyor General instructions as to the matter, and that officer advised him to take in all the water without regard to the <sup>shape of the</sup> Panchos and therefore the Surveyor ran his line <sup>towards</sup> up from M.M. 2 <sup>and</sup> to H. in order to take in water.

Is this hilly land around between S. T. & K

Ans Not all, it is some hilly

Ques What is the character of the land between M.M. - G + H the part

The part that is cut off consists of low hills, & good pasturage, but no water on it.

Re direct Examination resumed

Question by David Jackson part of Law

108 SD

PAGE 157

Ques: According to the Customs of the Mexican Government. How was a Juridical Survey looked upon - Was it respected by the Offices of the Govt. the Rancheros & taken to finally determine the boundaries of Ranchos or otherwise - What was the Customs

Objected to by U. S. Dist Atty

Ans: Custom was law. It was the Custom here to respect those lines. because lands were granted here according to law. the final determination of a title was according to the Regulations of the Colonization law. the juridical possession was the act that gave the right or complete ownership to the land

Mariano Malvarin  
promtly exhibited before me this  
1st day of August 1853

J. M. Whelan  
S. J. of the U. S. Dist Ct  
St. Antonio, Tex

NO 104  
W. S. Dub Court  
South Dub Gala

Mabrous Malarin

vs

The United States

Dept of M Malarin  
Claimants Witness

Filed Aug 1<sup>st</sup> 1863

John Wheeler  
clerk



United States District Court South District of California

Mariano Malvarin & Co

108 SD  
PAGE 159

The United States

} No 108

Be it known that on this 1<sup>st</sup> day of August at the City of Monterey in the South District of California came before me John Wheeler Clerk of the United States District Court for the Southern District of California and Ex Officio a Commissioner duly authorized to take depositions in Civil Cases, to be used in the United States Courts John Records, a witness in behalf of the Claimant in the above entitled Cause now pending in the District Court of the U.S. for the South District of California who being duly sworn testified as follows

Present David Jack in behalf of Claimant and J. Whiting of San Atty on part of the United States

~

~

Questions by Commissioner

Ques: What is your name age, residence + occupation

108 SD

PAGE 160

Ans: John Ruards, 41 years, Monterey, no occupation

Questions by David Jacks, on part of Claim:

Ques: Are you acquainted with the Rancho of Gayones in Monterey County

Ans: Yes, I have been there several times

Ques: Do you know where Sycamore tree on said Rancho marked S. G. is, and if so describe on Diagram marked Exhibit A T. G. as near as you can its locality. —

Ans: I saw a Sycamore tree at the point marked S, on said Diagram. This was in the month of April 1862. It had the U. S. Surveyors Mark on it and as well as I can remember on one side of it was

R. P. M. and on the other side of it ~~S. J.~~  
S. J.

108 SD  
PAGE 160 A

Q<sup>u</sup>est How or by what means did you find the tree

A<sup>n</sup>s. By starting from the boundary on the river of the Rancho of Gonzalez, in the direction indicated on the diagram of the Sanjone Rancho which I had before me at the time - by diagram I mean the plat of survey -

Q<sup>u</sup>est Was there a Cañon near there, and if so show its locality on the Exhibit and state how far the mouth of it was from the tree.

A<sup>n</sup>s. The tree was, I think - according to the best of my recollection - about a 1000 yards from the mouth of the Cañon

Did you look for a Chupadero or spring at the Mouth of the Cañon and if so, did you find one and if so how far was it from the tree marked S. J. and would said Spring be within the boundaries of the Sanjones

or beyond and on the outside thereof, and  
was there any elder tree where you looked  
for the Chupadero or Spring.

108 SD

PAGE 161

Ans I found a spring about some 15 or 1600  
yards distant from the Sycamore tree  
up in the Canon. The Spring was not in  
the Canon itself, but on the rising ground  
there and about 100 yards <sup>from the spring</sup> distant in an  
easterly direction there was an lone elder  
tree. I do not know whether it was within  
the boundaries of the Rancho, as I do not  
know said boundaries, but from the  
diagram I should say it was outside  
and on Gonzalez's Rancho - The Sycamore  
tree was by the side of a big Gulch

We had along with us an abstract of  
the Juridical possession of the Zanjones  
to guide us in looking for the tree and  
a poplar which is mentioned but the  
latter <sup>we</sup> could not find. We had also an ab-  
tract of the Juridical possession of the Chualar

I think this spring is the one described in  
the Juridical possessions of the Chualar &  
Zanjones as I could not find any other



in the neighborhood

Proof of Accretion by W. B. Petty

Q. At whose request did you go there  
And who was with you if any one

A. I went there with David Jacks and  
at he requested me to accompany him  
to look at certain boundaries and Surveyors  
Marks on the P. A. Ranch. & No one else  
was along

Q. Did you know any thing about the  
boundaries of those Ranches before you went  
there

A. No I did not, - the first boundary at  
the river was pointed out to me by the  
people there at Gonzales

Q. How much time did you spend in  
looking for those Springs

A. I think we were there after arriving at  
the P. A. Ranch about 4 hours looking

for those boundaries

Do you mean you were on that portion  
of the ranch near the Dycamore tree  
looking for the springs 4 hours

Yes,

Were you riding or walking

Ans After leaving the Dycamore about  
a few hundred yards going towards the  
Canyon we unhitched the horses and  
tied them and then went on foot all the  
time until we started back.

Did you graze your horses & take any  
lunch

Yes it was good grazing and we  
let them graze and when we came  
back we took some lunch - The  
whole time occupied about 4 hours

Was there plenty of water there

Ans Yes there was at the place where we  
hitched our horse enough for them & as  
there was a stream running

108 SD

PAGE 164

Ques Did you see plenty of watering  
places for stock in that vicinity and  
in the vicinity of the Eastern <sup>portion</sup> of the Zuyony  
& Chualar towards the hills.

Ans At that time all the lakes on the  
plains were full of water & all the  
mountain streams were running there,  
but on the hills, the only spring of the  
kind as called in Spanish Chupaderos  
was to be found at that time, was the one that  
we found

What kind of Springs are called  
Chupaderos

Ans Permanent springs on the surface -  
not running. Where the Cattle come  
at sometimes and do not find enough  
to drink, and have to suck the water  
out of the holes - Generally there are  
Willows around such Springs

When these Willows near the

and there were some 6 or 7 Willows  
around it

Might there not have been other Springs  
such as the Spaniards called Chupaderos  
in the eastern portions of these Ranchos  
than the one you speak of

and Yes, there might have been, although  
I went upon the elevations in that  
vicinity and could neither see nor  
find any - Yet for all that there  
might have been some

found & published before me  
this 1<sup>st</sup> day of August 1863

Wm. S. Phelps  
Chas. S. Smith  
J. E. Davis

No 108  
U.S. Dist Court  
South Dist Cal

Mariano Malarmis

<sup>107</sup>  
The United States

Deputy John Reuss  
Witness for Claimant

Filed Aug 7. 1863

John Whelan  
Clerk

United States District Court South District of California

Mariano Malerin Et al

108 SD  
PAGE 67

The United States

3

No 108  
"Zanjones"

John Whelan being duly sworn deposes and says that he was occupied in the Clerk's Office of the U. S. District Court for the Southern District of California during the latter portion of and up to the final adjournment of the Regular December Term A. D. 1855. thereof. That a number of decisions were rendered at said term in land cases. That in many of said cases no formal decrees were drawn up and signed until long subsequent to said decisions. That on the sixth day of March 1856 being the day immediately preceding the final adjournment of said Term deponent was directed by the then Clerk of said Court to draw up decrees in all cases in which decisions had been rendered during said term. That deponent engaged James H. Lander to assist him. That said Lander examined the papers in said cases and dictated to deponent the substance of the same. Who drew them up. That the said decrees were signed the next day by the Court without reading or examination by them. As he and the Clerk were hurrying their preparations to leave and did so leave early on that day in the stages for San Pedro on their way to Washington. That among the cases in which decrees were so drawn up and signed was the aforesaid case of Mariano Malerin Et al vs The United States for the place called "Zanjones". And Depo-

The United States  
vs.

Mariano Malvarin  
No 108

"Zanyones"

Deposition of J.O. Wheeler

Filed on motion of  
J. Whitcomb Esq. atty.  
for appellor. this 14<sup>th</sup>  
day of March 1864

John O. Wheeler  
Clerk

By Geo. P. Van Nest  
Deputy

Zanyones  
No 108

Deposition of J.O. Wheeler

prom to and subscribed before 3 John O. Wheeler  
on this 9<sup>th</sup> day of March A.D. 1864 3  
J. O. Wheeler  
Notary Public

- next further says that neither the Claimants nor their Attor-  
neys in said Cause were present at the drawing up or  
signing of said deces. Nor were said Claimants nor  
their attorneys or any other person, including the Court  
itself - with the exception of deponent and said Lauder-  
at that time aware of the terms of said deces.

United States District Court Southern District  
of California  
Sarasua Salasua & Regular June Term AD 1865  
No. 108

108 SD  
PAGE 169

The United States

"Gaugones"

Now on this 12th day  
of June AD 1865, this Cause having been heretofore  
argued and submitted on the Exceptions filed by  
Claimant and appelle to the approved plat of  
Survey of the lands claimed herein, being Rancho  
"Gaugones" situate in the County of Monterey District  
aforesaid. And it being shown to the Court that  
a plat of said Survey made and approved by  
the United States Surveyor General for the State of  
California was filed in this Court under its own  
order on the 25th day of March AD 1862  
and was excepted to by Claimant, which said  
Exceptions were filed herein on the 28th day  
of March AD 1862 and said Exceptions having  
been argued by Isaac Hartman Esq. of Counsel  
for Claimant in behalf of the same, and by  
the United States District Attorney for said  
District on behalf of the United States, and  
the same being fully understood it is  
hereby ordered, adjudged and decreed that  
the said Exceptions of Claimant to the said  
approved plat of Survey of the Rancho  
"Gaugones" be and the same are hereby over-  
ruled and denied. And it is further ordered  
decreed and adjudged that the said approved



Plat of Survey her and is hereby affirmed  
and made a part of this decree

And it is further ordered that a certified  
Copy of this decree and of said plat of Survey  
be transmitted to the Surveyor General of the  
United States for California for his information

Thus done and signed in open Court this 13th  
day of June A.D. 1865,

Wm. M. Waight

Judge of the District Court

No 108  
W. S. Dub Court  
South West Caln

M. Malarin Sec

Chelland. States

Zanyones

Decree Confirming  
Curry

Filed June 12 1863  
Sam. Whelan

The United States, appellants  
vs  
The Heirs of Malasin, appellees

108 SD  
PAGE 172

The claim in this case is founded upon a grant from Manuel Encinas, Governor ad interim of California, to one Gabriel De la Torre, bearing date the 20<sup>th</sup> August 1839, and approved by the Departmental Assembly 20<sup>th</sup> May 1840. The genuineness and authenticity of the grant is fully proven. Judicial possession as is shown by the certificate of the Intero of the Peace was given in the month of December of the same year. —

The grant purports to be for a tract of land called Sanjones, to the extent of one ~~square league~~ square league and one half of a square league within the boundaries called for in the grant and described in the map which accompanied the petition. Judicial possession was given within the boundaries as thus described —

The map describes the land with considerable accuracy and there can be no difficulty in identifying it. The present claimants allege title in themselves derived from the original grantee by virtue of a deed of conveyance improperly proven and unauthenticated and filed in evidence from the said Gabriel De la Torre to their deceased father Juan Malasin

~~The title of the said James Maloney~~  
~~by~~ the purchase of the Claimants  
is fully proven —

108 SD

PAGE 173

The testimony shows a compliance  
with all the conditions of the grant  
The Claimants are therefore entitled  
to confirmation of their claim —

The Commission in this case as  
in some others have undertaken  
to determine the particular interests  
of the Claimants as between them  
who and have decided particular  
portions of the tract in question to  
each separate part, I think in  
this they clearly exceeded their juris-  
diction, the law of 1855 does not empower  
them to pass upon the rights of indi-  
viduals <sup>Claimants</sup> as between themselves that  
is a question to be settled by other  
tribunals, neither do I think it  
within the authority of this court to de-  
cide questions of this nature, in proce-  
ding of this kind, the object of the  
law is to determine what is public  
& what private land, and not to  
settle the rights of individuals as between  
themselves — a decree will enter  
therefore confirming the claim to  
the appellants jointly

United States

14

His of Malan

Can 101

Apr 1861

Los Angeles January 11<sup>th</sup> 1856

Court met pursuant to adjournment

Present Hon. J. S. K. Ogier. Judge

J. Ord U. S. Atty.

C. C. Can Clerk

E. Hunter Marshal

108 SD  
PAGE 174

Heirs of Malasin  
appellés

ads.

The United States

appellants

No. 108

On this day in this case the opinion of the Court was delivered, confirming the claim of the appellés therein, and a decree was ordered to be entered in the records of this Court in accordance therewith. See Record of Decrees Book A. page

5<sup>th</sup> February 1857

J. B. R. Cooper

appellee

ads.

The United States

appellants

No. 1

"El Sur"

Now on this day comes the parties aforesaid, by their respective attorneys, the appellants by J. Ord. U. S. Dist. Atty. and the appellee by Halleck Peachy and Billings

Esqrs. his attys. whereupon the attorney of appellants reads and files a stipulation of the parties and a letter of the U. S. atty. General stating that an appeal will not be prosecuted by the United States in said cause, and moves the Court to dismiss the appeal heretofore taken in this cause, and that said appellee have leave to proceed under the decree of the Said Commissioner in his favor. Which motion being heard and fully understood

It is therefore ordered that said appeal be dismissed, and said appellee have leave to proceed under the decree of the Said Commissioner, heretofore rendered in his favor, as a final decree

On motion of J. Ord United States Dist. atty. Halleck Peachy and Billings Esqrs. attorneys of the Claimants, being present and by stipulation, the same proceedings and the same orders are had and made in the following cases as of the last preceding case numbered "one" to wit:

Nos. 3. 7. 25. 26. 39. 41. 49. 53. 56. 57. 64. 72.  
73. 83. 84. 97. 108. 109. 110. 115. 118. 149. 168. 177.  
188. 200. 215. 221. 223. 230. 240. 241. 244. 254.

I John O. Wheeler Clerk of the United States District Court for the Southern Dist. of California do hereby certify that the foregoing is a full true and correct copy of the minutes of said Court so far as they relate to the foregoing case on the days specified in witness whereof I have hereto affixed my hand and the Seal of the said Court at Los Angeles on this 14<sup>th</sup> day of March A.D. 1864 John O. Wheeler Clerk  
by George B. Van Ness Deputy





The United States

v/s.

Mariano Malasin

N<sup>o</sup>. 108

Zanjones.

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Transcripts from  
min. of Dis. Court

Filed on motion of  
J. R. Gitchell Esq. atty.  
for appellee. this 14<sup>th</sup>  
day of March 1864

Geo. O. Wheeler  
Clerk

by Geo. S. Van Ness  
Deputy

No 108

Zanjones

108 SD

PAGE 177