

CASE No.

1

SOUTHERN DISTRICT

EL SUR GRANT

JOHN B. R. COOPER
CLAIMANT

FEB 6 1963

JUL 17 1963

U.S.A.
25% COTTON FIBER
FLOWER BOND
Command

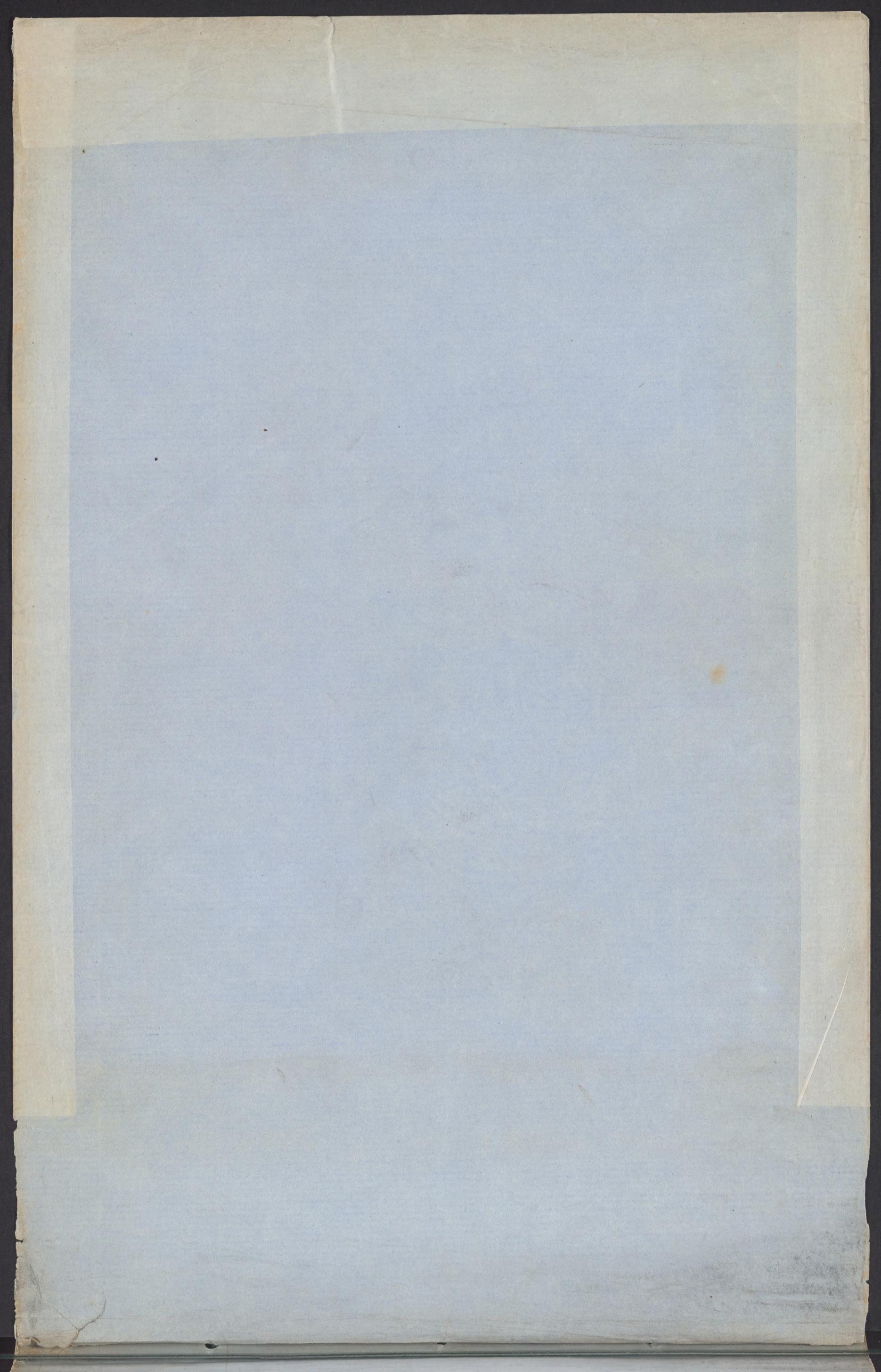
Recd. Monday the 26th day of Dec. 1853

Alfred Fay to
Clerk.

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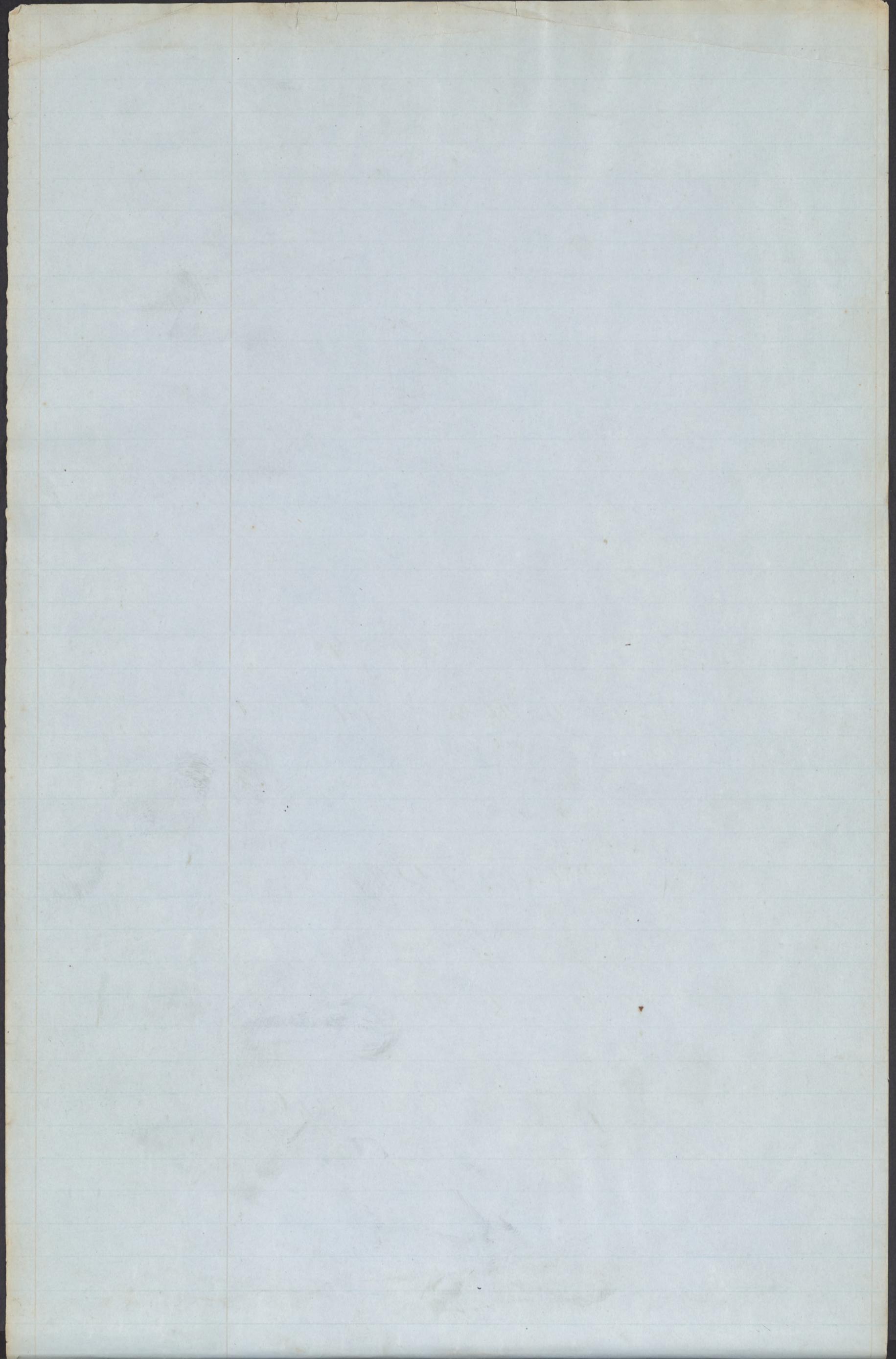
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Transcript of the Proceedings

in Case No 124.

Ed. Sur

John B. R. Cooper.
vs.
The United States



Office of the Board of Commissioners
to ascertain and settle the private Land
Claims in the State of California

Be it remembered that on this Tuesday
March 23rd 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 John B. R. Cooper for
the Ranch "El Sun", was presented and
ordered to be filed and docketed No.
124 and is as follows to wit

No 124.

John B. R. Cooper, Claimant
vs
The United States, Defendant

To the Honorable Commissioners to
settle private Land Claims in California

The Petitioner John B. R. Cooper respectfully

Shows; That on the 27th day of February A. D. 1831, Juan B. Alvarado received from the Governor of California a provisional grant of the tract of land known by the name of "El Sun", situate in the county of Monterey; That on the 30th day of September A. D. 1834, Jose Figueroa, Governor of California, by virtue of authority in him vested, granted to the said Juan B. Alvarado the said tract of land called "El Sun", containing two square leagues with the boundaries described in the grant and set forth in the accompanying map which grant was approved by the Deputation of California on the 1st day of August A. D. 1834; all of which is fully shown in the original Expediente on file in the Government Archives an exact copy of which is submitted herewith marked "A" with a translation marked "B".

The Petitioner also submits herewith a copy of the title issued to the said Alvarado by the Governor, marked "C", with a translation marked "D".

The Petitioner also shows that on the 9th day of December A. D. 1840 the said Juan B. Alvarado conveyed to the petitioner his title to the aforesaid tract of land by a deed of Exchange, a copy of which is submitted herewith marked "E", with a translation marked "F".

The Petitioner further shows that the said land has not been surveyed by the Surveyor General of the United States; but that boundaries are fully set forth in the title and corresponding maps and are well known.

That from the year 1831 to the 1st day of December 1840, the said Juan B. Alvarado was and that since that time the Petitioner

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has been, and is now, in quiet peaceful and undisputed possession and occupation of the said tract of land;

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That he knows of no conflicting claims; That he relies for confirmation of title upon the original papers, copies of which are submitted herewith; upon the records and minutes in the Archives now under the charge of the Surveyor General; and upon such other and further proof as he may be advised are necessary;

Wherefore he prays the Commissioners to confirm to him the said tract of land

By his Attorney,
Hallett Peckly & Billing
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Filed in Office March 23rd 1852
Geo^{sr} Fisher
Secy

Upon which petition the following subsequent proceedings were had in their Chronological order, to wit;

Monday April 12. 1852.

In case No 124. John B. R. Cooper, the Deposition of E. P. Martnell a witness in behalf of the Claimant, taken before Comoniffioned Meland Hall, was filed and is in the words and figures as follows to wit; Vide pages of this Transcript 11. 12. 13.

Saturday May 8th 1852.

In case No 124. J. B. R. Cooper the Deposition of David Spence a witness in behalf of the Claimant, taken before Hiland Hall was filed and is in the words and figures as follows to wit; Vide pages of this Transcript 23. 24.

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Tuesday June 7th 1852.

The following cases were set in their order for hearing to wit; No 102. Antonio & Paustine German. No 124 J. B. R. Cooper. No. 138. J. B. R. Cooper. No. 171. Carlos Walters.

Monday September 6th 1852.

In case No. 124. John B. R. Cooper, for the place called "El Sur", called. The counsel for the claimant, H. W. Halleck, opened the argument, and closed, answered by the U.S. Law Agent, Case submitted to the Board and taken under advisement,

In the same case, the counsel for the claimant submitted to the Board as evidence in behalf of the claimant, an authenticated copy of the original Expediente, on file in the Office of the U.S. Surveyor General for California, heretofore, to wit; On the 23rd March 1852. filed with the petition in this case, as Exhibit "A" with a translation thereof marked "B." which Exhibits are in the words and figures as follows, to wit; Vide pages of this Transcript. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59.

Monday September 13th 1852.

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In Case No. 124. John B. K. Cooper for the place called "El Sur", Commissioner Harry S. Thornton delivered the Opinion of the Board, declaring the claim valid, the entering of the Decree of final confirmation, being reserved for a future day.

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Saturday December 18th 1852.

Case No. 124. John B. K. Cooper, for the place named, "El Sur", Commissioner Hiland Hall delivered his Opinion in this case

In the same case Commissioner Harry S. Thornton delivered the Decree of Final Confirmation of this Board.

Ordered; That the Opinion of this Board delivered by Commissioner Harry S. Thornton on the 13th of September, 1852; the Opinion delivered this day by Commissioner Hiland Hall, and the Decree of Final Confirmation of this Board, also delivered this day, in this case, be recorded on the Journal.

Which Opinions and Decree are in the words and figures as follows, to wit;

Commission for ascertaining
and settling private Land
Claims in the State of
California
Opinion at Los Angeles

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John B. R. Cooper, Claimant

vs.

The United States

Et Sur No. 124.

Decision of the Board by
Harry S. Thornton -

The claimant presents this claim as Assignee, by virtue of a deed of Exchange duly solemnized and authenticated, from the original grantee, Juan B. Alvarado, bearing date on the 9th of December, 1840.

The original grant proved by the testimony of David Spence, is in evidence, as also a copy of record, among the public archives, which being duly certified by the Surveyor General of California, the Custodian thereof together with the whole expediente relating to the same, is filed as part of the evidence in the case. The grant was executed by virtue of the decree of the Mexican Congress of the 18th of August, 1824, and of the Ordinance of the 21st of November, 1828, carrying the said Decree into effect by Jose Figueroa, the Political Chief of the Territory of Upper California, on the 30th of September 1834.

There is no question, or controversy, as to the Authority of Figueroa, nor of the genuineness of the Grant.

It appears from the evidence, that Alvarado the grantee, occupied the land in 1831, under a provisional title, prior to the grant in fee, and that it has been occupied, and resided upon continuously ever since its first settlement, by the said Alvarado, and the present Claimant, for about twenty years.

The Grant is a full consequence of the fee, in accordance with the Decree, and Ordinance above cited, and by the grant

and the accompanying map or diseno which is referred to therein, the land is identified and so segregated from the residue of the public Domain as to render its location and survey entirely feasible.

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All the objections, except one, urged by the Law Agent of the United States against the confirmation of this claim, have been considered by this Board, and overruled, in the Opinion on file in the case of Cruz Cervantes, No 56, of the Docket of Cases.

The objection not hitherto over-ruled, is, that the first condition in the grant, viz. "That the grantee shall abide by the regulations which may be made for the distribution of vacant lands; and in the mean time, neither the grantee, nor his heirs, can alienate, nor alienate the land," has been violated, by the transfer to the present claimant, and that of course, no right either legal or equitable could be acquired by him in virtue of said transfer.

If this condition was lawfully imposed upon the grant to Alvarado, the result would certainly follow which is alleged by the objection. With regard to this condition, I am under the impression that it was either capriciously inserted; or in a spirit of paternal guardianship, to operate in terrorem, against improvident alienation; or in accordance with the form which was used in the case of provisional concessions or licenses to occupy, issued prior to the promulgation of the Ordinance of the 21st of November 1828, in which it would be very properly inserted.

But at all events our conclusion is, that in this grant the condition is nugatory. It is clear, that if the full

Ownership of the land was granted, as the Decree of August, 1824, and the Ordinance of November 1828, evidently contemplated, it no longer remained vacant land, which could be affected under the Mexican Constitution, by any future regulations for the disposition thereof. By that Decree and Ordinance, a grant in full property, with all the necessary incidents of ownership in fee was clearly intended, and provided for.

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Upon the ascertainment by the Political Chief that all the prescribed requisites were met by the Applicant, both as regarded himself and the land which he solicited, it became his duty to carry out by his grant the purpose of the Government, which was the Inhabitation or cultivation of the vacant land of the Republic; an object which might have been thought more attainable by means of unrestricted grants of the soil in full property, than by such, as would ^{withdraw it from Commerce, and would} tie the grantee, and all his posterity, to one spot, like an Asper to the rock.

The conduct of the Political Chief in performing the function of granting, devolved upon him by the ordinance of 1828, was regulated by the laws in force upon that subject; and he could not impair, or defeat the policy, and object of the Government, by the imposition of terms and conditions, which were at war with that object and policy.

It is certain that no such condition as the one we are considering is contained in the decree, and ordinance, in virtue of which he made this grant; and if as we have concluded, a conveyance in full property, was intended by them, a restriction such as this condition imposes, emulates the grant

Of one of its distinctive characteristics, and is in direct contravention of the provisions of the Law.

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The Ordinance of November 1828, does it is true, require the political Chief to conform, not only to the said Decree and Ordinances, but generally, to the laws regulating the disposition of the public domain, by reverting to the laws existing at the time, it appears that they were in conflict, with this prohibition to alienate.

The Decree of the Cortes of Spain, of the 4th of January, 1813, for the reduction of the vacant and other common lands to private ownership, and which it would seem was binding in the Republic of Mexico, being published as such among her Laws, provides in the 11th Section that they shall be distributed "en plena propiedad," in full property. page 56, 3rd Vol. of orders and decrees of the Cortes of Spain considered of force in the Republic.

So by a provision in the 14th Section of the Decree of the 27th of September, 1820 "upon the Suppression of every Species of entails" it; page 135, it is declared, that, "no one can in future, neither for the purpose of advantage, nor under any other pretext, establish a Mayrazgo, fidei commision, admorsum, nor any other entail whatever, in relation to any kind of property or rights, nor prevent its alienation either directly, or indirectly."

It is said in Escribiche, page 610, article Enajenacion, Edition of 1851, "no one can find entail on any class of property, or rights nor prohibit, directly, nor indirectly their alienation." We conclude that the policy of the Country and its express legislation, was violated by this condition in the grant.

Collection of Decrees of the Mexican Nation on
entails Vol. 2: 134, 7th August 1823.

In consideration of the whole case,
for the reasons above given, we are unani-
mous in the opinion, that, in view of the
principles prescribed for our government
in the act of the 3rd of March 1851, the claim
in this case presented, is valid, and ought to
be confirmed to the present claimant.

In the result above announced, Com-
missioner Hall, concurs.

(Signed) Harry S. Thornton,

No 124. Claim of John B. R. Cooper.

In this case I agree that the opinion of Com-
missioner Thornton furnishes sufficient
reasons for the confirmation of the claim,
though I do not concur in a portion of them.

(Signed) Meland Hall
Commissioner.

John B. R. Cooper, assignee, claimant.

vs.

The United States

No 124. Decree of Final Confirmation

This Board upon full consideration of the
various grounds affecting the validity
of the said claim, having come to the
conclusion that the said claim is valid;
therefore now proceeds to make, and does
hereby make, the following decree or report
of final confirmation, viz; It is de-
creed that the said claim is confirmed

to the extent, and quantity of two Square Leagues
(two Licitos de ganado Mayor) and for no more;
being the same land described in the grant
and Expediente referred to therein and
of which possession is proved to have been
had by the original grantee and the Claimant,
Provided, that the said quantity of land gran-
ted and now here confirmed, it contained
within the boundaries called for in the said
grant, and map, to which the grant refers;
and if there be less than the said above
named quantity within the said bounds,
then we confirm to the claimant, that less
quantity, it being apparent that said quan-
tity exceeds the minimum, prescribed in
the ordinance, of two hundred varas.

(Signed) Miland Tall

" ") Harry S. Thornton
Commissioners

San Francisco April 12th 1852

On this day before Miland Tall one of the
Commissioners for ascertaining and settling
private Land Claims in the State of Cali-
fornia, came William E. P. Martnell a wit-
ness produced in behalf of John B. K. Crocker
the Claimant in Case No 124 on the Wicket
of said Commissioners and was duly sworn

The Law Agent was notified and
attended by Mr Greenhow.

In answer to questions propounded by
the counsel for the Claimant the witness
testified as follows.

My name is William E. P. Martnell; my age is 34 years; I have lived in the present County of Monterey, California, 30 years; and reside there at the present time.

I have held under the Mexican Government the Office of Collector of Customs, Inspector General of Missions, and have been 1st Regidor & acting Alcalde of Monterey. I am acquainted with the handwriting of Jose Figueroa and Augustin V. Zamorano; their signatures to the paper before me are genuine, the paper itself is an original and genuine, and has been compared by me with Exhibit "C" filed in the Office of the Secretary of the Land Commissioners in Claim No 124, and the latter found to be a correct & perfect copy.

I also know the handwriting of David Spence and that his signature to the paper before me is genuine, and I have compared this paper with Exhibit "E" filed in the same claim, and find the latter a correct and perfect copy.

I know the Rancho called "El Sur" in Monterey County. I also know that it was occupied by John B. Alvarado, from about the year 1833, to about the year 1840 and that it has ever since been occupied and is now occupied by John B. K. Cooper.

I have never heard of any other claimant for the said tract of land.

The said grant given as aforesaid to John B. Alvarado and now held by John B. K. Cooper was always regarded by the Mexican Authorities in California as a good and perfect title.

I have been intimately acquainted with all the Governors of California since I came into the country, and know that

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- they

granted Lands within ten leagues of the coast
the same as any other lands in California.

I never heard any one of the Governors
Express any doubt of their power or Authority
to make Such grants. I have always seen
and conversed with the Mexican Governors
almost immediately after their arrival
here, but I never heard any one of them
Express any doubt of the Authority of the Gov-
ernors to make Such grants.

In answer to questions put by
the Law Agent the witness testified as follows.

The land has always been used for keep-
ing cattle and horses. A thousand head of cattle
or more have been kept on the land at a time.

The land is difficult of access & for that
reason not convenient for cultivation.

The land borders on the Sea coast.

If a title has not been disapproved by the Terri-
torial or departmental assembly, I consider it
a perfect title. If a title has not been
presented to the Assembly, I consider it a
legal title, if otherwise in due form.

I think the Government of Mexico has been
continually informed that the Governors
of California were constantly granting lands
within ten leagues of the coast, and have never
interfered with or disapproved of said grants.

I think the title in the present case was val-
id though the land was within ten leagues of
the coast.

W. E. P. Martnell

Sworn & Subscribed
before me, Wiland Hall.

Filed in Office April 12th 1852.
Geo. Fisher
Secy.

Sello Primero Seis Pesos.

Document
N.º 1.
annexed to deposition
of W. S. P. Hartnell

Habilitado provisionalmente por la Administra-
cion de la Aduana Maritima de Monterrey
para los años de mil ocho cientos treinta y
cuatro, y mil ocho cientos treinta y cinco.
Figueroa Rafael Gonzales

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Jose Figueroa General de Brigada
de la Republica Mexicana Comandante
general Inspector y Jefe Superior Politico
del Territorio de la Alta California

Por cuanto el Ciudadano Juan Bautista
Alvarado Mexicano por nacimiento ha pre-
tendido para su beneficio personal y el de su
familia, el terreno conocido con el nombre
del Sur, colindante con la Mision de San
Carlos la Sierra y la Costa: practicadas
previamente las diligencias y averiguaciones
convenientes segun lo dispuesto por leyes y
Reglamentos: usando de las facultades que me
son conferidas y de conformidad con el acuerdo
de la Excelentisima Diputacion Territorial
del dia primero de Agosto ultimo aprobando
la concesion del citado terreno del Sur, echo
en treinta de Julio del presente año al referi-
do Ciudadano Juan Bautista Alvarado:
A nombre de la Nacion Mexicana he
venido en conferirle el terreno mencionado
en las presentes letras declarandole la
propiedad de el sujeto a las condiciones
siguientes:

1.^a Que se sometera a las que estableciere el Reglamento que se ha de formar para la distribucion de terrenos baldios y que entretanto ni el agraciado ni sus herederos podran dividir ni enagenar el que se le adjudica: imponer censo vinculo, fianza hipotecaria ni otro gravamen aunque sea por causa piadosa, ni pasarlo a manos muertas.

2.^a Podra cercarlo sin perjudicar las travesias caminos y servidumbres: lo disfrutara libre y exclusivamente destinandolo al uso o cultivo que mas le acomode; pero dentro de un año a lo mas fabricara casa y estara habitada.

3.^a Solicitara del respectivo que le dé posesion juridica en virtud de este Despacho por el cual se demarcaran los linderos en cuyos limites pondra a mas de las mohoneras algunos arboles frutales o silvestres de alguna utilidad.

4.^a El terreno de que se hace mencion es de dos sitios de ganado mayor poco mas o menos segun explica el diccionario que corre en el expediente: el Juez que diere la posesion lo hara medir conforme a ordenanza para señalar los linderos quedando el sobrante que resulte a la Nacion para los usos convenientes.

5.^a En consecuencia mando que teniendo por firme y valdero este Titulo se tome razon de el en el libro a que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterrey a treinta de Setiembre de mil ochocientos treinta y cuatro.

Jose Figueroa

Agustin V. Zamorano
Serio.

Queda tomada razon de este Titulo en el libro de asientos sobre adjudicacion de Terrenos Valdios a fojas cincuenta y dos numero cincuenta qf. obra en la Secretaria de mi cargo. En Monterrey a treinta de Septiembre de mil ochocientos treinta y cuatro.

Lamorana.

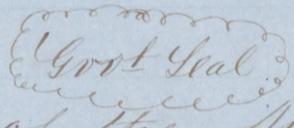
Filed in Office Sept. 6th 1852.
Geo. Fisher
Clerk.

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Seal of the first class six Dollars
Authorized provisionally by the Collectorship of
the Maritime Custom House of Monterey for
the years Eighteen hundred and thirty four and
Eighteen hundred and thirty five.
Signed Figueroa. Signed Rafael Gonzalez

 Jose Figueroa Brigadier General
of the Mexican Republic, Commandant
General & Superior Political Chief of the
Territory of Upper California.

Whereas Citizen Juan Bautista Alvarado
a Mexican by birth has solicited for his per-
sonal benefit and that of his family the land
known by the name of the "Sur" bounded by
the Mision of San Carlos, the mountains, and
the coast; the necessary steps and investigations
having been previously taken & made according
to the requirement of laws and regulations;
I have by virtue of the power conferred upon
me, and in conformity with the resolution of
the most Excellent Territorial Deputation of
the first of August last approving the grant
of said land made on the thirtieth of July
of the present year to said Citizen Juan Bau-
tista Alvarado, granted unto him in the name
of the Mexican Nation the said land, by
these present letters, declaring unto him the
ownership thereof, subject to the following
conditions.

1st He shall abide by those which may
be established by the regulations to be formed
for the distribution of vacant lands, and in
the mean time neither the grantee nor his
heirs can divide nor alienate the land
adjudicated to him, impose ground rent
(censos), entail (vinculo), reversion (fianza),
mortgage or any other burthen although

it may be for pious purposes, nor transfer it in mortmain.

2.^o He may fence it in without prejudice to the croppings, roads or privileges; he shall enjoy it freely and exclusively, destining it to the use or cultivation which may best suit him, but within one year at furthest he shall build a house and it must be inhabited.

3.^o, He shall request the respective justice to give him juridical possession in virtue of this Title, said Magistrate shall designate the boundaries at the limits whereof the grantee shall besides placing the landmarks, plant some fruit trees or wild ones of some utility.

4.^o, The land whereof mention is made consists of two square leagues (dos sitios de ganado mayor) a little more or less, as appears by the plat which accompanies the Expediente; the Justice who gives possession shall cause it to be measured according to law in order to mark the boundaries, leaving the overplus which may result to the Nation for the necessary uses.

5.^o If he transgress these conditions he shall forfeit his right to the land and it may be denounced by another.

I consequently command that holding this title as firm and valid, it be recorded in the corresponding book and be delivered to the party interested for his security and further ends.

Given in Monterey on the thirtieth of September eighteen hundred and thirty four.

(Signed) José Figueroa
Augustín V. Zamora
Sic'y

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A record of this title has been made in the Book of entries respecting the adjudication of vacant lands, at folio fifty two, and number fifty, kept in the Secretarys Office under my charge.

Monterey thirtieth of September eighteen hundred & thirty four,

(Signed) Zamorano

I the undersigned do hereby certify the foregoing to be a true and faithful translation of the Original Title in the possession of John B. K. Cooper.

W. E. P. Martnell

Office of the State ^{Translator} State Translator
Translator.

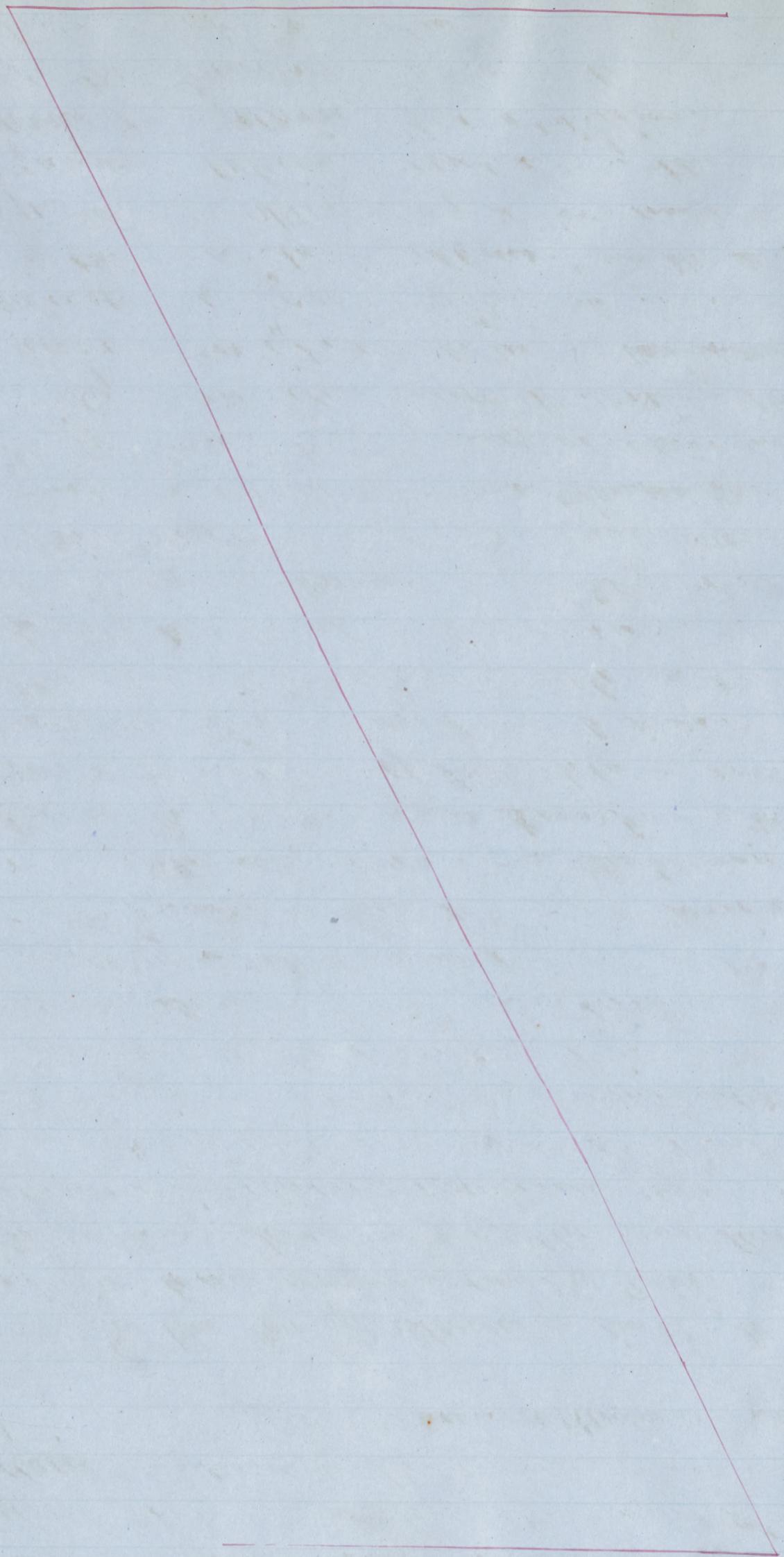
Monterey 31st December 1851.

I certify the foregoing to be a true and correct Translation from an authenticated copy of the Original in the Office of the U.S. Surveyor General for California, which authenticated copy is filed in this Office with the Petition in Case No 124, and marked Exhibit C.

Geo Fisher
Sey

Filed in Office March 23^d 1852.

Geo Fisher
Sey



Stamp third two Reals

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Translation of
Transfer Mud.

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Provisionally authorized by the Maritime
Custom House of the Port of Monterey,
in the Department of the Californias,
for the years One thousand Eight hundred
and forty and One thousand Eight hun-
dred forty one.
(Signed) Jimeno, (Signed) Antonio Maria Osio

In the Port of Monterey in the Department
of the Californias, on the 9th day of the
Month of December of the year One thou-
sand Eight hundred and forty, before
me, David Spence, Constitutional Justice
of the Peace of this Demarcation (District)
and before the assisting witnesses with
whom I act in the established form for
want of a Notary Public, and the witnesses
to the instrument who will hereinafter
be mentioned, appeared the Senores Don
Juan B. Cooper and Don Juan B. Alva-
rado residents of this place, which
persons I certify that I know, and
the former said; that being owner in
fee of the land known by the name of
La Sagrada Familia (a) Las Salinas,
which he obtained by legal purchase
from its former owner Senor Don Joaquin
de la Torre, the writing of which he pub-
licly exhibited and I certify that I
have seen it, in which land is in-
cluded a "potrero" (stock farm) formed
by the sea "la tembladera" at the narrowest
part, the Monterey river, and a ditch
(zanjon) which runs along the side tow-
ards the plain of Las Salinas, and al-
so two hundred varas of land at the en-
trance of "la Bolsa" on the side next

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the said river. He concedes (grants) both the "potrero" and the two hundred varas of land aforesaid, to the above named Senor Alvarado, for himself, and in the name of his heirs and Successors, and of whoever of them may have title, vice, or claim in any manner, that he may possess it and that it may be recognised as his property, firm, valid and perpetual, so that no person may disturb him in its possession; declaring as he declares, that it has not been sold, alienated or pledged and that it is free from any incumbrance, whether public, perpetual, temporary, special, general, tacit, or expressed, and as such he conveys it. And the aforesaid Senor Don Juan B. Alvarado, in consideration of this donation conveys to the said Senor Cooper in the same terms, form, and manner, without any variation, the place called El Sur which he holds by just title from the Departmental Government, in extent all that described in the instrument which he presented in proceedings and which Don Juan Cooper received in proof of the execution of the contract. Moreover both parties declare that the values of the lands are perfectly equal and if either should exceed the other in a large or small sum, this one makes (of the excess) free gift and donation, just, perfect, and irrevocable, which in Law is called inter vivos, with judicial intervention and other legal forms; they renounce Law 4; title 7. book 5. of the "recopilacion" and all others which treat of lesion in more or less than one half of the just value, and they consider as past the four years specified

in them, in which to demand restitution of the property or what was wanting of its full value, and they both give up forever the dominion, possession, title, recourse, and every other right which they may have, Senor Cooper to the fortress and two hundred varas of land aforesaid, and Senor Alvarado to the place Sur before mentioned, and they renounce and transfer them each to the other, each conferring on the other irrevocable power with full and general administration that of his own authority he may take the tenure and possession which lawfully pertains to him, binding themselves that this exchange shall be certain, sure, and effective, and that no person shall disturb or bring suit against either of them, and if it should happen otherwise they will mutually come forward in defence of the person disturbed, until he be left in peaceable possession; and if this should not be accomplished his former property will be returned to him, with the useful improvements which he may have, and all the costs, injuries and damages he may have sustained.

And for the observance of the foregoing they bind their property, present and future, and with it submit themselves to the jurisdiction of the Magistrates who by law, can and ought to take cognizance of the matter, that they may compel and free them to comply with it, as with a definitive sentence, consented to and judged in authority of res judicata; they renounce the laws in their favour and the legal exceptions in favour.

In testimony of which they executed (delivered) and signed this with me and those of my assistance, the witnesses to

to the instrument being the Senores Don Antonio Maria Osio, Don Guasmesinda Flores and Don Eugenio Montenegro residents and present Assisting Witnesses. (Signed) David Spence (Sgd) Guillermo E. Martrell. (Signed) Juan B. Alvarado (Sgd) Juan Malarino. (Signed) Juan B. Cooper.

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(The above) is a copy faithfully made from the record which exists in the archives of this court, on the day of its execution, the witnesses to the copy and the comparison being the Senores Jose F. Hernandez and Don Manuel Castro. I certify—

(Signed) David Spence.

Filed in Office March 23^d 1852.

Geo Fisher
Secy

Office of the Board of Commissioners
of California Land Claims,
San Francisco May 8th 1852.

On this day before me Wiland Hall one of the Commissioners for ascertaining and settling private Land Claims in the State of California came David Spence a witness produced in behalf of the claimant J. B. R. Cooper whose petition is Number 124 on the Docket of the board and was duly sworn. The Law Agent was notified and attended.

In answer to questions put by the Counsel for claimant the witness testified as follows.

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

Answer. My name is David Spence; my age is 53 years; I reside in Monterey, and have lived in California 28 years.

2nd Question. Are you acquainted with the Rancho called "El Sur" in the county of Monterey, and if so, say what you know about its ownership and possession.

Answer. I know the Rancho called "El Sur" situate in the county of Monterey. Juan B. Alvarado first occupied it about the year 1831 under a provisional grant. He soon afterwards received a formal grant from Governor Figueroa. He sold it to Juan B. Cooper about the year 1840. Alvarado and Cooper have occupied this land for about 20 years; they have had a house on it, & cattle and horses. Cooper occupies it at the present time with cattle and horses.

The authorities of California, always recognised the title of Alvarado, and I have never heard of any conflicting claim.

In answer to questions put by the said agent the witness says that the land is so situated that it is difficult of cultivation & access. There has been a small house on the place which has been inhabited for a number of years, but I cannot tell how long.

The whole of the land is within ten leagues of the Sea coast.

D. S. Spence.

Sworn & Subscribed

before me

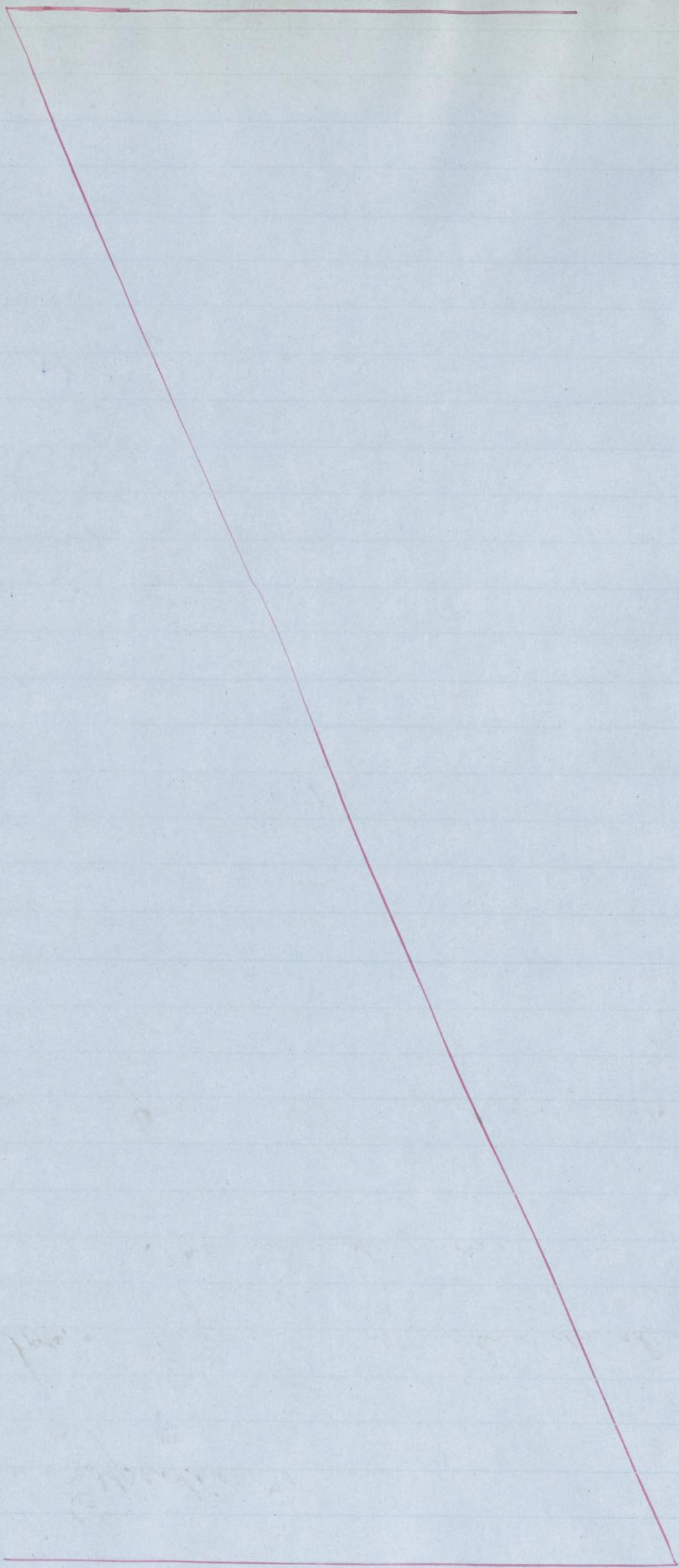
William Hall

Com^r

Filed in Office May 8th 1852.

Geo Fisher

Secy



25

Jurisdiccion de
Monterrei N.º 50

Año de
1834

1 SD
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Espediente

Sobre el paraje nombrado el Sur
solicitado por

D. Juan B. Alvarado.

34.

Sello Fecero: Dos Reales

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

Figuerosa

Jose Rafael Gonzalez

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PAGE

A.

Expediente

Sr. Jefe Sup^{or} PolíticoMonterrey, Mayo
14/1824.Soliciteme
los antecedentes,
agregame, y
des cuenta
para resolver
3

El Ciudadano Juan B. Alvarado Vecino del Pto de Monterrey a V.S. respetuosamente me represento y digo: que en 12 de Ag^{to} de 1830 dirige una instancia al gobierno Político de este Territorio en solicitud de un paraje conocido en el nombre del Sur que se halla al rumbo de este nombre en la costa, distante mas o menos nueve leguas de esta Capital, a la que acompaño el dicho correspondiente conforme con lo prevenido por el Reglamento de Colonizacion de 21 de Nov. de 828, y no tuvo resolucioⁿ. En 26 de Feb^o de 831 repeti mis instancias pidiendo provisionalmente la concesion para asegurar algunos bienes de campo: este me fue concedido por el decreto que esta en la representacion que devidamente acompaño a V.S. a fin de que se sirva dar a mis solicitudes el giro que tenga a bien para adquirir la propiedad de dicho Sitio en que a la vez mantengo de mi pertenencia el numero de mas de trescientos cabezas de ganado mayor y ceren de ciento de caballos con fabrica de casa y corrales. Por tanto A. V. S. suplico se sirva proveer como

15
 pido en lo que recibire gracia, jurando
 no ser de malicia, y lo necesario &

Monterrey 14 de Mayo de 1834

Juan B. Alvarado

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Sello 4.^o una quartilla
 Habilitado provisionalmente por la
 Comisaria Subalterna del Pto. de Monterrey
 por los a.^{os} de 1831 y 1832.

Gomez

Sor. G^o Sup^o or Polit^o

Monterrey, Feb.
 27 de 1837.

Puede el inter-
 esado ocupar el
 terreno q^o preten-
 de siempre q^o
 con particulari-
 dad sea pa
 establecer
 y conservar lo
 bien cultivado,
 en el concepto
 q^o sera provision-
 mente segun solicita
 hasta la resolu-
 cion de la
 instancia q^o
 manifiesta
 tener pendiente

El Ciudadano Juan Baut.
 Alvarado a V. respetuosa-
 mente me presento y digo:
 que habiendo dirigido en
 el año pp^o al G^o Sup^o or
 de este Territ^o una solicitud
 en conformidad de las leyes
 de Colonizacion pretendiendo
 hara fomentar un terreno
 vadio llamado el Sur, que
 esta al rumbo de este nombre
 en la costa distante de este
 Pres^o mas o' menos quince
 leguas; y como nada resolvió
 el G^o sobre este asunto, me
 dirijo a V. para q^o se sirva
 si encontrare conveniente
 permitirme provisionalmente
 la concesion de él; y quedando
 yo sujeto a la resolucion q^o
 hubiere de mi anterior repres-
 entacion. Por tanto
 de la consideracion de
 V. espero el resultado mas

favorable en lo que recibiere gracia.

Juro &

Monterrey 26 de Feb.º de 1831.

Juan B. Alvarado

Sello 4.º una quartilla

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Habilitado provisionalmente por la Comisaria
Subalterna interina del Puerto de Monterrey
p.º el año de 1830.

Echeandía

Casarin

Por Gepe Sup.º Político

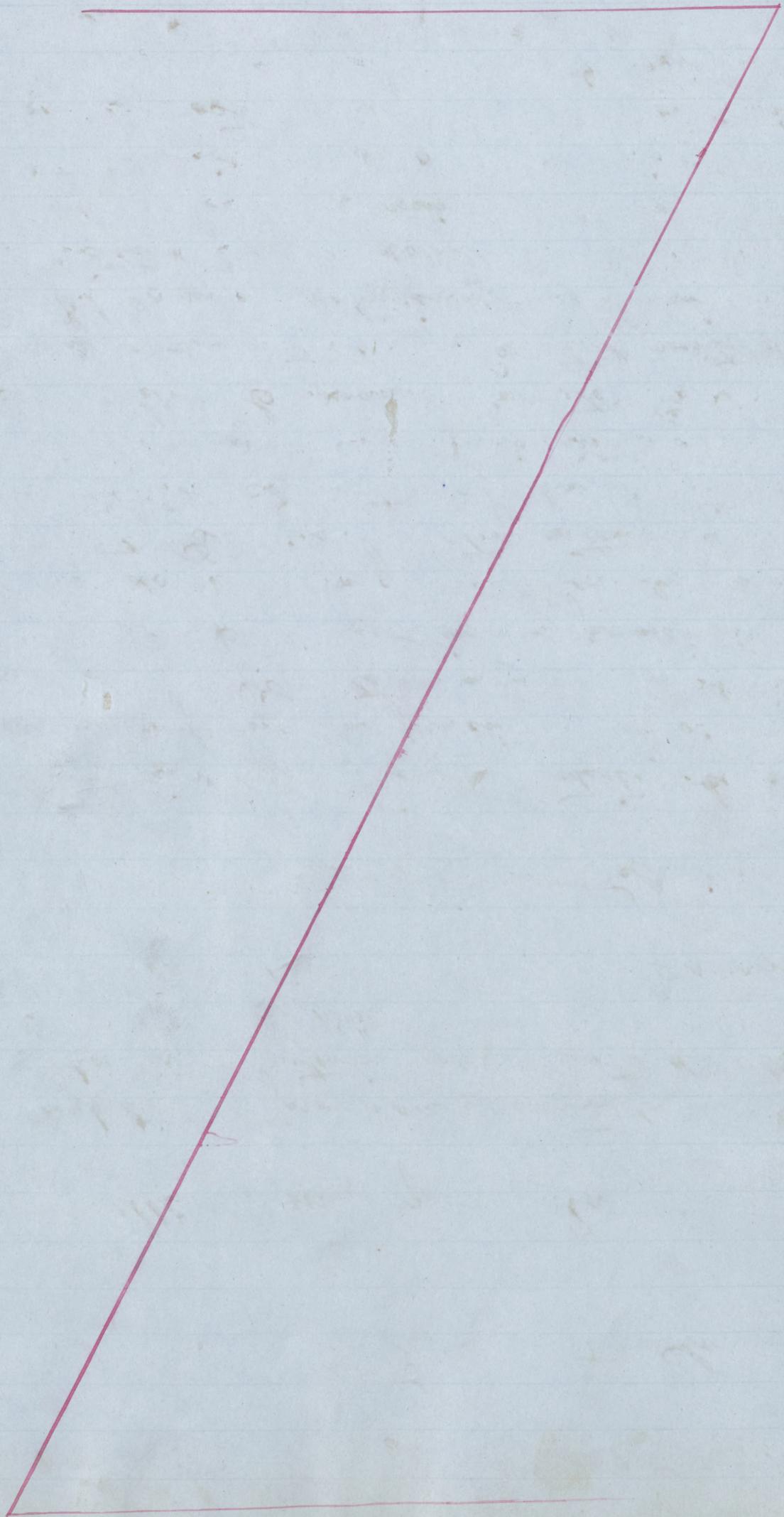
El Ciudadano Juan Bautista Alvarado en
la mejor forma me presento y digo: que habiendo
dirigido a V.º anteriormente una solicitud
pidiendo para cultivar y fomentar el Sitio
llamado el Foro que está en las inmediaciones
de este Presidio. Estoy entendido en que
la Excm. Diputación ha destinado este
terreno para el mantenimiento de las Caballe-
rias de la Compañía de este Presidio como
siempre ha estado. En tal virtud represento
a V.º de nuevo refiriendome a mi anterior
solicitud pidiendo el paraje llamado el
Sud que está al mismo rumbo distante de
este Presidio mas o menos diez y seis leguas
por la costa a cuyo efecto acompaño a V.º
el dicm. correspondiente q. previene el art.º
2.º del Reglamento de Colonización de 24
de Noviembre de 1828. Por tanto.

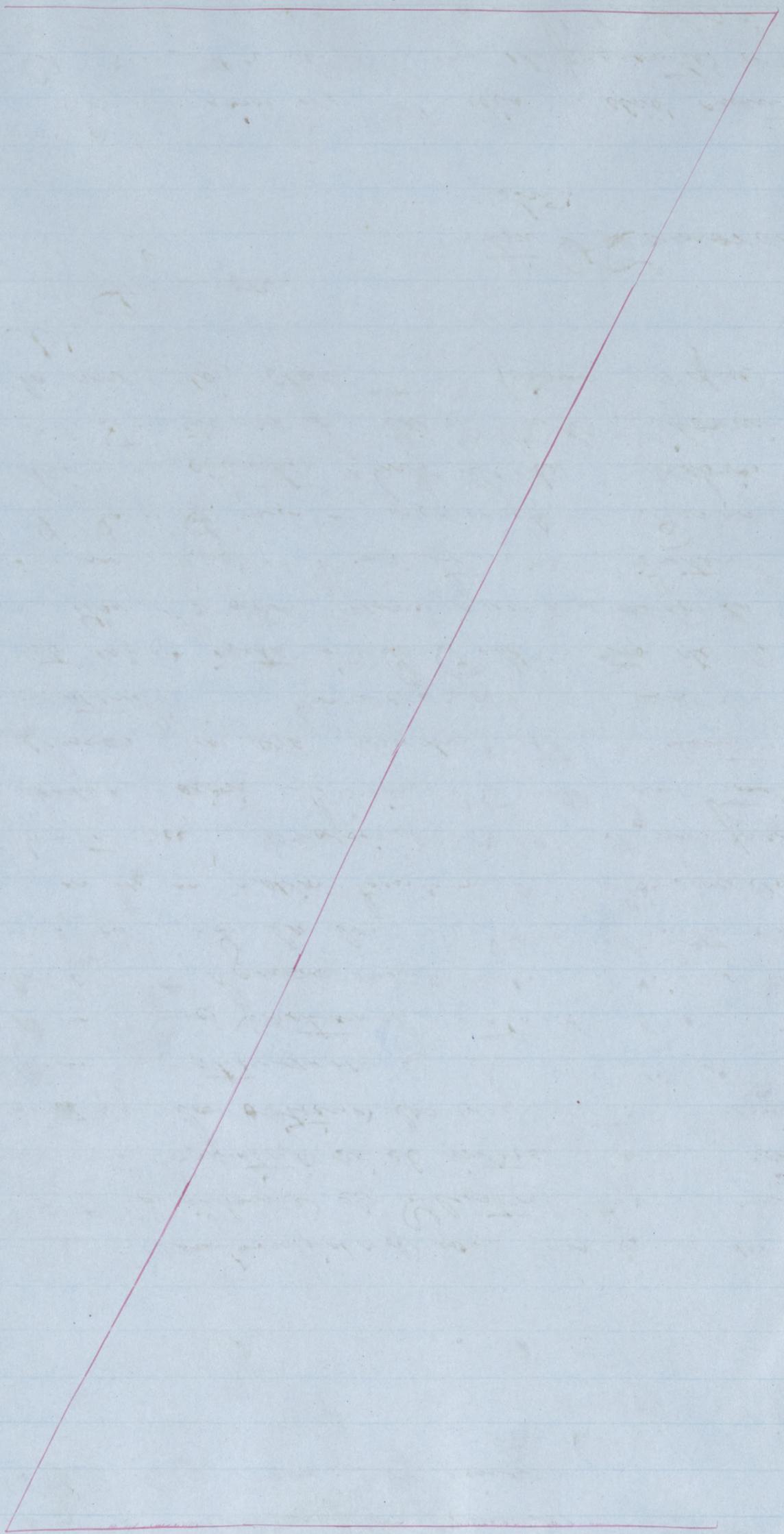
A. V.º suplico se sirva acceder a esta
mi petición si lo encontrare justo.

Monterrey 12 de Ag.º de 1830

Juan Bautista Alvarado

Map follows





Sello Fecero Dos Reales.

Habilitado por la administracion de la
Aduana Maritima de Monterrey para los
años de ocho cientos treinta y cuatro y mil
ocho cientos treinta y cinco.

Figueroa.

Rafael Gonzales.

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Monterrey Mayo 16 de 1834.

De conformidad con las leyes de la
materia informe el Ilustre Ayuntamiento
de esta Capital si el interesado en esta
instancia obtiene los requisitos prevenidos
para ser atendido en su solicitud si el
terreno que pertenece esta comprendido en
las veinte aguas limítrofes o diez litorales
que espasa la ley de 18 de Agosto de 1824,
si es de regadio temporal o abrevadero, y
pertenece a propiedad de algun particular,
corporacion Mision o Pueblo con todo lo
demas que sea conducente a ilustrar la
materia. Evacuado que sea pasara
este expediente al R. P. Ministro de la Mision
de San Carlos para que esponga lo que le
ocurra y devuelva este expediente. El G^o.
D. Jose Figueroa, general de Brigada,
Comandante genl. Jefe Superior Político
del Territorio de la Alta California asi
lo mando, decreto y firmo de que doy
fe.

Figueroa

Agustin V. Lamorano
Srio.

En sesion de este dia se dio cuenta al
Ayuntamiento con el presente expediente,
y se mando pasar a la Comision
de Colonizacion y terrenos baldios

Monterrey 31 de Mayo 1834.

José Maria Maldonado

Sr. Jefe Superior Politico

El Y. Ayuntamiento de esta Capital con el objeto de dar a V. S. el informe que se sirva pedir en su superior decreto de 15 del pp. do paso la presente solicitud a la Comision permanente de Colonizacion y terrenos Baldios quin presento en sesion de hoy el dictamen q. se mando agregar a este expediente y como su contenido es lo q. en el particular deve informar esta Corporacion lo reproduce en todas sus partes. Monterrey Junio 7 de 1834.

Mmanuel Jimeno
Basarin

José Maria
Maldonado
V. Secret.

Sello Fercero Dos Reales

Habilitado provisionalmente por la Admi-
nistracion de la Aduana Maritima de
Monterrey para los años de mil ochocientos
treinta y cuatro y mil ochocientos treinta
y cinco.

Figueroa

Rafael Gonzales

Y. Ayuntamiento

La Comision encargada de Colonizacion
y terrenos Baldios, abisto la solicitud que
promuebe el Ciudadano Juan Bautista
Alvarado, relativa ha que se le conceda

en propiedad el paraje nombrado el Sur
 y en cumplimiento del Superior Decreto acom-
 -panatorio, dictamina la Comision q. el
 solicitante, es Ciudadano Mexicano por
 nacimiento, en el ejercicio de sus derechos.
 lo que le da, todos los requisitos q. exige
 la Ley el terreno pretendido no esta com-
 -prendido en la veinte leguas Limitrofes
 y si en las diez Litorales q. expresa la
 Ley de 18 de Agosto de 1824, es de temporal
 y abrevadero, no pertenece a propiedad
 particular ni Pueblo, a reconocidos por
 Baldios y dista de la Misión de Sr.
 Carlos de siete u ocho leguas, por cuyo
 motivo la Comision ofrece a la deliberacion
 de esta Y. Corporacion las siguientes pro-
 -posiciones.

1.^a Puede adjudicarse al Ciudadano
 Juan Bautista Alvarado el paraje pretendido
 nombrado el Sur, por todo lo arriba expuesto.

2.^a Que para dar cumplimiento al citado
 decreto pase este expediente al R. P. de dicha
 Misión.

Monterrey 7 de Junio de 1834.

Jose Antonio Romero

Jose Aguilar

Impuesto del expediente q. V. me dirige pa-
 q. exponga lo q. hayera de Justicia digo, q.
 el Cito q. pretende el Sr. Bautista Alvarado
 es el mejor q. tiene esta Misión p. asegurar
 sus ganados mayor y Cabayada, Por lo
 q. suplico a V. S. a nombre de todo: los
 Acopiados de esta Misión: no solo no se les
 quite una propiedad q. diaramente estan
 reclamando, y a q. tienen tanto derecho,
 sino q. implorando de V. S. aquella Justicia
 con q. procura y trabaja tanto en hacerles

felices, piden se les desocupe con la mayor brevedad p.^a la asegurancia de sus bienes. Lo pongo en conocimiento á V. p.^a los fines indicados, y reiterando mi suplicas á nombre de estas infelices q.^e se ven desgraciados y sin poder defender sus propiedades. se digna obrar en la materia segun el celo q.^e le caracteriza.

Jn. Carlos Junis 26 de 834

Fr. J.^e Ato. del Refug.^o L.^o del Real

Sello Tercero Dos Reales

Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterrey para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa.

Rafael Gonzalez

Monterrey July 3 de 1834.

Pase al Alcalde este Capital ante quien la parte de D. Juan Bautista Alvarado produjera una informacion de tres testigos idiosos que seran interrogados sobre los puntos siguientes, 1.^o Si el solicitante es Mexicano por nacimiento si es casado y tiene hijos, si es de buena conducta. 2.^o si el terreno que pretende pertenece á la propiedad de algun particular, Mision, Pueblo, ó ocupacion si es de regadio, temporal ó aborradero, y que estension tendra: 3.^o Si tiene bienes de Campo con que poblarlo ó posibilidad de adquirirlos. Evacuadas estas diligencias vuelva el expediente para su resolucion. El Sr. D. Jose Figueroa,

General de Brigada Comandante general
Inspector y Jefe Superior Político de la Alta
California así lo mandó y firmó a que doy
fe.

Jose Figueroa

Agustin V. Lamoreaux
Sr.

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Monterey Julio 18 de 1834.

En cumplimiento del Sup^r decreto que antecede
de del Sr. Jefe Político de fha. 30 del pp^o
mes, tomase la informacion de tres testigos
idoneos, que seran interrogados sobre los
tres puntos que menciona dicho Sup^r decreto.

Asi yo el Alcalde Constitucional lo
decreto mande y firmé con los de mi asis-
tencia con quienes activo en la forma es-
tablecida. Doy Fee'

Mamuel Jimeno
Casarin

de assa.

Jose Aguila

de assa.

Bonifacio de
Maldariaga

En la fha. presente Sr. Juan B. Alvarado
parte de este asunto se le notificó el auto
que antecede y entendido dijo que lo oye
y firmó conmigo y los testigos de asista.

Casarin

Juan B. Alvarado

Jose Aguila

Bonifacio de
Maldariaga

Sello Fucero Dos Reales

Habilitado provisionalmente por la
Administracion de la Aduana Maritima

de Monterrey para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa

Rafael Gonzales

En la fha. presente Sr. Jose Castro se le recibio jiramento en la forma devida por el cual ofrecio decir verdad en lo que supiera y fuera preguntado y señalole por su nombre estado edad empleo Patria y Religion, Dijo: llamase como queda dicho casado de veintá y seis años Labrador natural de la Mision de la Soledad y l. A. R.

Interrogado. Sobre los tres puntos que menciona el Superior decreto del Sr. Jefe Político de fha 3. del corriente Dijo: que conoce a Sr. Juan B. Alvarado que es Mexicano por nacimiento soltero y es de buena conducta, que tambien conoce el terreno que pretende dicho Alvarado y no pertenece a la propiedad de ningun particular Mision Pueblo y ni a corporacion ninguna, que solamente los Padres de la Mision de San Carlos dicen que pertenece dicho terreno a dicha Mision pero que nunca lo ha ocupado, que el expresado terreno es de regadio temporal y abrevadero y que tendra' poco mas o' menos de dos leguas y medio de longitud, y de latitud como medio legua, que ultimamente que el mencionado Sr. Juan B. Alvarado tiene bienes de campo con que poblarlo el repetido terreno, que todo lo dicho es la verdad bajo cargo del jiramento que tiene hecho en el que se afirmo y ratifico' leida que le fue esta su declaracion y firmo' con miyo y los testigos de asistencia

Casarin.

Jose Castro.

José Aquila

Bonifacio de
Madariaga1 SD
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En la fha. presente Sr. Ramon Estrada se le recibio juramento en la forma devida por el cual ofrecio decir verdad en lo que supiera y fuera preguntado y siendo por su nombre estado edad empleo Patria y Religion, dijo: llamarse como queda dicho que es Soltero de veinte y cuatro años Comerciante natural de este Puerto de Monterey y C. A. R.

Interrogado sobre los tres puntos que menciona dicho Supr. decreto del Sr. Gefe Politico de fha. 3 del corriente dijo: que conoce a Sr. Juan B. Alvarado que es Mexicano por nacimiento soltero y de buena conducta, que tambien conoce el terreno que solicita y no pertenece a la propiedad de ningun particular Mision Pueblo y ni a corporacion ninguna, que aunque se dice que se reconoce por de la Mision de San Carlos pero que nunca lo ha ocupado, y dista de dicha Mision como seis o ocho leguas, que el expresado terreno es de regadio temporal y abrevadero y que tendra poco mas o menos de longitud de dos leguas y media y de latitud como medio legua, que el expresado Sr. Juan B. Alvarado tiene bienes de campo con que poblar el repetido terreno. que lo dicho es la verdad ha cargo del juramento que tiene hecho en el que se afirma y ratifico leido que le fue esta su declaracion y firmo con miyo y los testigos de arriba.

Casarin.

Jose A. Estrada

Jose Aquila

Bonifacio de
Madariaga

En la fha. presente el Vecino Juan Alvirez se le recibio juram^{to} en toda forma de derecho por el cual ofrecio decir verdad en lo que supiere y p^o preguntado y siendole por su nombre estado edad empleo Patria y Religion dijo: llamarse como dicho, Casarindo, de cuarenta y años, labrador, natural del Pueblo San Jose Guadalupe en este Territorio y C. A. R.

1 SD

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Interrogado sobre los tres puntos que menciona el repetido Sup^r decreto del Sr. Jefe Politico de fha. 3 del corriente dijo: que conoce a Sr. Juan B. Alvarado - que es Mexicano por nacimiento soltero y de buena conducta que tambien conoce el terreno que solicita y no pertenece a la propiedad de ningun particular Mision Pueblo y ni ha corporacion ninguna, que aunque se dice que pertenece a la Mision de San Carlos pero que nunca lo ha ocupado, que el expresado terreno es de regadio temporal y abrevadero y que tendra de longitud dos leguas y media, y de latitud como media legua, que ultimamente el repetido Sr. Juan B. Alvarado tiene bienes de campo con que poblar el mencionado terreno. que lo dicho es verdad ha cargo del juram^{to} que tiene hecho en el que se ratifico leida que le fue esta su declaracion y firmo con su amigo y los testigos de asista.

Casarin.

Juan Alvirez

de asista.

Bonifacio de
Maldonado

Monterey Julio 18 de 1834

Concluidas las anteced^{tes} diligencias
vuelva el exped^{to} al Sr. Jefe Sup^r Politico

pa. su resolucion. Asi yo el Alcalde Con-
stitucional lo decreté mande y firme
con los de mis asista

Mamuel Jimeno
Casarin

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de asía.

Ygnacio del Valle

de asía.

Bonifacio de
Madariaga

Monterrey, Julio 30 de 1834.

Vista la peticion con que da
principio este expediente el informe de
la autoridad municipal, de esta Capital,
el del Padre Ministro de la Mision de San
Carlos, la exposicion de testigos con todo lo
demas que se tubo presente y ver con vino
de conformidad con lo dispuesto por las
leyes y reglamento de la materia, se
declara al Ciudadano Juan Bautista
Alvarado dueño en propiedad del terreno
conocido con el nombre del Sur, colindante
con la Mision de San Carlos, la
Sierra y la Costa al mar, sujeto a
las condiciones que se estipularon: diri-
=jase este expediente a la Excm^a Di-
=putacion Territorial para su aprobacion.

El Señor D. Jose Figueroa General de
Brigada, Comandante general, Inspec-
=tor y Jefe Superior Político de la
Atta California así lo mando, decretó,
y firmó de que soy fe.

Jose Figueroa

Agustin Olanorano
Srío.

Monterrey Julio 31 de 1834.

En sesion de este dia acordó la E. Diputacion
pase este expediente a las Comisiones unidas de
Colonizacion y terrenos Baldios.

Figueroa

José Maria
Maldonado
Señor.

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Excmo. Gov.

Las Comisiones unidas de Colonizacion y
terrenos Baldios aquiennes se paso el expediente
cuyo formacion provoco por pretension de Sr. Don
Juan Bautista Alvarado hijo del terreno nombrado
el Sur, a bisto la Comision q. en todo cuanto
en el sea practicado a sido conforme con la
Ley de 18 de Ag. de 1824 y el articulo 5.º del
Reglam. to de 27 de Dico. de 1828. Por lo
dicho concluye la Comision ofreciendo a la
deliberacion de esta Excmo. Diputacion la
siguiente proposicion.

Se aprueba la concesion hecha al Sr.
Juan Bautista Alvarado del terreno
nombrado el Sur concedido en 30 de Julio
de 1834.

Monterrey Agosto 1.º de 1834

José J. Ortega

Carlos Ant.º
Carrillo

José A. Estudillo

Dada cuenta a la E. Diputacion en Sesion
de este dia con el antecedente dictamen,
aprovo la proposicion en q. concluye q. dice
"Se aprueba la concesion hecha al
Sr. Juan B. Alvarado del terreno nombrado
el Sur, concedido en 30 de Julio de 1834."

Y en su consecuencia se devuelve este expediente al Sr. Jefe Sup^r. Político para su curso. Monterrey Agosto 1.^o de 1834.

Jose Figueroa

Jose Maria
Maldonado
Sr.

1 SD
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Monterrey Setiembre 30 de 1834.

En vista del acuerdo de la Ex^{ta}. Diputacion Territorial del dia 1.^o de Agosto ultimo en confirmacion del terreno nombrado el Sur pretendido por D. Juan Bautista Alvarado: librese el Título respectivo, Tome razon de el en el Libro a que corresponde y entreguese al interesado para su resguardo y demas fines. El Sr. D. Jose Figueroa general de Brigada Comandante general Inspector y Jefe Superior Político del Territorio de la Alta California, asi lo mando decreto y firmo de que doy fe.

Jose Figueroa

Agustin V. Zamorano
Sr.

Jose Figueroa, General de Brigada de la Rep^{ca}. Mexicana Comandante genl. Inspector y Jefe Superior Político del Territorio de la Alta California.

Por quanto D. Juan Bta Alvarado Mexicano por nacimiento ha pretendido para su beneficio personal y el de su familia el Terreno conocido con el nombre del Sur colindante con la Mision de S. Carlos; la Sierra y la costa: practicadas

previamente las diligencias y averiguaciones correspondientes según lo disp^{to} p^{or} leyes y Reglamentos: usando de las facultades q^e me son conferidas y de conformidad con el acuerdo de la C^{on}g^{re}g^o Diputación Territorial del día 1.^o de Agosto ult^o: aprobando la concesión del citado terreno del Em^{pu} echo en 30 de Julio del presente año al referido D. Juan B. Alvarado. a nombre de la Nación Mexicana he venido en conferirle el terreno mencionado p^{or} las presentes letras declarándole la propiedad de el, sujeto a las condiciones siguientes:

1.^a Que se someterá a las q^e estableciere el Reglamento q^e se ha de formar para la distribución de terrenos baldíos y q^e entre tanto ni el agraciado ni sus herederos podrán dividir ni enagenar el q^e se le adjudica: imponer sobre su suelo fianza hipoteca ni otro gravamen aunque sea por causa piadosa ni pasarlo a manos muertas.

2.^a Podrá cercarlo sin perjudicar las travesías, caminos y servidumbres. Lo disfrutará libre y exclusivamente destinándolo al uso ni cultivo q^e mas le acomode; p^{or} dentro de un año a lo mas fabricará casa y estará habitada.

3.^a Solicitara del Juez respectivo que le de posesión jurídica en virtud de este despacho p^{or} el cual se demarcaran los linderos en cuyos límites pondrá a mas de las mojoneras algunos arboles frutales ó ribvertes de alguna utilidad.

4.^a El Terreno de que se hace mención es de dos sitios de ganado mayor poco mas ó menos según esplica el dicho q^e corre en el expediente: el Juez q^e diere la posesión lo hará medir conforme a ordenanza p^{or} señalar los linderos quedando el sobrante q^e resulta a la Nación p^{or} los usos convenientes.

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5.^a Si contraviniere a estas condiciones perdera su derecho al terreno y sera denunci-
= ciable por otro.

En consecuencia mando q. teniendo
por firme y valido este titulo se tome razon
de el en el Libro a q. corresponde y se
entregue al interesado p.^a su resguardo y
demas fines. Hecho en Monterrey a 30
de Sept. de 1834.

José Figueroa = Agustín V. Lamorano

1 SD
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Office of the Surveyor General of the
United States for California.

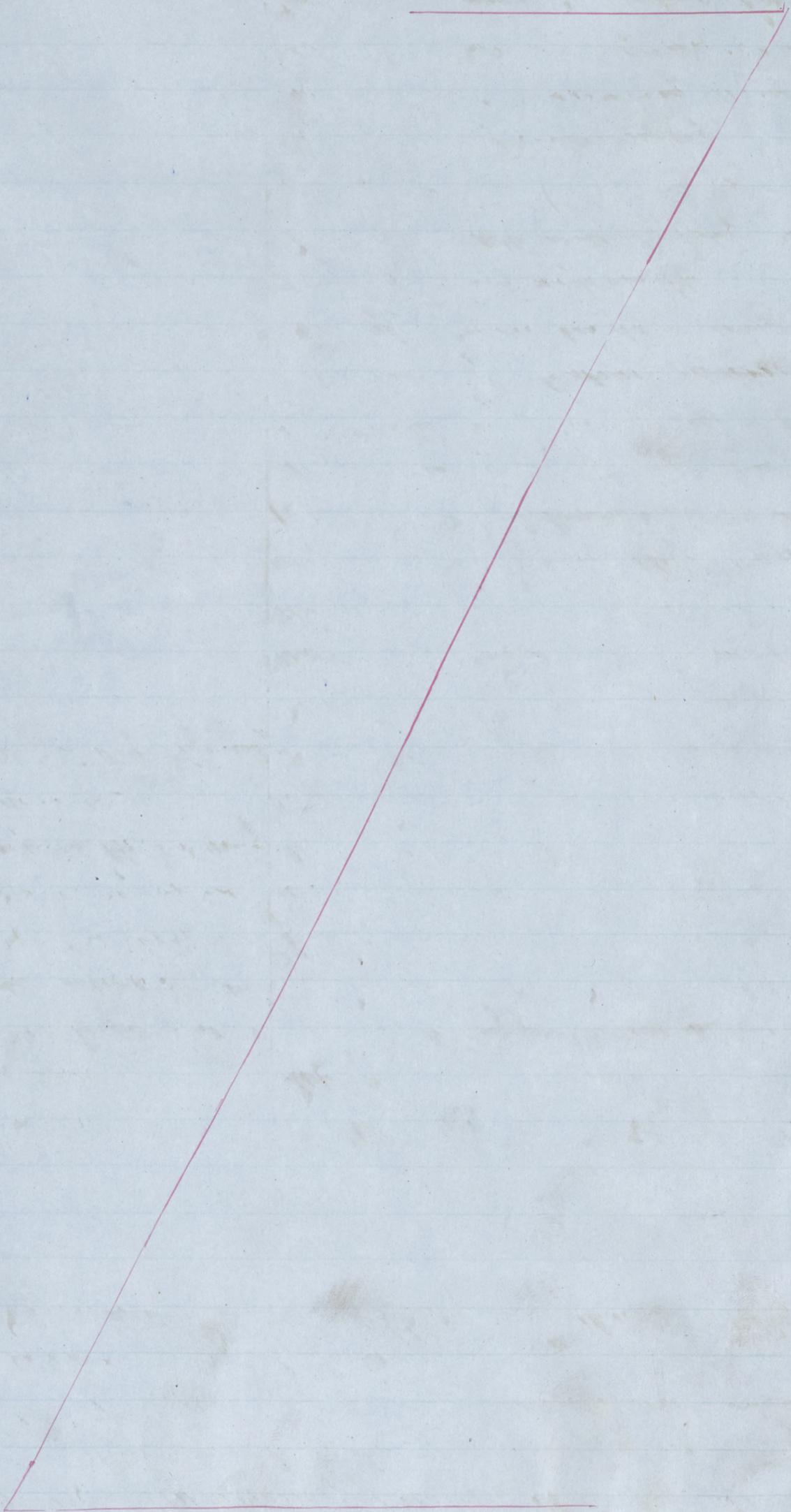
I, Samuel D. King, Surveyor General
of the United States for the State of California
and as such now having in my Office and
under my charge and control a portion of
the Archives of the former Spanish and Mexican
Territory or Department of Upper California,
do hereby certify that the twenty three pre-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

In testimony whereof I have
herewith subscribed my name
officially, and affixed my
Private Seal (not having a seal
of Office) at the City of San
Francisco, Cal. this twenty eighth
day of February A.D. 1852.

Sam. D. King
Sur: Gen. Cal.

Filed in Office March 23^d 1852.
Geo. Fisher
Geog.

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B

Translation of
Expediente A.

Provisionally authorized by the administration
of the Maritime Custom House of Monterey
for the year One Thousand eight hundred and
thirty three, and One thousand eight hun-
dred and thirty four.

(Signed) Figueroa. (Signed) Don Rafael Gonzalez

1 SD

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Monterey May 14th
1834.

Let information
be collected at
eached hereto
and reported
upon that I may
decide-

(Rubrick of Figueroa)

To His Excellency the Superior Political
Chief.

I Citizen Juan B. Alvarado
resident of the Port of Monterey, be-
fore Your Honor respectfully appear
and represent; that on the 12th of
August 1830 I directed a petition
to the Political Government of this
Territory requesting a place known
by the name of "El Sur" which is sit-
uated on the coast in a southerly
direction, distant nine leagues,
more or less, from this Capitol,
with which I transmitted the cor-
responding map in conformity
with the requirements of the reg-
ulation of Colonization of the
21st of November 1828, and I had
no decision upon it.

On the 26th of February 1831 I
repeated my request praying for
the grant provisionally, for the
purpose of securing some live
stock; this was granted to me
by the decree which is included
in the representation which I
duly transmit to Your Honor that

1 SD
PAGE 46

You may be pleased to give to my afor said
petitions, that direction which you may
see fit; in order to acquire the ownership
of said place, in which I at this time, main-
tain more than three hundred head of large
cattle and nearly an hundred horses, all
my own property, and have built a house
and pens.

Therefore I pray your Honor have the good-
ness to direct as I request, by which I will
receive favor making oath that I do not act
from malice and whatever else may be neces-
ary &c

Monterey May 14th 1834

(Signed) Juan B. Alvarado.

Stamp Fourth One Cuartillo (copy emb)
Provisionally authorized by the Subaltern
Commissariat of the Post of Monterey for
the years 1831 and 1832.

(Signed) Gomez
(Rubrick of Victoria)

To His Honor the Superior Political Chief,

Monterey Feb^{ry}
27th 1831.

I Citizen Juan Bautista Alvarado
before Your Honor respectfully ap-
pear and say, that having last
year directed to the Superior Gov-
ernment of this Territory a petition
The person in-
terested may be in conformity with the laws of Col-
ony the lands on which requesting for the pur-
he petitions for pose of improving it, a vacant
it being always land called El Sur situated
understood that on the coast distant fifteen leagues
it is for the

purpose of
planting it
and keeping
it well culti-
vated the grant
being provisional
as he requests,
until the peti-
ion which he shows
to be still pending
is decided,

(Signed) Victoria

more or less, from this Presidio, to
the South, and as the Government
made no decision in the matter,
I turn to Your Honor that you
would be pleased, if you should
think it proper to grant it to
me provisionally, I remaining
subject to the decision which
may be made on my former
representation.

I therefore expect from
Your Honor's consideration, the
most favourable result, by
which I will receive a favour
I swear &c

Monterey February 26th
1851.

(Signed) Juan B. Alvarado

Stamp Fourth One Cuartillo (1/4)

Provisionally authorized by the Subaltern
Commissariat ad interim of the Port of
Monterey for the year 1850.

(Signed) Echandia. (Signed) Gasarin.

To His Honor the Superior Political Chief
I Citizen Juan B. Alvarado, in
the most proper manner appear and rep-
resent; that having previously directed a
petition to your Honor asking for the place
call El Toro in the neighborhood of this presidio,
for the purpose of cultivating and improving
it, I now understand that the most Excellent
Reputation has set apart this land for the
maintenance of the horses of the company of this
Presidio, as it has been such being the case I again

make representation to Your Honor referring to my former petition, and ask for the place called "El Sur" which is to the South of this Presidio distant sixteen Leagues more or less, on the coast, for which purpose I transmit herewith to Your Honor the corresponding map, as required by act 2nd of the Regulation of Colonization of November 24th 1828.

Therefore I pray Your Honor have the goodness to accede to my petition if You think it just.

Monterey August 12th 1830
 (Signed) Juan Bautista Alvarado

Stamp Third Two Reals

Provisionally authorized by the Maritime Custom House of Monterey for the years One Thousand Eight Hundred and thirty four and One Thousand eight hundred and thirty five.

(Signed) Figueroa, (Signed) Rafael Gonzalez

Monterey May 16th 1834.

In conformity with the Law on the matter, let the Illustrious Ayuntamiento of this Capital report whether the person interested in this petition possesses the requisite qualifications to entitle his request to be attended to whether the land which he asks for is included in the twenty leagues from the boundary or ten leagues from the Sea shore mentioned in the Law of August 18th 1824, whether it is irrigable land or subject to the seasons, or pasture lands, whether it is the property of any individual, corporation, Mission or Pueblo and anything else which may help to explain the matter. This being concluded the Expediente will be passed to the Rex Father Minister of the Mission of San Carlos that he may report what he knows and return this Expediente.

Señor Don José Figueroa General of Brigade, Commanding General and Superior Political Chief of the Territory of Upper California thus ordered, decreed and signed, to which I certify.

(Signed) José Figueroa,

(Signed) Augustin V. Zamorano
Secretary

In session of this day the present expediente was reported to the Illustrious Ayuntamiento, and was ordered to be passed to the Committee of Colonization and vacant lands.

Monterey May 31st 1834.

(Signed) José María Maldonado
Secretary

To His Honor the Superior Political Chief.

The Illustrious Ayuntamiento of this Capitol, for the purpose of giving Your Honor the information which you were pleased to request in your Superior Decree of the 16th Ultimo, referred the present Petition to the Standing Committee on Colonization and vacant lands, which in session of this day presented the report which was ordered to be attached to this Expediente, and as it contains all the information which this body can give on the subject it is transmitted entire.

Monterey June 7th 1834.

(Signed) Manuel Jimeno Casarín

(Signed) José María Maldonado
Secretary

To the Illustrious Ayuntamiento.

The Committee on Colonization and vacant lands has seen the petition put forward by the Citizen Juan Bautista Alvarado, respecting that the place named the "Luz" be granted to him in fee, and in compliance with the Superior Decree accompanying it the committee reports; that the petitioner is, by birth, a Mexican Citizen, in the exercise of his rights, which gives him the qualifications required by law; the land petitioned for is not included in the twenty leagues from the boundary, but is within the two leagues from the Sea Shore specified in the Law of August 18th 1824; it is depending upon the Seasons and pasture land, belongs to an individual or pueblo and has been recognised as vacant; it is from seven to eight leagues distant from the Mission of San Carlos. The Committee therefore present the following propositions for the decision of this Illustrious Corporation.

1st For the above reasons, the place petitioned for, named "El Luz" may be granted to Citizen Juan Bautista Alvarado.

2nd In compliance with the Decree above referred to, let this Expediente be passed to the Rev. Father of said Mission, Monterey June 7th 1834.

(Signed) Jose Aguilar.

(Signed) Jose Antonio Romero

Having examined the Expediente which has been referred to me to report that which I might think

just, I represent that the place which citizen Bautista Alvarado petitions for is the best which this Mission has for keeping large cattle and Horses.

Wherefore I pray your Honor in the name of all the Neophytes of this Mission not only that a property which they are daily claiming and to which they are so much entitled should not be taken from them, but, imploring that justice with which Your Honor labors and endeavors to make them happy, they pray that the occupation of it be given up to them as soon as possible, for the purpose of securing their property. I make this known to Your Honor for the aforesaid purpose, and reiterate my request in the name of these poor people, who are degraded and without power to defend their property, that you would have the goodness to act in the matter with your characteristic zeal.

San Carlos June 26th 1834.

(Signed) Friar San Maria del Refugio
Zacarias del Realjny

Stamp Third. Ten Reals

Provisionally authorized by the Administration of the Maritime Custom House of Monterey for the years One thousand Eight hundred and thirty four and One thousand and Eight hundred and thirty five.

(Signed) Figueroa, (Signed) Rafael Gonzalez

Monterey July 3rd 1834.

Refer this to the Alcalde of this Capital, before whom Don Juan Bautista Alvarado will produce information of three competent witnesses, who will be interrogated

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Upon the following points; 1st - Whether the petitioner is a Mexican by birth, whether he is married and has children, and if his conduct is good. 2nd - Whether the land petitioned for belongs to any individual, Mission, Pueblo or Corporation, whether it is irrigable, depending upon the season or pasture land and what is the extent of it. 3rd - Whether he has live stock sufficient to occupy it, or a possibility of acquiring enough. These examinations being finished, let this expediente be returned that it may be acted upon.

Senor Don Jose Figueron, General of Brigade, Commanding General, Inspector and Superior Political Chief of Upper California, thus ordered, decreed and signed, to which I certify -

(Signed) Jose Figueron
(Signed) Augustin V. Zamorano
(Secretary)

Monterey July 18th 1834.

In compliance with the foregoing Superior Decree of His Honor, the Political Chief dated the 3rd of last month, let the information be taken of three competent persons who will be questioned on the three points mentioned in said Superior Decree. I the Constitutional Alcalde, thus decreed, ordered, and signed with three of my assistance with whom I act in the established form I certify.

(Signed) Manuel Simon Casarin
Assisting Witnesses
(Signed) Jose Aguilar
(Signed) Bonifacio de Madriaga.

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On the same day, present Don Juan B. Alvarado the party (interested) in this matter, he was notified of the proceeding decree, and he acknowledged notice, and signed with me and the assisting witnesses.

(Signed) Casarín

(Signed) Juan B. Alvarado

(Signed) José Aguilar

(Signed) Bonifacio de Madriaga

On the same day present Don José Castro, his oath was taken in due form, by which he promised to speak truth in all that he might be asked or know, and having been asked his name, state, age, occupation, country and religion, he answered; His name is as has been stated, he is married, twenty six years old, a laborer, native of the Mission of La Soledad; (his religion) the Apostolic Roman Catholic.

Questioned upon the three points mentioned in the Superior Decree of His Honor the Political Chief, dated the third instant;

Answer.— He is acquainted with Don Juan B. Alvarado, he is a Mexican by birth, unmarried, and of good conduct, he also knows the land which said Alvarado petitions for, it does not belong to any individual Mission, pueblo, or corporation except that the Fathers of the Mission of San Carlos say that the said land belongs to that the said land belongs to that Mission, but they have never occupied it; the land is irrigable depending upon the seasons & pasture land, it is two and a half leagues long, (more or less) and about half a league wide, and finally that Don Juan B. Alvarado owns live stock sufficient to occupy the aforesaid land, that all that he has said is true under the oath

which he has taken and testified and that his declaration being read to him he ratified it and signed with me and the assisting witnesses

(Signed) Casarin

(Signed) Jose Castro

(Signed) Jose Aguilar

(Signed) Bonifacio de Madariaga.

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On the same day Don Ramon Estrada being present his oath was taken in due form, by which he promised to speak the truth in all that he might be asked and know, and being asked his name, State, age, occupation, Country, and religion, he answered: His name is as has been stated, he is unmarried, twenty four years of age, a merchant, native of this port of Montevideo, (his religion) the Apostolic Roman Catholic.

Questioned upon the three points mentioned in said Superior Decree of His Honor the Political Chief of the 3.^a inst:

Answer.— He is acquainted with Don Juan B. Alvarado, he is a Mexican by birth, unmarried, of good conduct; he also knows the land which he requests and it does not belong to any individual, Mission, pueblo or corporation; that although, it is said to be recognized as belonging to the Mission of San Carlos, it has never been occupied by the Mission; it is about seven or eight leagues distant from that Mission; the land is irrigable, depending on the season and pasture land, its length is two and a half leagues a little more or less, its breadth about half a league & that the aforesaid Don Juan Alvarado has live-stock with which to occupy it, that all that he has said is true under

the oath which he has taken, which declaration being read to him, he affirms and ratifies it, and signed with me and the assisting witnesses.

(Signed) Gasarin

1 " 1 Jose R. Estrada

(Signed) Jose Aguilar

1 " 1 Bonafacio de Maariaga

On the same day, present the resident Juan Alvares his oath was taken in due form of law, by which he promised to speak the truth in all that he might see and know, and being questioned as to his name, State, age, occupation, country and religion, he answered:

His name is as has been stated, he is married, forty one years of age, a labourer, native of the Pueblo of San Jose Guadalupe in this Territory, his religion Apostolic Roman Catholic. Questioned upon the three points mentioned in the aforesaid Superior decree of His Honor the Political Chief of the 3^a inst. Answer, He is acquainted with Don Juan B. Alvarado, he is a Mexican by birth is unmarried and of good conduct. He also knows the land petitioned for and that it does not belong to any individual, Mission, Pueblo, or Corporation, that although it is said to belong to the Mission of San Carlos it has never occupied it; the said land is irrigable, depending on the seasons and pasture land; that its length is two and a half leagues, its breadth about half a league, and finally Don Juan B. Alvarado has cattle enough to stock the aforesaid land; that all that he has said is true under the oath which

he has taken, which declaration being read to him he affirms and ratifies it and signs with me and the assisting witnesses,

(Signed) Casarin

Assisting witnesses (") Juan Alvares
(Signed) Bonifacio de Madariaga

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Monterey July 18th 1834.

The foregoing examinations being finished let the expediente be returned to His Honor the Superior Political Chief for his decision.

I the Constitutional Alcalde, thus decreed, ordered, and signed with those of my assistance.

(Signed) Manuel Jimeno Casarin

Assisting witnesses

(Signed) Ignacio del Valle

(Signed) Bonifacio de Madariaga

Monterey July 30th 1834.

Having seen the petition with which this expediente commences, the report of the Municipal Authority of this Capital, that of the Father Minister of the Mission of San Carlos, the depositions of witnesses, with all other things which were represented and deemed proper to be considered, in conformity with the requirements of the laws and regulations on the matter, Citizen Juan Bautista Alvarado is declared owner in fee of the land known by the name of El Sur, bounded by the Mission of San Carlos, the Sierra, and the Sea Subject to the conditions which may be stipulated. Let this expediente be passed to the Most Excellent Territorial Deputation for its ap-

approval.

Sonor Don José Figueroa, General of Brigade
Commanding General, Inspector and Gov-
ernor of Upper California, thus ordered,
decreed, and signed to which I certify,

(Signed) José Figueroa.

(Signed) Augustin V. Zambrana,
Secretary.

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Monterey July 31st 1834.

In session of this day the Excellent Deputation
resolved that this expediente be passed to the
joint committees on Colonization and vacant
lands.

(Signed) Figueroa

(Signed) José M^a Maldonado.

Secretary.

To His Excellency

The joint committees on
colonization and vacant lands to whom
was referred the expediente the formation of
which was caused by the application of citi-
zen Juan Bautista Alvarado for the land
named El Sur, have seen that everything that
has been done is in conformity with the law
of August 18th 1824, and article 5th of the Reg-
ulation of November 21st 1828. They therefore
conclude reporting for the decision of this
most Excellent Deputation, the following
proposition.

They approved the grant made to citi-
zen Juan Bautista Alvarado of the land
named El Sur, granted on the 30th of July 1834.

Monterey August 1st 1834.

(Signed) Carlos Antonio Carrillo

(Signed) José S. Ortega

(Signed) José A. Estudillo.

The preceding decision having been reported to the Excellent Deputation in Session of this day, the proposition with which it concludes was approved as follows;

"They" approve the grant made to citizen Juan B. Alvarado of the land named El Sur, granted on the 30th of July 1834."

And in consequence this expediente is returned to His Honor the Superior Political Chief for his direction.

Monterey August 1st 1834.

(Signed) Jose Figueroa

(Sgd) Jose M^o Maldonado
Secretary.

Stamp Third. Two Reals

Provisionally authorized by the administration of the Maritime Custom House of Monterey for the years one thousand eight hundred and thirty four, and one thousand eight hundred and thirty five.

(Signed) Figueroa,

(Signed) Rafael Cruz Galea

Monterey September 30th 1834.

In view of the resolution of the most Excellent Territorial Deputation of the 1st of August last, confirming the land named El Sur, asked for by N. Juan Bautista Alvarado, let the proper title be issued, let note be made of it in the corresponding book, and let it be delivered to the party interested for his security and other purposes.

Senor Don Jose Figueroa, General of Brigade, Commanding General, Inspector, and Superior Political Chief of the Territory of Upper California, thus orders, decrees, and signs, to

Which I certify,

(Signed) José Figueroa
(Signed) Augustin P. Zamorano
Secretary

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José Figueroa, General of Brigade of the Mexican Republic, Commanding General, Inspector, and Superior Political Chief of the Territory of Upper California,

Whereas Don Juan Bautista Alvarado, a Mexican by birth, has, for his own personal benefit and that of his family, petitioned for the land known by the name of El Sur, bounded by the mission of San Carlos, by the Sierra, and by the Sea; the proper measures and examinations being previously made as required by laws and regulations; by virtue of the powers which are conferred on me, and in conformity with the resolution of the most Excellent Territorial Deputation of the first day of August ult^o approving the grant of said land El Sur made on the 30th of July of the present year to the aforesaid Don Juan B. Alvarado; in the name of the Mexican Nation, I have granted to him the aforesaid land, declaring to him the ownership of it by these presents, subject to the following conditions:

1st. He shall be subject to those (conditions) which may be established by the regulation which is to be formed for the distribution of vacant lands; and in the meantime, neither the grantee nor his heirs may divide or alienate that which is granted him, subject it to any

tax, entail, pledge, mortgage, or other incumbrance, even for pious purposes, or convey it in mortmain.

2nd. He may enclose it without prejudice to the crossroads, roads and servitudes, and enjoy it freely and exclusively, making such use or cultivation as he may see fit, but within one year at furthest, he shall build a house on it and it shall be inhabited.

3rd. He shall request the proper magistrate to give him juridical possession in virtue of this order, by whom the boundaries will be marked out, in which, he shall place beside the bounds some fruit or forest trees of a useful character.

4th. The land of which mention is made, is two cuadrados mayores (two square leagues) a little more or less as shown by the map which goes with the expediente. The magistrate who may give the possession will cause it to be measured in conformity with the ordinance, for the purpose of designating the boundaries, leaving the surplus which may result, to the Nation for its convenient uses.

5th. If he contravene these conditions he shall loose his right to the land and it may be adjudged by another person.

In consequence I order that this title being held as firm and valid, note be made of it in the corresponding book and it be delivered to the party interested for his security and other purposes.

Given in Monterey on the 30th of September 1834.

(Signed) José Figueroa.

(Signed) Agustín P. Zamorano

Secretary.

Filed in Office March 23^d 1852. Geo. Fisher, Secy.

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Geo 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 59 pages, numbered from 1, to 59 both inclusive contain a true, correct and full Transcript from the Journal of Proceedings of said Board, of the Original Depositions of witnesses, and of the Documentary Evidence on file in this Office, in Case No. 124. John B. R. Cooper Complainant against the United States, for a parcel known by the name of "El Sur."

In testimony whereof I herewith set my hand and affix my private Seal, not having a Seal of Office at San Francisco California this 17th day of December A.D. 1853. And of the Independence of the United States of America the Seventy Seventh.

Geo. Fisher.
Suj.

1

*Es
...
2 Sq. Leagues.*

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SELLO TERCERO DOS REALES.

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

Ximeno.



Antonio Maria Osio.



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PAGE

En el Puerto de Monterrey del Departamento de las Californias a los nueve dias del mes de Diciembre del año de mil ochocientos cuarenta, ante mi David Spurr juez de paz Constitucional de esta demarcacion y ante los testigos de asistencia, con quienes actuo en la forma establecida, por falta de escribano publico, a mayor de los instrumentos de que al fin se hara mencion, porcion de presente los Señores D. Juan B. Cooper y D. Juan B. Arrarado, vecinos de este lugar; cuyas personas doi fe conuco, y dijo el primero: que siendo dueño propietario del terreno conocido con el nombre de la Sagrada familia (a) las Salinas, que obtuvo por compra legal, que hizo a su antiguo dueño el Señor D. Joaquin de la Torre, cuya escritura paso de manifiesto, y doi fe habia visto, en cuyo terreno una comprendido en potreros que forman el Mca, las sembradera, en la parte mas estrecha, el rio de Monterrey y en Lanson que corre por la parte del llano de las Salinas, incluyendo doncinzas varias de terreno en la entrada a la vega, por la parte del mismo rio, cede, asi el potrero, como las doncinzas varias de terreno, ya mencionadas, al referido Señor Arrarado, por si y a nombre de mi

heredades y sucesiones, y de quien de ellos hubian
título, voz y fama en qualquiera manera, para
que lo posea y sea reconocido como propiedad suya,
firme, perpetua y valedera, sin que nadie pueda
interrumpirlo en su posesion; declarando, como
declara no tenerlo vendido, enagenado ni empeña-
do, y que esta libre de todo gravamen, publico,
perpetuo, temporal, especial, general, tacito o expreso,
y como tal solo vide. Y el expresado Señor D. Juan
B. Alvarado en reconocimiento de esta donacion
cede a beneficio del Señor Corpea en los mismos
terminos, forma y manera, sin variacion algu-
na el parage llamado el Aur que obtiene con
justo título del Gobierno del Departamento,
con toda la extension que demanda el despacho que
previene en el acto y recibió el Señor Corpea en
paseva de esta efectuado el contrato. Asi mismo
declaran ambas partes hallarse perfectamente
equilibrados los valores de un terreno con el otro; y
si alguno de ellos quedare al otro en mucho o
poca suma, hace esta gracia y donacion justa, per-
fecta e irrevocable, que en derecho se llama inter
vivos, con inmutacion y demas firmezas legales:
renuncian la ley cuarta, título siete, libro quinto
de la recopilacion y las demas que hablan de la

SELLO TERCERO DOS REALES.

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

Ximeno.



Antonio Maria Osio.



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Unión en may ó menor de la mitad del punto
precio y los cuatro años que prefinan para pedir
su rescion ó suplemento, los que dan por pasados;
y desde hoy en adelante se desprenden para siem-
pre del dominio, posesion, título, recurso ni otro
cualesquiera derecho que ley compete, el Señor
Correa al enunciado porras y docenas de
de terreno, y el Señor Alvarado al paraje
ya mencionado, y lo renuncian y traspasan entre
si mutuamente, confiriendose á ambos poder
irrevocable con libre, franca y general Admi-
nistracion, para que de su autoridad apren-
dan la tenencia y posesion que por derecho les
compete; obligandose uno y otro á que este
cambio sea cierto, seguro y efectivo y nadie les
inquietará ni moverá pleito, y en caso conve-
nido saldrán mutuamente á la defensa, hana
dejar al inquietado en pacífica posesion; y de no
convenirse le sea devuelta su antigua propiedad,
con las mejoras viles que tenga y todas las
costas, perjuicios y menoscabos que se le siguieren.
Y á la observancia de lo referido obligan sus bienes
presentes y futuros y con ellos se someten al punto

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y Jurisdicción de los Señores Jueces que de sus
causas puedan y deban conocer conforme a dere-
cho para que a su cumplimiento los compelan
y apremien como por sentencia definitiva,
consentida y pasada en autoridad de cosa juzga-
da: renuncian las leyes de su favor y la general
del derecho en forma. En cuyo testimonio asi
lo otorgaron y firmaron conmigo y los demás
intervinientes, siendo los instrumentales los Sr. D.
Antonio Maria Osio, D. Guacindo Flores y D.
Eugenio Montenegro, procurador y letrado = David
Spencer = Juan B. Alvarado = Juan B. Cordero =
Antonia, Guillermo C. Hartnell = Antonia D,
Juan Melendez.

Esta copia sacada fielmente sin registro que obra en el archivo de este
juzgado, en el mismo día de su otorgamiento, siendo testigos de verda-
daderas copias y confrontos los Sr. D. José B. Fernandez y D. Manuel
Cordero: doy fe.

[Handwritten signature]

N^o 124

John B. R. Cooper

El Sur

Document No 2, annexed to the deposition of E. P. Hartnell, taken before Const. W. Keall, April 12th 1852

Filed in Office Sept 6th 1852

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Geo. Fisher

[Signature]

Approved copy of this paper is
Recorded in Record of Evidence
vol. I pgs. 80. to 82.

Geo. Fisher
[Signature]

Attorney General's Office.

13th January 1854.

John R. B. Cooper, Claimant,

vs.

The United States.

You will please take notice that an appeal in the above case, from the decision of the Commissioners to ascertain and settle the private land claims in the State of California, to the District Court of the United States for the District of California, will be prosecuted by the United States.

Wm. B. Ewing
Attorney General.

at least 1853
copy
Dec 27/53.

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U. States Ct. Court
Docket No. 1.

Southern Dist. California

John R. B. Cooper
appellee

vs.

The U. States, Appellant

No. ~~1~~ /

Notice of Appeal

Filed March 18/54

A. Taylor
Clerk

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Attorney General's Office

13th January 1854

John B. R. Cooper, claimant

vs.

Case 124.

The United States

You will please take notice that an appeal in the above case, from the decision of the Commissioners to ascertain and settle the private land claims in the State of California, to the District Court of the United States for the Southern District of California, will be prosecuted by the United States.

Clushing
Attorney General.

Alexander S. Taylor Esq.

Clerk U. S. Dist. Court

Southern District California.

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U. S. Dist. Court ^{no. 1.}

S. Dist. of Califor.

J. B. R. Cooper
vs

The U. S. Appellant
for 124

Notice of Appeal
from atty. Gen. 13 Jan'y 1854

No. 17

Filed June 3 1854
A. S. Taylor
Clerk

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The District Court of the United States
Southern District of California ~~Monte-
rey~~ County, Los Angeles County.

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John B. R Cooper appellee
vs

No 924.

The United States appellants.)

To the Hon^{ble} Isaac S. Ogier
Judge of the District Court of the United
States for the Southern District of California,
~~Monte-
rey~~ County

The petition of Pacificus
~~of Monterey County~~
Attorney of the United States for
the Southern District of California who
petitioned and prosecuted in this behalf
for the United States; and being present
here in Court in his proper person, in
the name and in behalf of the United
States, represents as follows: That
heretofore to wit on or about the 23^d of
March AD 1852 the said John B R
Cooper, a citizen and resident of Monte-
rey County California, presented his
petition to the Commissioners to ascertain
and settle the Private Land Claims in
the State of California at San Francisco
California, claiming a tract of land
called "El Sur" lying and being in
Monte-
rey County California, of the extent
of about two square leagues, in virtue
of a grant, conception, or title alleged
to have been made by Governor Figueroa
to one Juan B. Alvarado of the date of

about the 30th of September AD 1834 and conveyed by said Juan B. Alarado to said John B. R. Couper on or about the 9th of December AD 1840 which said grant and deed of conveyance are referred to in said petition:

1 SD
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PAGE

That the said Commissioners after due proceedings had, upon said claim of said John B. R. Couper made on or about the 18th of December AD 1852 a decree or report of final confirmation of said claim to the extent of two square leagues or a less quantity, in favor of said claimant.

That on or about the 27th of December AD 1853 a duly certified transcript of the proceedings of said Commissioners upon said claim, was filed in the office of the Clerk of the District Court of the United States in and for the Southern District of California at Monterey, which said filing of said transcript operated as an appeal for the United States, from said decree or report of confirmation or decision of said Commissioners.

That on or about the 12th of January AD 1854 a duly certified transcript of the proceedings of said Commissioners upon said claim was received by Caleb Cushing the attorney general of the

United States,
 That on or about the 18th of March
 AD 1854, the said Caleb Cushing attorney
 General of the United States filed or
 caused to be filed in the said Office of
 the Clerk of the District Court of the
 United States in and for the Southern
 District of California at Monterey a
 notice of intention of the United States
 to prosecute an appeal from said decree
 or report of Confirmation or decision of
 said Commissioners in favor of said
 claim of said John B. P. Cooper which
 said notice of said Attorney General bears
 the date of the 13th of January AD 1854.

That on or about the 3rd of June AD 1854
 the said Caleb Cushing attorney General
 of the United States filed or caused to
 be filed in the said Office of the Clerk
 of the District Court of the United States
 in and for the Southern District of
 California at Monterey, a notice of inten-
 tion of the United States to prosecute an
 appeal from said decree or report of
 Confirmation or decision of said Commis-
 sioners in favor of said claim of said
 John B. P. Cooper, which said notice
 of said Attorney General bears the date
 of 13th of January AD 1854,

and the said District attorney herewith
 shews a certified transcript of the said
 decree or report of Confirmation, Proceed-
 ings and decisions of the said Commissioners

1 SD
 PAGE 73

to ascertain and settle the private land claims in California, with the evidence on which it was founded, marked 124, and alleges for and in behalf of the United States, that the said claim of said John B. A. Cooper for said land is invalid and that said decision of said Commissioners is erroneous; on the following grounds:

1. That the said John B. A. Cooper claimant shows no valid title to the land claimed by him.
2. That the said land so claimed by said John B. A. Cooper ~~was~~ ^{was} and is within ten (littoral) leagues of the sea coast and was not therefore subject to colonization or grant by Governor Figueroa without the previous approbation of the supreme executive power, which said ~~previous~~ previous approbation is not shown by the said claimant; and was not given.
3. That the said land so claimed by said John B. A. Cooper, was at the time ^{of the grant} of the alleged grant of Governor Figueroa occupied by the Mission of San Carlos, a mission then existing in the Mexican Territory of upper California; and was not therefore subject to colonization, or grant ^{by} ~~of~~ Governor Figueroa.
4. That the first condition of the said alleged grant ^{of} Figueroa has been violated by the said Juan B. Alvarado in the

(5)

alienation of the said land to said Juan B. R. Brasen; - The said Condition being, in effect, that the said grantee should not alienate or encumber the said land in any way, until the regulations to be formed should be established for the distribution of vacant lands. Nor does the said Claimant show that before the said alienation by said grantee, that the regulations, referred to in said first condition, were established: And they were not so established.

1 SD
PAGE 75

5. That the second Condition of the said alleged grant, which required of the grantee, that a house should be built on the said land and inhabited within a year, was violated, and not performed.

6 That the third Condition of the said alleged grant which required the grantee to ask the respective Judge for judicial possession of said land and that he should place land marks, plant fruit trees or wild ones of utility thereon, was violated, and not performed:

7. That the fourth Condition of said alleged grant which required the Justice who should give possession, to cause the land to be measured according to law, was violated, and not performed,

8 That by the terms of the fifth condition of the said alleged grant, the said Juan B. Alvarado, by the said violation and nonperformance of said

Conditions in said grant, forfeited his right to the land; and that, therefore, at the date of the said alleged ~~grant~~ transfer to said John B. R. Cooper, he the said Juan B. Alvarado, had no title in the said land, and nothing passed to the said John B. R. Cooper, by said alleged transfer.

9. That the said land alleged to have been granted to said Juan B. Alvarado and claimed as aforesaid by said John B. R. Cooper has never been segregated from the public lands of Mexico or the United States; and that the said land was not, and could not be lawfully occupied and possessed, under said alleged grant, by said Juan B. Alvarado, or his alleged vendee John B. R. Cooper, until the judicial possession was given, as provided in the said third and fourth Conditions of the said alleged grant to said Juan B. Alvarado.

10. That the description of the land in the alleged grant is ^{vague} vague and uncertain; and the description of the land in the map referred to in the said alleged grant is vague and uncertain, and does ^{not} ~~not~~ ^{description} describe in the said alleged grant; but is contrary to and inconsistent therewith.

11. That the said Claimant John B. R. Cooper shows no title in himself to the two leagues of land ^{described and} alleged

(7)

to have been granted to the said Juan B. Alvarado. He only shows a title from said Juan B. Alvarado for the place called "El Sur", this description is ^{unclear} ~~unclear~~ ^{claimant was a foreigner, & had not the capacity to acquire these lands in Cal.} ~~unclear~~ ^{law vague and insufficient; that the said} ~~unclear~~ ^{And the said District attorney, alleges and} ~~unclear~~ ^{shows that the said tract of land of about} ~~unclear~~ ^{2 square leagues called "El Sur" claimed by} ~~unclear~~ ^{the said John B. R. Cooper as aforesaid} ~~unclear~~ ^{lies in the Southern District of California,} ~~unclear~~ ^{and within the jurisdiction of this Hon^{ble}} ~~unclear~~ ^{Court.}

Wherefore the said ^{Pacificus Ord} ~~District~~ ^{for said Southern District of California} Attorney of the United States, for and in behalf of the United States, by reason of the premises, and the laws and statutes in such case made and provided, prays that this Hon^{ble} Court will review the said decision of the said Commissioners and decide on the validity of the said claim of the said ^{and that the same may be deemed invalid} John B. R. Cooper. And further he prays, that the said John B. R. Cooper may be served with a copy of this petition; and after due proceedings had, that the said claim of said John B. R. Cooper for said land, may be declared invalid; or such other decrees thereupon as to the said Hon^{ble} District Court shall deem just. And he further prays that the said John B. R. Cooper be condemned to pay the costs in the premises. And general relief.

J. P. M.

Attorney of the United States for
the Southern District of California

N^o 124.
John B. R. Cooper,
Att^y,
The United States.

Petition of all^y of MS for
Review &c.

Filed Dec. 4. 1854.

J. E. Farr
Clk.

1 SD
PAGE 78

N^o 124.

United States of America, } SS.
Southern District of California.

TO

The President of the United States,

John B. R. Cooper.

1 SD
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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 *Fourth* day of *December* in the year of our Lord one thousand eight hundred and fifty-*four* at the City and County of Los Angeles, in said District, by

Pacificus Ord, Attorney of the United States, for the Southern District of California, in behalf of the United States, praying the said Court to review upon the grounds therein set forth, the decision of final confirmation of the Commissioners to ascertain and settle the private land claims in the State of California, of the claim of you, the said J. B. R. Cooper, for a tract of land called El Sur, in the County of Monterey, California, to the extent of about two square leagues; which said claim was presented by your petition, to said Commissioners on or about the 23^d of March A.D. 1852, and by them confirmed on or about the 18th of December A.D. 1852.

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 that judgment by default will be taken against you, and each of you, and the prayer of the said petitioner will be granted, with costs. *The plaintiff will apply to the court for the relief demanded therein.*

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of the said Court, this *Second* day of *February* in the year of our Lord one thousand eight hundred and fifty-*five* at Los Angeles aforesaid.

J. E. Lang
Clerk.

No. 1
##.

Served on the 15th

Marshals Costs

Copying Summons 1.00
Serving " 4.00
Serving Returns 4.00
Actual Printing, Express 108.00
\$ 117.00

United States of America,
Southern District of California,
U. S. DISTRICT COURT.

John B. R. Cooper

advs

The United States

SUMMONS.

Received February 2-1855

Edward Hunter
U. S. Marshal

1 SD
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I served this summons along with the proper copy of the petition upon *John B. R. Cooper* the defendant by leaving with him personally a true copy of the summons and petition,

at his residence in Monterey
the 15th day of February

in the Southern District of California on
A. D. 1855.

Sworn to and subscribed before me, this 15th day
March, 1855. *J. E. Farr* Clerk

Edward Hunter
U. S. Marshal
deputy
R. S. Jones

performed by the said Alvarado, and the appellee; that the said Alvarado entered into the possession of this land in the year 1831, and built a house on it, and stocked it with Cattle, and cultivated parts of it; and so continued in possession until he sold it to Appellee; who since then has occupied the land with his Cattle and cultivated parts of it, and is now in the peaceable occupation and possession thereof.

Wherefore the appellee prays this Honorable Court to affirm the decree of the said Board of Commissioners, and to declare his claim to the said land valid.

Halleck Peckay & Willing
Attys for Appellee

John B. R. Coopers

ads
United States.

Answer to petition
"El Surq"

Filed March 6th 1855
G. B. Farr
clerk.

1 SD
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Received this answer on 9th of March of the Under Atty
by leaving with him personally a certified copy of the
same at his office in the Southern Street of Baltimore
the March 19th 1855
Jesse A. Under
J. S. Marshall
I have certified
me this 19th March 1855

No 1

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

1 ^{SD} The United States appellant
PAGE 83 vs.
vs. B. R. Cooper appellee

} Claim for "El Sur"

And now on the 12th day of June 1855 the
parties appear, the appellant by P. Ord. U.S.
Dist. Atty for the Southern Dist of California,
and the appellee by his atty. H. W. Hallack, and
on motion of appellee's attorney it is ordered
that either party may take such further
testimony as they may wish in the above
entitled cause.

No 1

U. S. Dist Court for the
Southern Dist of Cal.

The United States
appellant

vs
J. B. R. Cooper
appellee

Motion to take testimony

Filed June 13th 1855.

C. S. Jones
clerk.

1 SD
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L. B. R. Cooper, appellee,

vs.

The U. S. Applt

No. 1.

John Temple, witness for

appellee sworn and testified as follows.

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

A. My name is John Temple, age 55, residence Los Angeles, since the year 1826.

PAGE 1
SDCS
883

Ques. Do you know the hand writing of Jose Maria de Ochoa dia, Augustin J. Gamorano, Jose Figueroa, and David Spence? And if so state your means of knowledge?

A. I know them well having seen them write frequently.

Ques. — Look at the paper now shown you, marked "Document No. 1. annexed to the deposition of E. P. Hartnell before Comr. A. Hall, April 12th 1852." And say whether the signatures of Jose Figueroa & Augustin J. Gamorano are their genuine signatures.

A. I pronounce them genuine.

Ques. — Examine paper endorsed "Document No. 2. annexed to the deposition of E. P. Hartnell, taken before Comr. A. Hall April 12th 1852" and say if the signature of David Spence is or not his genuine signature?

A. It is.

PAGE 1 SD 86

Ques. Examine the paper submitted you purporting to be a letter of Naturalization of J. R. Cooper, and say if the signatures of Jose Maria Echeandia, and Apustin Y. Gamorano, are their genuine signatures.

Ans. — They are genuine.

Ques. — Are you acquainted with the Claimant in this case J. R. Cooper.

Ans. — I am.

Ques. — He is married or single?

Ans. — He is married.

Ques. — Do you know about when and to whom he was married.

Ans. — It is was prior to 1830, he was married to a native of California, J. Temple

Sworn to & subscribed before me the 20th Sept. 1855.
J. S. Jan. OCA.

[Signature]

No 1.

U. S. Dist. Court,

South Dist. Cal.

H R Cooper,
appellee.

vs.

The U. S. applr.

Testimony of
John Temple witness
for Appellee

Filed Sept 20th 1855.

John
Temple

The United States,

Appellants,

vs

John B. R. Cooper,

1 SD Appellee

District Court U. S. for the Southern

District of California.

PAGE 88

The appellee claims, as assignee of one Juan B. Alvarado to whom a grant was issued by Governor Figueroa on 9. Nov. 18³⁴. This grant is issued in the form and manner and with ^{the} conditions ordinarily annexed to the Mexican Colonization Grants. The genuineness of the Grant is clearly established and there is no controversy about the authority of Figueroa to make the Grant. By testimony taken before this Court it is proved that appellee was duly naturalized as a citizen of Mexico prior to the period of his purchase from the grantee. The evidence in the case establishes that Alvarado the grantee occupied the tract granted in 1831 under a provincial title - after he had obtained a franchise grant he sold the land to appellee, and that there has been a continuous ^{or at the other} occupation of the land by ~~both~~ for the last

twenty years. The objections to this claim are 1. That the lands granted are within what are called the ten literal leagues.

2. That the lands granted are Minor lands. 3. That the conditions annexed to the grant inhibiting alienation has been broken by the sale of the property granted to the appellee. 4. That the condition to build and inhabit a house within a year from the date of the grant was violated. 5. That the

PAGE 89

by the sale of the property granted to the appellee. 4. That the condition to build an wholesale house within a year from the date of the grant was violated. 5. That judicial possession was not obtained. All these objections, under the decision made by the Supreme Court U. S. in this case in other cases are deemed unavailing to defeat a claim like the present. In this case a substantial compliance with the conditions of the grant and the policy of the Colony have been by an occupation of the premises of ~~over~~ twenty years. The decision of the Commissioners in favor of the validity of this claim must be disapproved.

The United States	} District Court U. S.
appellants	
vs	
John R R Corp	} for the last time
appellee	

This case coming on to be heard before a stated Term of this Court on an appeal from the final decision of the Commissioners to ascertain and settle Spanish land claims in the State of California under the Act of Congress approved 3 March 1851 on the Review of the proceedings and decision and the papers and evidence which said decision was founded on and on additional reports taken in this Court, and it appearing that said ~~final~~ transcripts had been deposited according to law, and counsel for the respective parties having been heard, it is

ordered, adjudged, & decreed that the decision of
the said Commission, in favor of the claim
of the appellee be in all things confirmed, & it
is further ordered, adjudged, and decreed, that
the said claim be confirmed to the extent and
quantity of two square leagues, and no more,
being the same land described in the grant
and referred here in reference to, therein, and of
which possession is proved to have been had by
the original grantee and the appellee, provided
the quantity of square leagues hereby con-
firmed be contained within the boundaries
called for in said grant and such referred to
therein, and if there be less than the said quan-
- tity of two ^{square} leagues within said boundaries,
then such less quantity is hereby ordered, ad-
- judged and decreed to the appellee, the said
John R. R. Cooper

The U. S.

vs

J. B. R. Cooper

Decease

No. 1.

John B. R. Cooper

vs.

The United States

Opinion & Decree of the Court

By Hon. M. A. M. McCluskey

Filed Sept 21st 1855

C. C. Carrick

By John W. Cook Dep:

1 SD
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Wm. Beckley & Siblings
Attys for Appell

In the District Court of the U States for the
Southern District of Cal.

Hon Isaac S. T. Ogden Judge.
Special Sept. term 1835.

1 SD
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J. B. R. Cooper
ads. app.

N. 1.

(Term 124)

The United States
appellant

On Motion of P. Ad. Attorney, of the United
States for the Southern District of California;
it is ordered by the Court, that an appeal
be granted in favor of the United States
to the Supreme Court of the United States
in the above entitled cause, from
the judgment ^{of this Court against the United States,} ~~in favor of J. B. R. Cooper,~~
rendered ^{on or about} on the 21st of September A.D.
1835.

P. Ad.
att. of U.S.

Sept 25. 1835.

N^o. 1.
J. B. R. Cooper
vs
The United States.

Order allowing appeal
to Supreme Court &

due service of the
within acknowledged
this day Sept 25th 1850

M. M. Ballou
of counsel for
appellee

Filed Sept 25th 1850

J. E. Jan.
clk.

1 SD
PAGE 93

P. W. Asst. Clk.

FILED
1850

California Land Claims.

Attorney General's Office

10 September 1851

1 SD
PAGE 94

Sir:

In the case of the claim of John B. R. Cooper, confirmed to the claimant by the Commissioner, Case No. one hundred and twenty-four (124), and also confirmed on appeal by the District Court, appeal in the Supreme Court will not be prosecuted by the United States.

I am

Respectfully

Cushing

Jacifius Ard Esq.

U. S. Atty for the

Southern Dist. of California

1.
B. R. Cooper

124

1 SD
PAGE 95

Oct 21 1836

In the District Court of the United States within and for the Southern District of California

Hon James S. Gwin Judge

November Term 1856

1 SD
PAGE 96

The United States

Appellants

J. D. Cooper

Appellee

Rockwell

Transcript from the Board of Land Commissioners No. 124

In pursuance of a letter from the Attorney General of the United States. Hereto annexed giving notice that in the above cause the appeal in the Supreme Court will not be prosecuted by the United States. it is hereby stipulated and agreed by and between the parties that the order granting an appeal to the Supreme Court heretofore made in the above cause be vacated and that the decree of the Court heretofore rendered in this cause may by order of the Court, be made final

J. M. Smith

Attorney for Appellee

U.S. Dist Court
South Dist Cal.,

No. 1

The United States
Appellant

vs
J. R. Cooper
Appellee

Stipulation
to vacate order of
Appeal to Supreme Court

Filed this 5th February
1857
Clerk
J. H. Coleman
clerk

1 SD
PAGE 98

In the District Court of the United States within and for the Southern District of California

Hon^{ble} Isaac S. Ogden Judge

December Term, 1856

The United States

Appellants

Docket No. 1

J. B. R. Cooper

Appellee

Transcript from the Board of Land Commissioners, No 124

The Attorney General of the United States having given Notice that the appeal to the Supreme Court from the decision of this Court in the above entitled Cause will not be prosecuted by the United States, and a stipulation having been entered into by the United States District Attorney, and the Attorney of the Claimant that the order granting an appeal to the Supreme Court heretofore made in this Cause be vacated, and that the Decree of this Court heretofore rendered in this Cause may by order of this Court be made final, it is

Ordered, adjudged and decreed, That the order granting an appeal to the Supreme Court heretofore made in this Cause be and the same is hereby vacated, and that the Claimant have leave to proceed under the Decree of this Court heretofore rendered in this Cause as under a final decree

Isaac S. Ogden

U. S. Dist. Judge

U. S. Dist Court
South Dist Cal.
No. 1

The United States
Appellants
vs
J. D. Cooper
Appellee

Order
Vacating Appeal

Filed Feb 3rd 1857
C. J. S.
clerk

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

1 SD
PAGE 100

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

confirmed to J. B. R. Cooper has been surveyed by this office, and that the survey and plat was approved by the U. S. Surveyor General, on the fourth day of November

1859 ~~1860~~; that I have caused to be published, once a week, for four weeks successively, 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 21st day of September 1861,

and the last, on the 12th day of October, 1861; 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 29th day of September 1861, and the last on the 20th day of October 1861, 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 22nd day of January 1861

J. W. Mandeville
U. S. Surveyor General for California.

I certify the above and foregoing to be a full and correct copy of the original now on file in this office
Witness my hand and the seal of said office,
this 27th February 4th 1866.

J. P. Moore

No. 1



El Sur

Final Certificate Subst

Filed Apr. 2, 1866

J. W. Whelan clerk

Re-subst certf.
Apr 2, 1866

COPY

UNITED STATES OF AMERICA, SS.

THE PRESIDENT OF THE UNITED STATES OF AMERICA

To the Honorable the Judge of the District Court
of the United States, for the Southern District
of California greeting:

1 SD
PAGE 102

Whereas, lately, in the District Court of the United States, for the Southern District of California before you, in a cause, between the United States, appellants and John B. R. Cooper, appellee, (No 1. for "El Sur") wherein the decree was rendered in favor of the said appellee as by the inspection of the transcript of the record of the said District Court which was brought into the Supreme Court of the United States, by virtue of an appeal agreeably to the act of Congress, in such case made and provided, fully and at large appears.

And whereas, in the present term of December in the year of our Lord one thousand eight hundred and fifty-six the said cause came on to be heard before the said Supreme Court of the United States, on the said transcript of the record, and on the motion of Mr. Cushing, Attorney General of the United States, and of counsel for the appellants, it is now here considered, adjudged and decreed by this Court that this appeal be and the same is hereby dismissed--Dec. 2.

You, therefore, are hereby commanded that such further proceedings be had in said cause, as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding.

Witness the Honorable Roger B. Taney Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and fifty-six.

Lord one thousand eight hundred and fifty-six.

Supreme Court, the first Monday of December in the year of our

Witness the Honorable Roger B. Taney Chief Justice of said

appeal notwithstanding.

and the laws of the United States ought to be had, the said

ordings be had in said cause, according to right and justice,

Yours, &c. I have hereby commanded the said further pro-

of counsel or the appellant to be and the

motion of Mr. Cushing, Attorney

United States, on the said transcript of the record, and on the

cause came on to be heard before the said Supreme Court of the

our Lord one thousand eight hundred and fifty-six the said

made and provided, fully and at large appears.

of an appeal agreeably to the act of Congress, in such case

brought into the Supreme Court of the United States, by virtue

transcript of the record of the said District Court which was

in favor of the said appellee as by the inspection of the

appellee, (No. 1, for "El Sur") wherein the decree was rendered

between the United States, appellants and John H. R. Cooper,

for the Southern District of California before you, in a cause,

whereas, lately, in the District Court of the United States,

of California existing;

of the United States, for the Southern District

To the Honorable the Judge of the District Court

THE PRESIDENT OF THE UNITED STATES OF AMERICA

UNITED STATES OF AMERICA, 22.

COPY

PAGE 103

1 SD

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1 SD

PAGE 103

1 SD

135

Sello 4.º de Oficio

Habilidad provisionalmente pr. la Comisaria
Subalterna interina del Puerto de Monterrey
para el año de 1830.

Echeandía

Casarin.

El Ciudadano José María de Echeandía, Teniente
Coronel de Ingenieros, Comandante General
Inspector de la Alta California y Jefe
Superior Político de ambas.

Habiendo Mr. Juan Bautista R. Cooper
originario de Boston Capital de Massachusetts
en los Estados Unidos del Norte America,
cumplido con las condiciones y requisitos
que previene la ley de catorce de Abril
de mil ochocientos veinte y ocho del Congreso
General que arregla el modo con q. deve
concederse la carta de naturaleza a las
extrangeros, y acompañando los documentos
que lo acreditan, declaro al referido Mr.
Juan Bautista R. Cooper, pr. las presentes,
naturalizado en los Estados Unidos
Mejicanos, en virtud de la autoridad
que pr. aquella ley se me confiere.

Puerto de Monterrey de la Alta California
diente y nueve de Mayo de mil ochocientos
treinta —

José M.º de Echeandía

Agustín N. Zamorano
Serio.

I hereby certify that the above and foregoing
is a true and correct copy of the original
introduced in No. 1.63 of files —

J. S. Carr.
clerk.

No. 1
Letter of Naturalization
granted in deposition of
John Temple Sept.
21st 1855.

1 SD
PAGE 105

Stamp 4. official

Provisionally authorized by the subalterno
commissary ad interim of the Port of Monterey
for the year 1830.

Echeandia

Casarin.

The citizen Jose Maria de Echeandia,
Lieut Colonel of Engineers, Commandant
General Inspector of Upper California
and Superior Political Chief of both.

Mr. Juan Bautista R Cooper
native of Boston Capital of Massachusetts
in the United States of North America,
having complied with the conditions &
requisites of the law of April 14th 1828
of the general congress which regulates the
mode in which a letter of naturalization
ought to be granted to foreigners, accompanied
by the documents which credit it, I declare
the said Mr. Juan Bautista R. Cooper
by these presents naturalized in these
United Mexican States in virtue of
the authority which by said law is
conferred on me

Port of Monterey in Upper California
May 29th 1830.

José Maria de Echeandia
Agustín V. Lamoreano,
Secretary.

1 SD
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PAGE

No. 1.

Translation of
Letter of Naturalization
found in Department
of Jim Temple

1 SD
PAGE 107

THE FOLLOWING PAGES ARE COPIES OF THE
TRANSCRIPTS FROM 1 SD THAT WERE FOUND
AND REMOVED FROM 34 SD.

THE FIRST 15 PAGES (NUMBERED 1-14, 23)
CORRESPOND ROUGHLY WITH PGS. 3-17.

THE NEXT 6 PAGES (NUMBERED 19-24)
CORRESPOND ROUGHLY WITH PGS. 21-26.

THE LAST TWO PAGES (NUMBERED 27-28)
CORRESPOND ROUGHLY, BUT ARE DIFFERENT
VERSIONS OF PGS. 29-30

AS 8/3/2022

1.

Office of the Board of Commissioners to
ascertain and settle the private Land Claims
in the State of California.

Be it remembered that on this Tuesday
March 23^d 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 John B. R. Cooper for
the Rancho "El Sur" was presented and
ordered to be filed and docketed No
124 and is as follows to wit,

No 124

John B. R. Cooper, Claimant
vs.
The United States, Defendant

To the Honorable Commissioners to
settle private Land Claims in California

The Petitioner John B. R. Cooper respectfully

Shows: That on the 27th day of February A.D. 1831 Juan B. Alvarado received from the Governor of California a provisional grant of the tract of land known by the name of "El Sur" Situate in the County of Monterey: That on the 30th day of September A.D. 1831 Jose Figueroa, Governor of California, by virtue of authority in him vested, granted to the said Juan B. Alvarado the said tract of land called "El Sur" containing two square leagues with the boundaries described in the grant and set forth in the accompanying map with grant was approved by the Deputation of California on the 1st day of August A.D. 1831 all of which is fully shown in the original Expediente on file in the Government, Archived an exact copy of which is submitted herewith, marked "A." with a Translation marked "B."

The Petitioner also submits herewith a copy of the title issued to the said Alvarado by the Governor, marked "C." with a translation marked "D."

The Petitioner also Shows that on the 9th day of December A.D. 1840 the said Juan B. Alvarado conveyed to the petitioner, his title to the aforesaid tract of Land by a deed of Exchange, a copy of which is submitted herewith marked "E." with a translation marked "F."

The Petitioner further Shows that the said land has not been surveyed by the Surveyor Gen^l of the United States; but that boundaries are fully set forth in the title and corresponding map and are well known.

That from the year 1831 to the 1st day of December 1840 the said Juan B. Alvarado was and since that time

The Petitioner has been, and is now in quiet peaceful and undisputed possession and occupation of the said tract of Land:

That he knows of no conflicting claim that he relies for confirmation of title upon the original papers, copies of which are submitted herewith; upon the records and minutes in the archives under the charge of the Surveyor General; and upon such other and further proof as he may be advised are necessary.

Wherefore he prays the Commissioners to confirm to him the said tract of Land

By his Attorney
Hallick Peachy & Billings
" "

Filed in Office March 23^d 1852
Geo. Fisher
Secy

Upon which petition the following subsequent proceedings were had in their chronological order to wit;

Monday April 12. 1852.
In case No 124 John B. R Cooper,
the Deposition of E. P. Harsnell a
witness in behalf of the claimant,
taken before Commissioner Heland
Hall, was filed and is in the words
and figures as follows to wit; Vide pages
of this Transcript 11. 12. 13.

Saturday May 8th 1852.

In case No 124 J. B. R. Cooper the Deposition of David Spence a witness in behalf of the claimant taken before Hiland Hall was filed and is in the words and figures as follows to wit; vide pages of this Transcript 23. 24.

Tuesday June 1st 1852

The following cases were set in their order for hearing to wit; No 62 Antonio & Francisco Lerman. No 124 J. B. R. Cooper. No 138 J B R Cooper No. 191. Carlos Watters.

Monday September 6th 1852

In case No. 124 John B. R. Cooper, for the place called "El Sur," called, The Counsel for the claimant H. W. Hallock opened the argument, and closed, answered by the U. S. Law Agent, case submitted to the Board and taken under advisement.

In the same case, the Counsel for the claimant submitted to the Board as evidence in behalf of the claimant, an authenticated copy of the original Expediente, on file in the office of the U. S. Surveyor General for California, heretofore, to wit; on the 23rd March 1852, filed with the petition in this case, as Exhibit "A" with a translation thereof, marked "B" which Exhibits are in the words and figures as follows, to wit; Vide pages of this Transcript 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59.

Monday September 13th 1852.

In Case No 124 John B. R. Cooper for the place called "El Sur," Commissioner Harry S. Thornton delivered the Opinion of the Board, declaring the claim valid, the entering of the Decree of final confirmation, being reserved for a future day.

Saturday December 18th 1852.

Case No. 124. John B. R. Cooper, for the place named, "El Sur" Commissioner Hiland Hall delivered his opinion in this case,

In the same case commissioner Harry S. Thornton delivered the Decree of Final Confirmation of this Board.

Ordered; That the opinion of this Board delivered by Commissioner Harry S. Thornton on the 13th of September, 1852; the opinion delivered this day by Commissioner Hiland Hall, and the Decree of final confirmation of this Board, also delivered this day, in this case, be recorded on the Journal. Which Opinions and Decree are in the words and figures as follows, to wit,

Commission for ascertaining
and settling private Land
Claims in the State of
California
Session at Los Angeles

6.
John B. R. Cooper. Claimant
v. S.

The United States

El Sur N^o 124

Decision of the Board by
Harry S. Thornton—

The Claimant presents this claim as assignee, by virtue of a deed of Exchange duly solemnized and authenticated, from the original grantee, Juan B. Alvarado, bearing date on the 9th of December, 1840.

The original grant proved by the testimony of David Spence, is in evidence, as also a copy of record, among the public archives, which being duly certified by the Surveyor General of California, the custodian thereof together with the whole expediente relating to the same, is filed as part of the evidence in the case. The grant was executed by virtue of the decree of the Mexican Congress of the 18th of August, 1824 and of the Ordinance of the 21st of November, 1828, carrying the said Decree into effect by Don Figueroa, the Political Chief of the Territory of upper California, on the 30th of September, 1834.

There is no question, or controversy, as to the authority of Figueroa, nor of the genuineness of the Grant.

It appears from the evidence, that Alvarado the grantee occupied the land in 1831, under a provisional title prior to the grant in fee, and that it has been occupied, and resided upon continuously ever since its first settlement, by the said Alvarado, and the present Claimant, for about twenty years.

The Grant is a full conveyance of the fee, in accordance with the Decree, and Ordinance above cited and by the grant

and the accompanying map or diseno which is referred to therein, the land is identified and so segregated from the residue of the public Domain as to render its location and survey entirely feasible.

All the objections, ^{the Law Agent of the United States against the} except one urged by the confirmation of this claim, have been considered by this Board, and overruled, in the opinion on file in the case of Cruz Cervantes, No 55, of the Docket of cases.

The objection not hitherto overruled, is, that the first condition in the grant viz "That the grantee shall abide by the regulations which may be made for the distribution of vacant lands; and in the mean time neither the grantee, nor his heirs, can divide, nor alienate the land" has been violated, by the transfer to the present claimant, and that of course, no right either legal or equitable could be acquired by him in virtue of said transfer.

If this condition was lawfully imposed upon the grant to Alvarado, the result would certainly follow which is alleged by the objection. With regard to this condition, I am under the impression that it was either carelessly inserted, or in a spirit of paternal guardianship, to operate in terrorem, against improvident alienations; or in accordance with the form which was used in the case of provisional concessions or licenses to occupy, issued prior to the promulgation of the ordinance of the 21st of November 1828. in which it would be very properly inserted.

But at all events our conclusion is that in this grant the condition is nugatory.

It is clear, that if the full ownership of the land was granted, as the Decree of August 1824, and the ordinance of November 1828, evidently contemplated, it

8,
no longer remained vacant land, which could be affected under the Mexican Constitution ^{by any future regulations, or the disposition} thereof. By that Decree and ordinance, a grant in full property, with all the necessary incidents of ownership in fee was clearly intended, and provided for.

Upon the ascertainment by the Political Chief that all the prescribed requisites were met by the applicant, both as regards himself and the land which he solicited, it became his duty to carry out by his grant, the purpose of the Government, which might have been thought more attainable by means of unrestricted grants of the Soil in full property, than by such, as would withdraw it from commerce and would tie the grantee, and all his posterity, to one spot, like an oyster to the rock.

The conduct of the Political Chief in forming the function of granting, devolved upon him by the ordinance of 1828, was regulated by the laws in force upon that subject; and he could not impair, or defeat the policy, and object of the Government, by the imposition of terms and conditions which were ^{at} ~~not~~ ⁱⁿ ~~not~~ with that object and policy.

It is certain that no such condition as the one we are considering is contained in the decree, and ordinance in virtue of which he made this grant; and if as we have concluded, a conveyance in full property was intended by them, a restriction such as this condition imposed, emaculated the grant of one of its distinctive characteristics and is in direct contravention of the provisions of the Law.

The ordinance of November 1828, does it is true, require the political Chief to conform, not only to the said Decree

9
and ordinance, but generally, to the laws regulating the disposition of the public domain, by the reverting to the laws existing at the time, it appears that they were in conflict, with this prohibition to alienate. The Decree of the Cortes of Spain of the 14th of January 1813 for the reduction of the vacant and other common lands to private ownership, and which it would seem was binding in the Republic of Mexico, being published as such among her Laws, provided in the 11th Section that they shall be distributed "en plena propiedad," in full property, page 56. 5th Vol. of orders and decrees of the Cortes of Spain considered of force in the Republic.

So by a provision in the 14th Section of the Decree of the 27th of September, 1820, "upon the Suppression of every Species of entails" ib. page 135, it is declared, that "no one can in future, neither for the purpose of advantage, nor under any other pretext, Establish a mayorazgo, fidei commision advowson, nor any other entail whatever, in relation to any kind of property or rights, nor prevent its alienation either directly, or indirectly."

It is said in Escriche, page 610. article Enajenacion, Ediction of 1854. "no one can found entail on any class of property, or rights nor prohibit directly, nor indirectly their alienation" we conclude that the policy of the Country and its express legislation, was violated by this condition in the grant.

Collection of Decrees of the Mexican Nation on entails vol. 154. 7th August, 1823.

In consideration of the whole case, for the reasons above given, we are unanimous in the opinion, that in view

of the principles prescribed for our
Government in the act of the 3^d of March
1851. the claim in this case presented, is valid,
and ought to be confirmed to the present
Claimant.

In the result above announced Commission-
er, Hall, concurs.

(Signed) Harry J. Thornton

No 124. Claim of John B. R. Cooper.
In this case I agree that the opinion of
Commissioner Thornton furnished sufficient
reasons for the confirmation of the claim:
though I do not concur in a portion of them.
(Signed) Hiland Hall.
Commissioner.

John B. R. Cooper, Assignee Claimant
vs.

The United States

No 124 Decree of Final Confirmation
This Board upon full consideration of the
various grounds affecting the validity of
the said claim, having come to the con-
clusion that the said claim is valid;
therefore now proceeds to make, and
does hereby make, the following decree
or report of final confirmation viz:
It is decreed that the said claim be
confirmed to the extent, an quantity
of two square leagues (two sitios de ganado
Mayor) and for no more: being the same
land described in the grant and Expediente
referred to therein and of which pos-
session is proved to have been had by
the original grantee and the claimant;
Provided, that the said quantity of

land granted and now here confirmed be contained within the boundaries called for in the said grant, and map to which the grant refers; and if there be less than the said above named quantity within the said bounds, then we confirm to the claimant, that less quantity, it being apparent that said quantity exceeds the minimum, prescribed in the ordinance, of two hundred varas.

(Signed) Hiland Hall
" Harry S. Thornton
Commissioners

San Francisco April 12th 1852

On this day before Hiland Hall one of the commissioners for ascertaining and settling private Land Claims in the State of California, came William E. P. Hartnell a witness produced in behalf of John B. R. Cooper the claimant in Case No 124 on the Docket of said Commissioners and was duly sworn

The Law Agent was notified and attended by Mr Greenhow,

In answer to questions propounded by the counsel for the claimant the witness testified as follows

My name is William E. P. Hartnell: my age is 54 years: I have lived in the present county of Monterey California, 30 years: and reside there at the present time

I have held under the Mexican Government the Offices of Collector of Customs, Inspector General of Missions and have been 1st Regidor & acting Alcalde of Monterey

I am acquainted with the hand writing of Jose Figueroa and Augustin V. Zamora and their signatures to the paper before me are genuine and has been compared by me with Exhibit "C" filed in the office of the Secretary of the Land Commissioners in Claim No 124 and the latter found to be a correct & perfect copy.

I also know the hand writing of David Spence and that his signature to the paper before me is genuine, and I have compared this paper with Exhibit "E" filed in the same claim, and find the latter a correct and perfect copy.

I know the Rancho called "El Sur" in Monterey County. I also know that it was occupied by John B. Alvarado, from about the year 1833, to about the year 1840, and that it has ever since been occupied and is now occupied by John B. R. Cooper.

I have never heard of any other claimant for the said tract of land.

The said grant given as aforesaid to John B. Alvarado and now held by John B. R. Cooper was always regarded by the Mexican Authorities in California as a good and perfect title.

I have been intimately acquainted with all the Governors of California since I came into the country, and know that they granted lands within ten leagues of the coast the same as any other lands in California.

I never heard any one of the Governors express any doubt of their power or authority to make such grants, I have always seen and conversed with the Mexican Governors almost immediately after their arrival here, but I never heard

any one of them Express any doubt of the authority of the Governor to make such grants.

In answer to questions put by the Law Agent the witness testified as follows.

The land has always been used for keeping cattle and horses. A thousand head of cattle or more have been kept on the land at a time.

The land is difficult of access & for that reason not convenient for cultivation.

The land borders on the Sea Coast.

If a title has not been disapproved by the Territorial or departmental assembly, I consider it a perfect title. If a title has not been presented to the Assembly, I consider it a legal title, if otherwise in due form.

I think the Government of Mexico has been continually informed that the Governors of California were constantly granting lands within ten leagues of the coast, and have never interfered with or disapproved of said grants.

I think the title in the present case was valid though the land was within ten leagues of the coast.

W. E. P. Hartnell

Sworn & Subscribed
before me Hiland Hall

Filed in Office April 12th 1852
Geo Fisher
Secy

Sello Primero Seis Pesos

Calificado provisionalmente por la

Administracion de la Aduana Maritima de
 Monterrey para los años de mil ochocientos
 treinta y cuatro, y mil ochocientos treinta
 y cinco.

Figueroa

Rafael Gonzales

Jose Figueroa General de Brigada de
 la Republica Mexicana Comandante general
 Inspector y Jefe Superior Politico del
 Territorio de la Alta California.

Por cuanto el Ciudadano Juan Bautista
 Alvarado Mexicano por nacimiento ha pre-
 tendido para su beneficio personal y
 el de su familia, el terreno conocido
 con el nombre del Sur, colindante con
 la Mision de San Carlos la Sierra y la
 Costa: practicadas previamente las dili-
 gencias y averiguaciones correspondientes segun
 lo dispuesto por leyes y Reglamentos:
 usando de las facultades que me son
 conferidas y de conformidad con el acuerdo
 de la Excelentissima Diputacion Territorial
 del dia primero de Agosto ultimo apro-
 vando la concesion del citado terreno
 del Sur, echa en treinta de Julio del
 presente año al referido Ciudadano
 Juan Bautista Alvarado: A nombre
 de la Nacion Mexicana he venido en
 conferirle el terreno mencionado en las
 presentes letras declarandole la pro-
 piedad de el sujeto a las condiciones
 siguientes

- 1.ª Que se sometera a las que estableciere
 el reglamento que se ha de formar
 para la distribucion de terrenos baldios

se demarcaran los terrenos en cuyos límites pertenecieran de las Mochimas algunos árboles frutales o silvestres de alguna utilidad

4^a El terreno de que se hace mención es de uno y medio sitio de ganado mayor segun se explica el decimo que corre en el expediente S. C. D. que dice la posesion lo hara medir Conforme a Ordenanza que daudo el sobrante que resulte a la Nacion para los usos convenientes

5^a Si Contraviniere a estas condiciones perdura su derecho al terreno y sera demaricable por otro

En consecuencia manda que teniendose por firmes y validos este titulo se tome razon de el en el libro que corresponde y se entregue a los interesados para su resguarda y demas fines Queda en Monterey a Siete de Noviembre de Mil ochocientos cuarenta

Mant. Simons
Jose T. Fernandez
Seco into

Queda tomada razon de este titulo en el libro de terrenos sobre adjudicaciones de terrenos Valdiosos f. 3^a

L. Fernandez

Aug. Dto 23 de 1840

Con esta fha queda tomada razon de este titulo en el libro respectivo llevado en esta Prefectura del 2^o Distrito a N^o Ayudantes

J. Arguello
Narciso Botello Seco

Sello Tercero Dos Reales

Habilitado provisionalmente por la aduana mantimica del puerto de Monterey en el departamento de las Californias para los años de mil ochocientos y cuarenta y mil ochocientos cuarenta y uno
Simons
Antonio Maria Osio

under my charge.
Monterey thirtieth of September eighteen
hundred & thirty four.
(Signed) Gamoran.

I the undersigned do hereby certify
the foregoing to be a true and faithful
translation of the Original Title in the
possession of John B. R. Cooper.
W. E. P. Hartnell
Office of the State ^{Surveyor} State Translator
Translator
Monterey 31st December 1854.

I certify the foregoing to be a
true and correct Translation from an
authenticated copy of the Original in the
Office of the U. S. Surveyor General for
California, which authenticated copy is
filed in this Office with the Petition
in case No 124, and marked Exhibit
C.

Geo Fisher
Sec'y

Filed in Office March 23^d 1852.
Geo Fisher
Sec'y

Stamp third two Reals

Provisionally authorised by the Maritime,
Custom House of the Port of Monterey,
in the Department of the Californias, for
the year One thousand Eight hundred
forty One.

(Signed), Jimeno, (Signed) Antonio Maria Ocho

In the Port of Monterey in the Depart-
ment of the Californias, on the 9th day of
the month of December of the year
One thousand Eight hundred and forty,
before me, David Spence, constitutional
Justice of the Peace of this demarcation
(District), and before the assisting
witnesses with whom I act in the
Established form for want of a Notary
Public, and the witnesses to the instrument
who will hereinafter be mentioned, appeared
the Senors Don Juan B. Cooper, and Don
Juan B. Alvarado residents of this place,
which persons I certify that I know, and
the former said; that being owner in fee
of the land known by the name of La
Sagrada Familia (a) Las Salinas, which
he obtained by legal purchase from its for-
mer owner Senor, Don Joaquin de la Torre,
the writing of which he publicly exhibited
and I certify that I have seen it, in which
land is included a "potrero" (Stock farm)
formed by the sea "la tembledera" at the
narrowest part, the Monterey river, and
a ditch (Ladron) which runs along the
side towards the plain of Las Salinas,
and also two hundred Varas of land at
the entrance of "la Bolsa" on the side
next the said river, - he conceded (grants)
both the "potrero" and the two hundred
varas of land aforesaid, to the above
named Senor Alvarado, for himself

and in the name of his heirs and Successors, and of whoever of them may have title, voice, or claim in any manner, that he may possess it and that it may be recognised as his property, firm, valid and perpetual, so that no person may disturb him in its possession; declaring as he declares that it has not been sold, alienated or pledged and that it is free from any incumbrance, whether public, perpetual, temporary, special, general, tacit, or expressed, and as such he conveys it. And the aforesaid Senor Don Juan B. Alvarado, in consideration of this donation conveys to the said Senor Cooper in the same terms, form, and manner, without any variation, the place called El Sur which he holds by just title from the Departmental Government, in extent all that described in the instrument which he presented in proceedings and which Don Juan Cooper received in proof of the execution of the contract. Moreover both parties declare that the values of the lands are perfectly equal and if either should exceed the other in a large or small sum, this one makes (of the excess) free gift and donation, just, perfect, and irrevocable, which in Law is called inter vivos, with judicial intervention and other legal forms; they renounce Law 4; title 7; book 5 of the "recopilacion" and all others which treat of lesion in more or less than one half of the just value, and they consider as past the four years specified in them, in which to demand restitution of the property or what was wanting of its full value; and they both give up forever, the dominion, possession, title, recourse, and every other right which they may have, Senor Cooper to the porteros and two hundred varas of

land aforesaid, and Senor Alvarado to the place "Sur" before mentioned, and they renounce and transfer them each to the other, each conferring on the other irrevocable power with free full and general administration that of his own authority he may take the tenure and possession which lawfully pertains to him; binding themselves that this exchange shall be certain, sure, and effective, and that no person shall disturb or bring suit against either of them, and if it should happen otherwise they will mutually come forward in defence of the person disturbed, until he be left in peaceable possession; and if this should not be accomplished his former property will be returned to him, with the useful improvements which he may have, and all the costs, injuries and damages he may have sustained.

And for the observance of the foregoing they bind their property, present and future, and with it submit themselves to the jurisdiction of the Magistrates who by law, can and ought to take cognizance of the matter, that they may compel and force them to comply with it, as with a definitive sentence, consented to and passed in authority of *res judicata*; they renounce the laws in their favour and the legal exceptions in form.

In testimony of which they executed and delivered and signed this with me and those of my assistance, the witnesses to the instrument being the Senores Don Antonio Maria Cero, Don Luminardo Flores and Don Eugenio Montenegro residents and present.

Assisting witnesses. (Signed) David Spence
 (Sgd) Guillermo C. Hartnell. (Signed) Juan B. Alvarado
 (Sgd) Juan Malavin. (Signed) Juan B. Cooper

(The above) is a copy faithfully made from the record which exist in the archives of this Court, on the day of its execution, the witnesses to the copy and the comparison being the Senors Jose J. Fernandez and Don Manuel Castro. I certify
(Signed) David Spence.

Filed in Office March 23^d 1852.
Geo Fisher
Secy

Office of the Board of commis-
sioners of California Land
Claims, San Francisco (May)
8th 1852.

On this day before me Hiland Hall one of the Commissioners for ascertaining and settling private Land Claims in the State of California came David Spence a witness produced in behalf of the claimant S. B. R. Cooper whose petition is Number 124. on the Docket of the board and was duly sworn. The Law Agent was notified and attended.

In answer to questions put by the Counsel for Claimant the witness testified as follows-

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

Answer. My name is David Spence; my age is 53 years. I reside in Monterey, and have lived in California 28 years.

2nd Question. Are you acquainted with the Rancho called "El Sur" in the County of Monterey, and if so, say what you know about its ownership and possession.

Answer. I know the Rancho called "El Sur" situate in the County of Monterey. Juan B. Alvarado first occupied it about the year 1834 under a provisional grant

He soon afterwards received a formal grant from Governor Figueroa. He sold it to Juan B. R. Cooper about the year 1840. Alvarado and Cooper have occupied this land for about 20 years they have had a house on it & cattle and horses. Cooper occupies it at the present time with cattle and horses.

The authorities of California always recognised the title of Alvarado, and I have never heard of any conflicting claim.

In answer to questions put by the law agent the witness says that the land is so situated that it is difficult of cultivation & access. There has been a small house on the place which has been inhabited for a number of years, but I cannot tell how long.

The whole of the land is within ten leagues of the Sea Coast.

D. S. Spence.

Sworn & subscribed
before me

Highland Hall
Com^r

Filed in Office May 8th 1852

Geo Fisher
Secy

no ser de malicia, y lo necesario &
Monterrey 14 de Mayo de 1834

Juan B. Alvarado

Sello N.º una quartilla
Habilitado provisionalmente por la
Comesania Subalterna del Pto de
Monterrey para los a. de 1831 y 1832
Gomez

Senor Ge. Sup.º Polit.º

Monterrey Feb.º
27 de 1831.

Puede el interesado
ocupar el terreno
que pretende siem-
pre q^a con par-
ticularidad sea
p^a establecer
y conservarlo
bien cultivado;
en el concepto
q^e sera provision-
al^{te} segun solicita
hasta la resolu-
cion de la
instancia q^e
manifiesta;
tener pendiente

El Ciudadano Juan Bant.
Alvarado a V. respetuosa-
mente me presento y digo:
que habiendo dirigido en
el ano ppdo al Gov.
Sup.º de este Territorio
una solicitud en confor-
midad de las leyes de
Colonizacion pretendiendo
hara fomentar un terreno
vadio llamado el Sur,
que esta al rumbo de
este nombre en la corta dis-
tante de este Pes.º mas o menos
quinta leguas; y como nada
resolvio el Gov.º Sobre este asunto,
me dirijo a V. para que le
sirva si encontrare conveniente
permitirme provisionalmente
la consecucion de él; y que
dando yo sujeta a la resolu-
cion que hubiere de mi an-
terior representacion. Por
tanto de la consideracion
de V. S. espero el resultado
mas favorable en lo

que recibiere gracia, jurando no ser de
malicia, y lo necesario &
Monterrey 14 de Mayo de 1834

Juan B. Alvarado

Sello 4^o una Quartilla
Habilitado provisionalmente por la Comisa
ria Subalterna ^{interina} del Pto de Monterrey
p. a los a. de 1831 y 1832.

S

Gomez

Excmo. Sr. Jefe Sup^{or} Polit^o

El Ciudadano Juan Bant.^a Al-
varado a V.S. respetuosamente me
Monterrey Feb.^o 27 de 1834. presento y digo que habiendo don-
de el inter- jido en el ano pp.^o al Excmo. Jefe
sado ocupar el de este Termit^o una solicitud en
Terreno q^e preten- conformidad de las leyes de
- de siempre q^e Colonizaciones pretendiendo hacer
con particulari- fomentar un terreno vadio lla-
- dad sea p.^o - mado el Sur, que esta al sum-
establecer - bo de este nombre en la costa
y conservarlo distante de este Pres.^o mas o
bien cultivado; menos quinze leguas; y como
en el concepto nada resolvió el Excmo. sobre
q^e sera provision- este asunto, me dirijo a V.S.
- m.^{te} Segun solicito para q^e se sirva si encontra-
hasta la resolu- re conveniente permitirme pro-
- cion de la vicionalmente la concesion de el
instancia q^e y quedando yo sujeto a la
manifiesta Resolucion q^e hubiere de mi-
tener pendiente anterior representacion. Por tanto
de la consideracion de V.S.
espero el resultado mas fa-
vorable en lo que recibiere
gracia.

Juro &