

CASE No.

4

SOUTHERN DISTRICT

ENCINAL AND BUENA ESPERANZA GRANT

DAVIS S. SPENCE

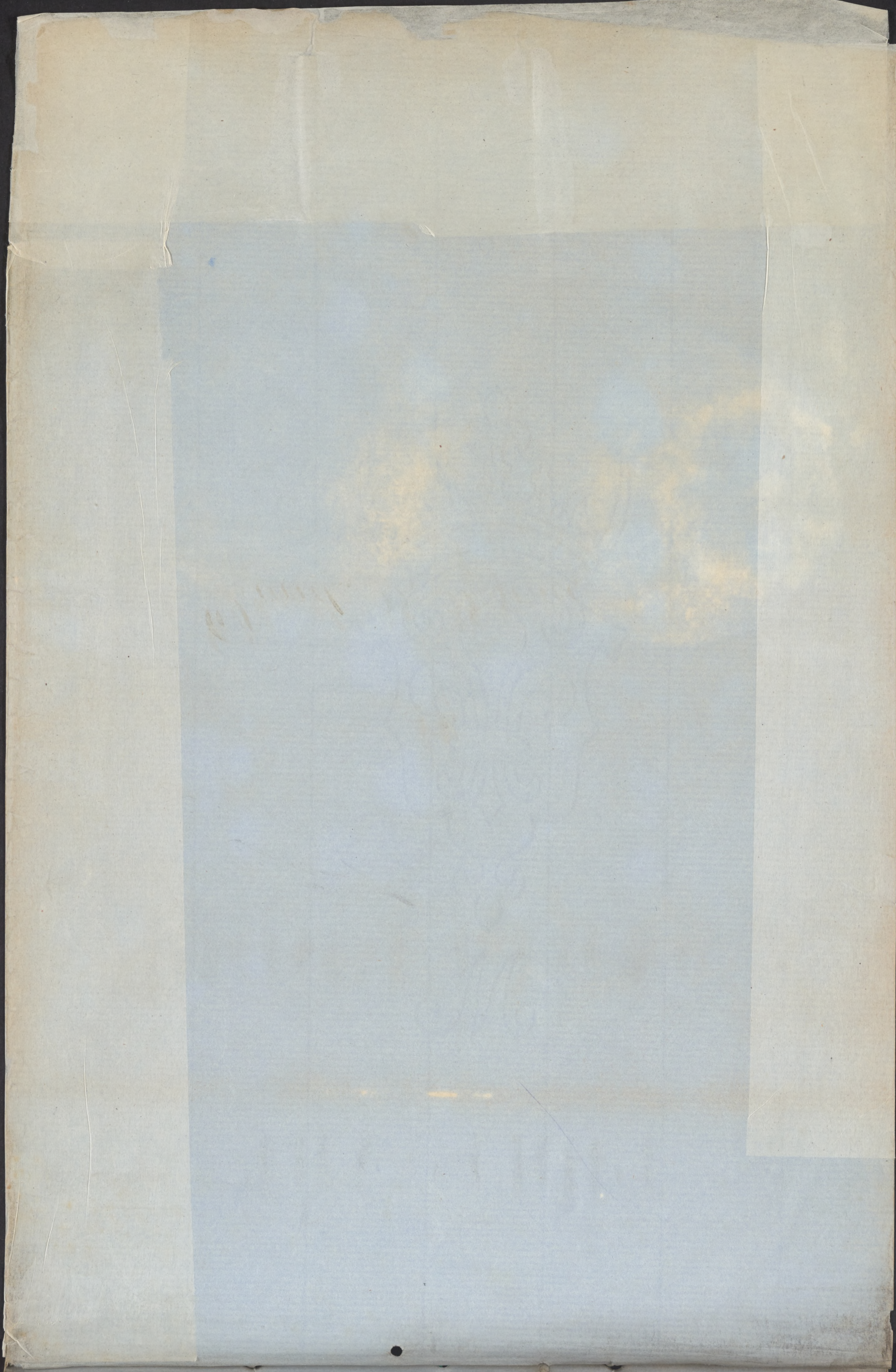
CLAIMANT

LAND CASE 4 SD PAGES 99

FEB 7 1963

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

54



TRANSCRIPT

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PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. 54

David S. Spence CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

Encinal ^{de} Buena Esperanza

11/11/11

11

11/11/11

11/11/11

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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

The Petition of David S. Spence _____
for the Place named

Encinal and Buena Esperanza _____

was presented, and ordered to be filed and docketed with No. 54 and is as follows, to wit;

(Vide pages 3 & 4 of this Transcript.)

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

Friday Feby 27th 1852

In Case No 54. David S. Spence, the Deposition of Jacob P. Loese, a witness in behalf of the Claimant taken before Commissioner Holand Hall, was filed and is in the words and figures as follows to wit: (Vide pages of this Transcript

1 2

In the same case the Deposition of John Parrott, a witness in behalf of the Claimant, taken before Commissioner Holand Hall, was filed and is in the words and figures as follows to wit. (Vide pages of this Transcript)

Thursday Decr 30th 1852.

In case No 54, David S. Spence, for the place named Encinal y Buena Esperanza the Deposition of Jose Abrego, a witness in behalf of the claimant, taken before Commissioner Holand Hoall, was filed and is in the words and figures as follows to wit: (vide pages of this Transcript)

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Tuesday February 8th 1853.

Case No 54, David Spence, for the place named "Encinal y Buena Esperanza" called: The Counsel for the Claimant James Wilson, read the petition and the papers in evidence; the Associate Land Agent of the United States filed his brief; Case submitted, and taken under advisement by the Board.

Monday February 14th 1853

In Case No 54, David S. Spence, for the place named Encinal y Buena Esperanza" Commissioner Henry J. Thornton delivered the Opinion and the Decree of Final Confirmation of this Board.

1 3

Ordered, that the Opinion and the Decree of Final Confirmation of this Board, delivered this day in this case be recorded on the Journal.

Which opinion and Decree are in the words and figures as follows to wit (vide pages of this Transcript)

To the Honorable the Boards of Commissioners to ascertain and settle the private Land claims in the State of California.

Petition

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David S. Spence of Monterey in the State of California would respectfully represent to Your Hon^{ble} Boards that he claims a certain tract or parcel of land known and called Encinal of Buena Esperanza in the County of Monterey and State aforesaid, under a Mexican Grant, that the same was granted to him on the 29th day of November A.D. 1834 by Governor Figueroa, that the said grant to your petitioner was approved by the Territorial Deputation on the 28th day of August A.D. 1835 - and that judicial possession of said land so granted was given to your petitioner by the Alcalde of Monterey on the 24th of September A.D. 1835, and the boundaries thereof defined and assented to by all the neighbours.

The quantity of land claimed in the grant aforesaid is two leagues less or more as the boundaries thereof were fixed and lines agreed upon at the time judicial possession was given as aforesaid.

Your Petitioner would further represent that he claims also another tract of land adjoining the above tract to the extent of one league of land under a grant made by Governor Alvarado to your petitioner dated April 15th 1839, and in augmentation of the grant first above set forth.

Your petitioner would represent that upon his obtaining the grant to the said land as above set forth

and even since he has been in the quiet undisturbed and peaceable possession of the said Land. That there are no conflicting claims to the said Land, or any controversy about the boundaries thereof, that the same have for a long time to wit for more than twelve years last past been well established and assented and agreed to by all the adjoining claimants of lands.

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Your petitioner files herewith full copies of his original papers and a translations of the same to which he would respectfully refer your Honor and states that he will present his original papers and proofs thereof to your Honor for your inspection and approval.

Wherefore your petitioner respectfully prays your Honorable Board to confirm his grant aforesaid to the encinal y Buena Esperanza with the Augmentation thereto and to decree his title to be valid.

And as in duty bound will even pray
San Francisco State of California
Feb'y 18th 1852
L. Spence

Filed in Office Feb'y 19th 1852.
Chas. Fisher
Secy

15

Office of the Board of Commissioners of California Land Claims. San Francisco Feb'y 26th 1852.

Deposition
of Jacob P.
Deese

On this day before Hiland Hall one of the Commissioners for ascertaining and settling private Land claims in California

came Jacob P. Seese a witness produced on the part of the Claimant, in the case of the petition of David S. Spence being number 54 on the Docket of said Board and after being duly sworn testified as follows, the Land Agent being notified and attending.

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Question by the Claimant

1. What is your name, age & residence
Answer. Jacob P. Seese, age forty three & reside in Monterey.

Q. Have you compared the original title papers of David S. Spence to Ranch of Encinal of Buena Esperanza, which are marked A. & with the initials M. H. with a paper filed with the Commissioners in case No 54 and numbered Expediente B. with the initials M. H. and is the latter a correct copy of the original.

Answer I. Have compared the papers and the original is truly copied in the Expediente B filed with the Commissioners.

Q. Are you acquainted with the hands writing of Manuel Limeno Jose Figueroa Agustin V. Zamora, & Jose Rafael Gonzales.

Answer. I am.

Look on the original title papers and say if the signatures of the persons named in the last proceeding question, which appear upon said papers are genuine.

Answer. I have no doubt they are genuine, and I have no doubt of the genuineness of the whole of said title papers.

I am also acquainted with the hands writing of Juan B. Alvarado and the signature purporting to be his on the

6.

said title papers is, I have no doubt his genuine signature.

Question by the Land Agent
1. What are your means of knowledge of the signatures of the persons before named?

Answer. I have often seen them all write and I have their signatures on papers in my possession.

2. Did you know anything about the origin & progress of the papers embraced in the said title if so state your whole knowledge on the subject.

Answer. I was not living in Monterey at the time of the date of the title papers & did not know of them at that time.

I however about that period that the land described in the papers was called the land of said Spence.

Jacob P. Seese

Sworn & subscribed

Before me Holland Heald

Corn.

Filed in Office Feby 27th 1852

Geo. Fishers.

Secy

17

Supplemental
Petition

In the matter of the petition of David Spence claiming the Rancho of the Encinal y Buena Esperanza, it is admitted that it is the Rancho within the ten littoral leagues.

D. Spence

San Fran^{co} Feby 26th 1852.

Filed in Office 26th Feby 1852.

Geo. Fishers Secy

Office of the Board of Commissioners,
of California Land Claims,
San Francisco July 26th 1852.

Deposition of
John Parody

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On this day before Wiland Hall one of the Commissioners for ascertaining and settling private Land claims in the state of California came John Parody a witness produced in behalf of the claimant in the case of the petition of David S. Spence being No 37 on the docket of said Commissioners who being duly sworn testified as follows,
The Land Agent being present

Question by the Claimant

1. What is your name age and residence.

Answer. My name is John Parody, age forty years & I reside in San Francisco.

Q. Are you acquainted with the hand writing of Francisco del Castillo and if so look upon paper marked X, with the initials W.H. and say whether the signature purporting to be his is genuine.

Answer. I am acquainted with the hand writing of said Castillo - I have seen him write & have corresponded with him. I have no doubt the signature now before me on said paper is genuine.

Questions by the Land Agent

1 8 Do you know any thing about the origin & progress of the papers referred to in the Expediente.

Answer. I do not, I did not reside in California at the date of the papers.

Question. Do you know of any adverse claimant to the Rancho described in said

Espediente, or any facts which effects or impairs the validity of the claim of said Spence to the same.
Answer, I do not

John Parrott

Sworn & subscribed this 26th day of Feby 1852.

Before me

Wiland Keale

Com^r

Filed in Office Feby 27th 1852.

Geo. Fisher

Secy

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San Francisco Decr 30th 1852

Deposition
of Jose Abrego

On this day before Com^r Wiland Keale came Jose Abrego, a witness in behalf of the Claimant David Spence Petition no 54, and was duly sworn, his evidence being interpreted by the Secretary. The U.S. Associate Land Agent was present.

In answer to questions by Counsel for the Claimant, the witness testified as follows.

My name Jose Abrego, my age is forty years and I reside in Monterey. I am acquainted with David Spence and have known him for nineteen years past. I know the Rancho called "Encenal y Buena Esperanza". I was present at the giving of Judicial possession of the Rancho to said Spence & I know that he has continued in the possession of it from that time to the present. I know that after his taking possession of said land he received an additional grant

4

H. H.

Monterrey

1835

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Concesion y posesion del Rancho
del Rincon de Buena Esperanza,
al Ciudadano David E. Spruce
el dia 24 de Setiembre del año

Citado

32

1 10

over

Monterey

1835

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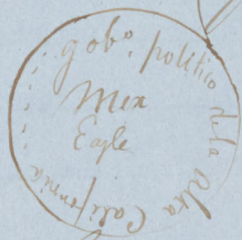
Concesion y posesion
del Rancho del Encinal llamado
nuevamente Rincon de Buena
Esperanza, al Ciudadano David C.
Spence el dia 24 de Sept.
del año Citado

1 11

Dello primero Dís pesos
 Habilitado provisionalmente por la Administración
 de la Aduana y Marítima de Monterrey de
 la Alta California para los años de mil
 ocho cientos treinta y cuatro y ocho cientos
 treinta y cinco
 Figueroa A Ramirez

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Don José Figueroa Gen. de Brigada de
 la Republica Mexicana Comandante Gen.
 Inspector y Jefe Superior Político de la
 Alta California



Por Cuanto D. David Estevan
 Spence naturalizado en los
 Estados Unidos Mexicanos
 ha pretendido para su beneficio personal y el de
 su familia el terreno conocido con el nombre del
 Rincon de Buena Esperanza colindante con
 el rancho de Buenavista, Rancho del Ahual,
 el ojo de agua del Encinal, los Cinco Ahijos
 y Rio de Monterrey: practicadas previamente
 las diligencias y averiguaciones correspondientes
 segun lo dispuesto por leyes y reglamentos,
 usando de las facultades q. me son conferidas
 a nombre de la nacion Mexicana por decreto
 de este dia he venido en conceder al referido Don
 David Estevan Spence el terreno mencionado
 del Rincon de Buena Esperanza declarandole
 la propiedad de el por las presentes letras
 entendiendose dicha Concesion con entera confor-
 midad a lo dispuesto por las leyes a reserva
 de la aprobacion o desaprovision de la Honra
 Diputacion Territorial y del Supremo Gobierno
 y bajo las condiciones siguientes.

1.^a Que se sometera a las q. estableciere
 el Reglamento q. se ha de formar para la
 distribucion de terrenos baldios y q. entretanto
 ni el agraviado ni sus herederos podran dividir
 ni enagenar d. q. se le adjudica: imponer

1 12

Censo, vinculo, fianza, hipoteca ni otro gravamen
aunque sea por causa piadosa, ni pasarlo á
manos muertas.

2^a Podrá circular sin perjudicar los troveses
Caminos y Servidumbres: lo disfrutara libre
y exclusivamente, destinandolo al uso y cultivo
q. mas le acomode; pero dentro de un año
á lo mas fabricara casa y estara habitada.

3^a Cuando se le confirme la propiedad
Solicitará del Puz respectivo q. le de posesion
juridica en virtud de este despacho, por el cual
se demarcaran los linderos en cuyos limites pondra
á mas de las mohonuras algunos arboles frutales
o silvestres de alguna utilidad.

4^a El terreno de que se le ha donacion
es de dos Sitios de ganado mayor poco mas ó menos
Segun explica el dibujo q. corre en el Expediente:
Del Puz q. diere la posesion lo hara medio conforme
á ordenanza para señalar los limites, quedando el
Sobrante q. resulte á la Nacion para los usos
convenientes.

Se refollow a map

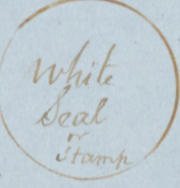
El que suscribe Secretario del Gob.^o del Departa-
mento de Californias Certifica: que el dibujo que
se demuestra á la vuelta es igual al original que
esta agregado al Expediente de D.^o David Spurge
Monterey dos de Enero de mil ochocientos
cuarenta y Cuatro

San Simón
No hay papel sellado que corresponde á esta
Certificacion
Simón

3.
14 Si contraviniese a estas Condiciones perderá su derecho al terreno y será denunciado por otro. En consecuencia mando q. Sirviendole de título el presente, y teniendose por firmes y válidos se tome rason de él, en el libro a q. corresponde y se entregue al interesado para su resguardo y demás fines. Dado en Monterrey a veinte y nueve de Noviembre de mil ochocientos treinta y cuatro.

José Figueroa Agustín V. Zamorano
Srio

Queda tomada rason de este Despacho en el libro de asientos de títulos Sobre adjudicación de terrenos a fojas cincuenta y ocho numero cincuenta y seis q. obra en la Secretaria de mi Cargo. Monterrey Noviembre veinte y nueve de mil ochocientos treinta y cuatro. Zamorano

Sello tercero  dos reales para los años de mil ochocientos veintey siete y ochocientos veintey siete.

Testimonio

1 15

Se aprueba la Concesion hecha al Ciudadano David Estevan Spence, del terreno nombrado Encinal Concedido en veinte y nueve de Noviembre de mil ochocientos treinta y cuatro Monterrey Agosto veinte y ocho de mil ochocientos treinta y cinco. José Castro.

Acuerdo de la Junta Monterrey Veinte y nueve de Agosto de mil ochocientos treinta y cinco. En Sesion de hoy aprovo

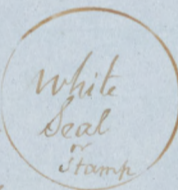
5^a Si contraviniese a estas Condiciones perderá su derecho al terreno y será denunciado por otro. En consecuencia mando q. Sirviendole de título el presente, y teniéndose por firmes y válidos se tome razon de él, en el libro a q. corresponde y se entregue al interesado para su resguardo y demás fines. Dado en Monterrey a veinte y nueve de Noviembre de mil ochocientos treinta y cuatro.

José Figueroa

Agustín V. Zamorano
Srio

Queda tomada razon de este Despacho en el libro de asuntos de títulos Sobre adjudicacion de terrenos a fojas cincuenta y ocho numero cincuenta y seis q. obra en la Secretaria de mi Cargo. Monterrey Noviembre veinte y nueve de mil ochocientos treinta y cuatro.

Zamorano

Sello tercero  dos reales para los años de mil ochocientos treinta y siete.

Testimonio

1 15

Proposicion de la Comision de tierra baldias, nombrada por la honra Diputac ^o .	Se aprueba la Concesion hecha al Ciudadano David Estevan Spence, del terreno nombrado Encinal Concedido en veinte y nueve de Noviembre de mil ochocientos treinta y cuatro Monterrey Agosto veinte y ocho de mil ochocientos treinta y cinco. José Castro.
--	--

Acuerdo de la Coma	Monterrey Veinte y nueve de Agosto de mil ochocientos treinta y cinco. En Sesion de hoy aprovo
--------------------	--

Diputacion

la E. Diputacion, la proposicion en que concluye el antecedente dictamen de la Comision, i se acordó se devuelva este expediente al S. G. Politico p.^a Su conclusion = Presidente José Castro = José Maria Maldonado Secretario

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Decreto del S. G. Politico

Monterrey veinte i nueve de Agosto de mil ochocientos treinta i cinco. = En vista de la aprobacion otorgada en sesion de hoy p. la E. Diputacion Territorial, librese testimonio de ella i de este Decreto a la parte del Sr. David C. Spence en confirmacion a la Concesion del terreno nombrado Encinal que obtuvo en veinte i nueve de Noviembre de mil ochocientos treinta i cuatro. E. S. D. José Figueroa Jefe Superior Politico del Territorio de la Alta California así lo mando, decreto i firmo de lo q. doi fee. = José Figueroa = Fr.^{co} del Castillo Negro Secretario

Concuerda a la letra con su original que queda archivado en esta Secretaria del Gobierno Politico en el legajo de Expedientes Sobre terrenos aprobados por la E. Diputacion, señalado con el numero uno al que me remito. Monterrey veinte i nueve de Agosto de mil ochocientos treinta i cinco.

1 16

Orio
Fr.^{co} del Castillo Negro
Dios 12 de Agosto

Sello tercero dos reales
Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterrey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco
Figueroa A Ramirez

Por Alcalde Constit.

David E. Spence Ciudadano Mexicano dice, Que habiendo obtenido la Concesion propia del terreno Conocido con el nombre del Rincon de Buen Esperanza, ocurri' ante V. para que se Sirva darla la posesion juridica Conforme esta prevenido en el articulo 3.º del titulo de dicho terreno que se les estudio' a veinte y nueve de Noviembre de mil ochocientos treinta y Cuatro, que devidamente acompaño, igualmente la Conformacion respectiva para que todo obre los efectos de cuados P. E.

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A. V. Suplica se Sirva ponerlo en la posesion que solicita de lo que recibira merced y justicia.

Monterrey 17 de Septiembre 1835
David E. Spence

Monte 17 de Septiembre de 1835
Representado y admitido, procedase por mi, el presente Alcalde a la medicion Señalamto. de linderos y posesion judicial q. solicita el interesado en esta instancia: Señalandose para ejecutarlo el dia veinte y cuatro del presente mes p.º lo q. se citaran con voluta de comparendo a los Colindantes. Así yo el Alcalde Constitucional de Segunda nominacion lo decreto, mande y firme con los de asist.º

A

de asist.º
Guill. Ed. Hartnell de asist.º
Petro Sepeda

30
1 17

En la fha. precente el C. David Spence se le notifico el auto q. antecede y entendido dijo: No oye y, que se da p.º Citado firmando Carrmigo y los de as.º

M

David E. Spence Carrmigo
de asist.º de asist.º
Guill. Ed. Hartnell Petro Sepeda

En la misma fha se libraron las volutas que se mandan en el antecedente auto y para Const. lo auto y rubrico J. R. G.

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En el rancho del rincón de Buena Esperanza a los veinte y cuatro dias del mes de Setiembre de mil ochocientos treinta y cinco, en cumplimiento del auto de 17 del Corriente, presente los C. C. Mariano

Sello tercero dos reales
Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterrey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco
Figueras A. Ramirez
Estrada, Guillermo E. Hartnell y Don Antonio y Joaquin Estrada, Colindantes de este rancho y citados p.ª la medicion, señalamiento de linderos y posesion, nombri por medidores a los Ciudad. Vicente Felix y Vicente Baribar quienes previa la aceptacion y Juramento procederan al cumplimiento de su encargo. Asi yo el Alcalde de Segunda nominacion lo decreto y firmé con los de as.ª

de as.ª
Guill. Ed. Hartnell
Don Rafael Gonzalez
de as.ª
Pedro Lopez

1 18

En la misma fha de les notifico el auto q. antecede a los Colindantes y entendidos dijeron lo oyen y lo firmaron con mi go y los de as.ª

M.
Guill. Ed. Hartnell
de as.ª
Guill. Ed. Hartnell
Gonzalez
Don M. Estrada
de as.ª
Pedro Lopez

En el mismo dia, mes

y año de los notifico el auto de su nombramto
á los C. C. Vicente Feliz y Vicente Garibay
y dijeron q. aceptaban y aceptaron dicho
encargo y juraron por Dios nuestro Señor
y la Señal de la Cruz de usarlo fiel y legal-
mente á todo su real saber y entender sin
fraude contra persona alguna, y no firmaron
p.º q. dijeron no saber, lo hicimos y lo de asistencia

M.

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de as.
Guill. Ed. Hartnell Pedro Lepeda

Incontinentemente yo el referido Alcalde mande
traer á mi presencia el cordel con q. se han de
medir las terras, y q. los individuos medidores
lo midan de cincuenta varas y lo firmé con
los de as.
Gonzales

M.

de as.
Guill. Ed. Hartnell Pedro Lepeda

Inmediatamente en presencia de mí el
repetido Sur, los expresados medidores tomaron
un cordel de mecate, y con una vara de medir

Sello Tercero dos reales
Habilitado provisionalmente por la Administracion
de la Aduana Maritima de Monterrey en la
Alta California, para los años de mil ocho
cientos treinta y cuatro y mil ocho cientos treinta
y cinco.

1 19

Higuera A Ramirez
usual Mexicana, midieron cincuenta varas
para hacer la medida y para Constancia lo
rubrique.

R.

(Rubrica)

En el mismo parage, dia, mes y año
Siendo las once del dia yo el presente Alcalde
Segundo Constitucional, mandé á los medidores

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nombrados, se dispusieron p.^a la medida de tierras q.
 Se le ha de hacer al Ciudad. David E. Spence
 y puestos en la orilla del rio Nordeste cuarta
 al este se comenzo la medida hasta los Cinco
 Alisos donde se contaron ciento cincuenta y dos
 Cordelos de a cincuenta v.^a. De los cinco alisos
 al mismo rumbo p.^a las lomas hasta la Cañada
 grande veinte Cordelos, quedando el ojo de agua
 q.^a esta junto de los Alisos dentro de los linderos
 del Sr Spence. Desde la Cañada hasta los
 linderos de D. Guillermo Harnell en el Encinal
 para el Oeste cuarta al Norte, noventa y seis
 Cordelos, y desde este punto al mismo rumbo,
 hasta las mojoneras de Buenavista y Harnell
 ciento veinte Cordelos. Desde esta mojonera
 p.^a el Sur hasta el rio, cien Cordelos y del otro
 (lindero de Buenavista p.^a el S. Este cuarta al
 Este hasta los linderos de los Entradas) donde se
 embuso la medida, cien Cordelos en cuyos
 puntos mande se formen las mojoneras Corru-
 pendientes, a mas de la plantacion de arboles
 frutales y silvestres de alguna utilidad p.^a q.
 asi estos como aquellos señalen los linderos que
 le pertenecen. El terreno medido comprende
 la dos citios de ganado mayor, y lo firmaron
 conmigo el Jentendado y Colindantes con los
 testigos de asistencia, De que doy fe

JH

David E. Spence

José Rafael Gonzalez

Guille. Ed. Harnell

José Entrada

1 20

de as.^a

Guille. Ed. Harnell

de as.^a

Pedro Lepeda

En el rancho de Buena Esperanza
 a los veinte y cuatro dias del mes de Setiembre
 de mil ochocientos treinta y cinco, yo el Alcalde
 Segundo Constitucional de Monterrey Ciudad.
 José Rafael Gonzalez, despues de practicadas
 las medidas del mencionado rancho por las q.

resulto tener dos Sitios de ganado mayor y presentes los Colindantes Ciudad. Mariano Estrada, Guillermo E. Hartnell, Jose Ant. Estrada y Joaquin Estrada, siendo conformes con todo lo mas q. consta de autos, mande q. entrase el Ciudad. David E. Spence en =

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[Solo tercero dos reales
Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterrey de la Alta California, para los años de mil ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco
Figuera A Ramirez]

= pacifica posesion del mencionado rancho bajo las medidas citadas y formalidades acostumbradas en casos semejantes: lo q. verifico en el momento arrancando yerbas y haciendo demostraciones como dueño del terreno q. se le ha dado posesion, cuya validacion la autorizo y firmo en el rancho de Buena Vista firmando con los Colindantes interesados y testigos de asist. segun derecho.

H. [Jose Rafael Gonzalez Guillermo E. Hartnell
David E. Spence Jose M. Estrada
de as. de as.
Guill. E. Hartnell Pedro Zepeda

Monterrey Setiembre 25 de 1835
Tomese razon en el Libro de posesiones q. existe en el archivo del Regado 1.º de esta Capital, y devuelvase este expediente original al interesado para q. se sirva de titulo. C. B. y o. d. Alcalde de Segunda nominacion lo decreté, mande y firme
Montes de as.

H. [Jose Rafael Gonzalez
de as. de as.
Guill. E. Hartnell Pedro Zepeda

1 21

En la misma fecha se tomo razon en la foja 3.ª frente del Libro q. se manda en el auto q. antecede, y se devolvio el expediente original al C. David E. Spence, constante de 7 fojas

R útiles y para Constancia lo anoto y rubrico.
(Rubrica)



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Monterrey Abril 15 de 1839

Por cuanto D.^o David Spence ha pretendido en instancia de 13 del Corriente se le adjudique en propiedad para su beneficio personal y el de su familia la parte del terreno situado por el vecino Francisco Lugo conocido con el nombre de Aguaje del Ensinjal á virtud de haber desistido este en sus pretenciones como lo acredita el documento respectivo, cuyo parage sirve de aumento al q. actualmente posee con justos títulos, no siendo ya pertenecientes este sitio á los terrenos del pueblo de San Carlos a que se agrega hallarse absolutamente baldío, usando de las facultades que me son conferidas por la ley de 18 de Agosto de 1824 y el reglamento de 21 de Noviembre de 1828 en nombre de la Nación Mexicana he venido por el presente decreto en acceder á la dicha solicitud del Señor Spence, concediéndole la propiedad de el, á cuyo efecto ocurrirá el juez respectivo publicado la posesion correspondiente. Librese á la parte intrusada testimonio de esta Concesion para que le sirva de título: tomese razon en el libro que corresponde, y agreguese este expediente al que pertenece al dicho Spence sobre el llamado el Ensinjal, quedando sujeta á las condiciones estipuladas en el título expedido para la ocupacion de aquel terreno, en 29 de Noviembre de 1834. Así yo Juan B. Alvarado Gobernador interino del Departamento de las Californias lo mande y firme

1 22

Juan B. Alvarado

Nota

El terreno de que se hace
mencion es de la estension
de un sitio de ganado
Mayor

Man. Jimeno
Sr. del Despacho

Abarado

Queda tomada razon de este titulo en
el libro respectivo a foja 4.^a y para q. Conste
lo firmo.

Manuel Jimeno

El Sr. S. Gobernador del
Departamento ha dispuesto que se tome razon
en la Prefectura del Primer Distrito
Jimeno

Queda tomada razon a foja 6.^a
del libro respectivo que obra en el archivo de
la Secretaria de la Prefectura del primer
Distrito.

Pueblo de S. Juan de Castro Abril 26
de 1839

José M. Covarrubias
Sr.

The foregoing pages of writing numbered
from 1 to 17 both inclusive were received
for Record this 8th day of December 1851
at 11. 15. A.M. and are recorded in
book "Deeds of Grants C" pages 56 to 63

J. K. Woodside
Recorder of Monterey Co
by W. S. Patterson
Depy. C. Secy.

Filed in office Jan 3rd 1853
Geo. Fisher
Secy

from the Government in Augmentation of
said Land. He had possession
of said Augmentation to his former tract,
before he received the grant of it, & has
continued in possession ever since.

4 SD
PAGE 23

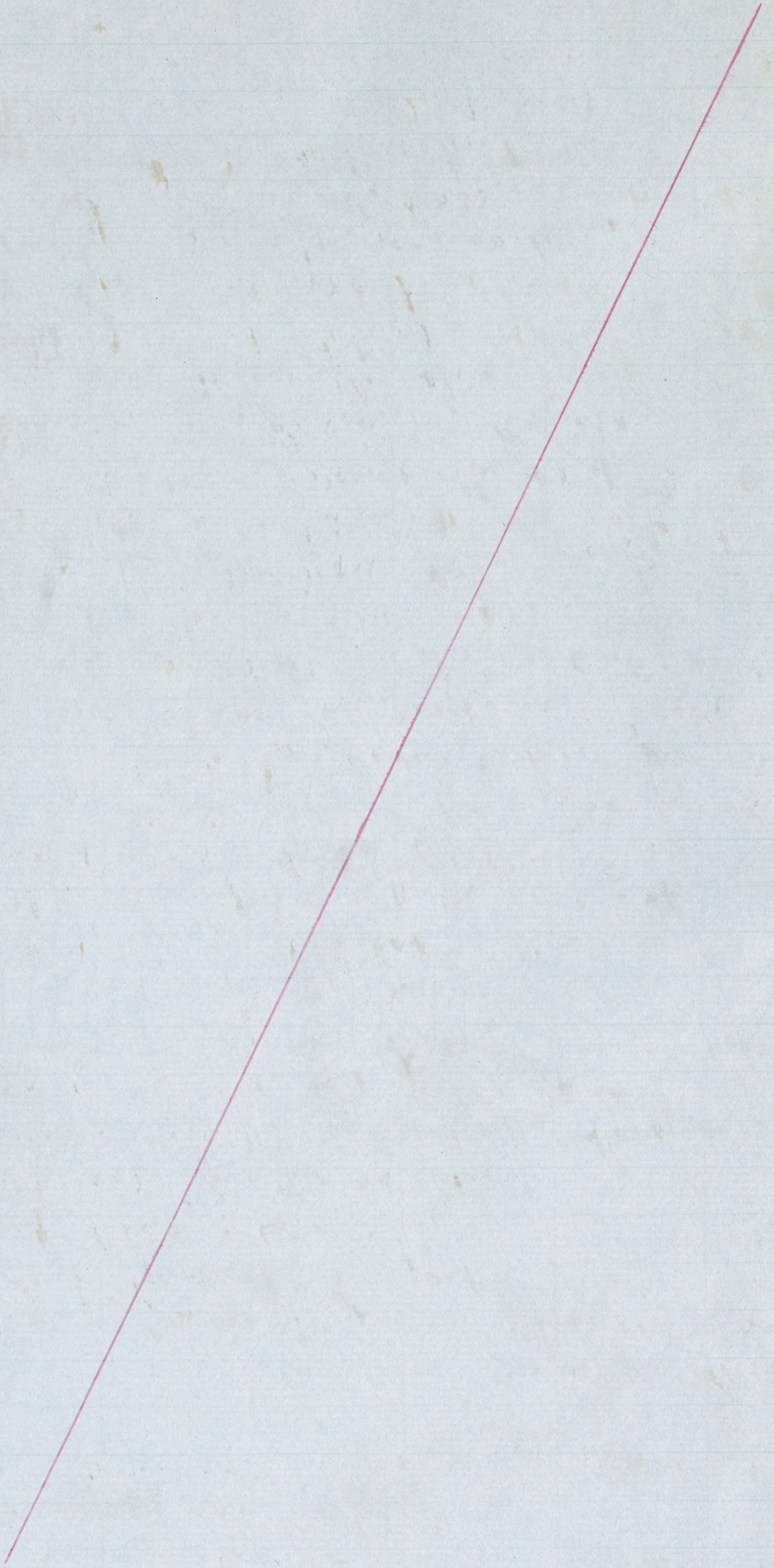
In answer to questions by the Associate
Land Agent the witness says that said Spene
had a house on the land built of stone &
adobe and corrals for his Cattle which were
kept on the land & had usually amounted
to two thousand in number. He cultivated
but a small portion of the land, not much
of it being suitable for agriculture.
Jose Abrego

Sworn & subscribed

Before me
Neiland Hall,

Com.
Filed in Office Decr 30th 1882
Geo. Fisher
Secy

~~How doc follows~~

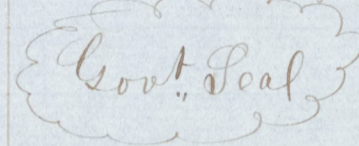


Seal of the first Class six Dollars
 Authorised provisionally by the Collector of
 the Maritime Custom House of Monterey
 Upper California for the years one thousand
 eight hundred and thirty four and one thousand
 eight hundred and thirty five,
 (Signed) Figueroa . (Signed) A. Ramirez

4 SD

PAGE 24

Translation
 of Expedients
 "C"

 Jose Figueroa Brigadier General
 of the Mexican Republic, Com-
 mandant General, Inspector & Superior
 Political Chief (Governor) of Upper California

Whereas Mr David Stephen Spence a
 naturalised Citizen of the United Mexican States,
 has solicited for his personal benefit and
 that of his family the land known by the
 name of Rincon de Buena Esperanza,
 bounded by the Ranchos of Buenavista &
 Alisal, the spring of the encinal the
 five Buttonwood trees (Alisos) and the
 river of Monterey, the requisite proceedings
 and investigations having been previously
 taken and made in conformity with the
 laws and regulations, I have by virtue
 of the powers conferred upon me in the
 name of the Mexican Nation, by a Decree
 of this date granted unto the said Mr
 David Stephen Spence the said land of
 the Rincon de Buena y Esperanza, de-
 claring unto him the ownership thereof
 by these present Letters, it being under-
 stood that said grant is made in entire
 conformity with the requisitions of the
 Laws, subject to the approval or disap-
 approval of the Most Excellent Territorial
 Deputation and of the Supreme Govern-
 ment, and under the following conditions
 1st That he submit to those which may
 be established by the regulations to be made.

respecting the distribution of vacant lands, and that in the mean time neither the grantee nor his heirs shall divide nor alienate the lands granted to him, impose ground rent (Censo) entail (vinculo) (fiansa) Mortgage on any other burthen, although it may be for pious purposes, nor transfer it to mortmain.

4 SD
PAGE 25

2. He may enclose it without prejudice to the crossings, roads and privileges; he shall enjoy it freely and exclusively destining it to the use and cultivation which may suit him, but within one year at farthest he shall build a house and it must be inhabited.

3. When the ownership is confirmed to him he shall solicit the respective Magistrate to give him judicial possession, in virtue of this title, and said Magistrate shall designate the boundaries, on the limits whereof he shall besides the land marks, place some fruit trees or wild ones of some utility.

4. The land whereof donation is made to him consists of two square leagues (dos sitios de ganado mayor) a little more or less as appears by the plot annexed to the proceedings:

1 26

The Magistrate who gives possession shall cause it to be measured according to land, in order to designate the boundaries and the surplus which may result shall remain for the nation, for the necessary uses.

5th If he transgress these conditions, he shall loose his right to the land and it may be denounced by another.

I consequently command that these presents serving him for a title and being held to be firm and valid, be recorded in the

corresponding book, and delivered to the
Party interested, for his safety and further
use.
Given in Monterey on the twenty
ninth of November eighteen hundred and
thirty-four.

(Signed) Jose Figueroa

(Signed) Agustin V. Zamorano
Secretary

4 SD
PAGE 28

A Record of this Title has been made in the
Book of entries of titles upon the adjudication
of lands at folio fifty eight, number fifty
six, which is kept in the Secretary's Office
under my charge.

Monterey November twenty ninth eighteen
hundred and thirty four,

(Signed) Zamorano

(Indorsement on the copy of the plat)

The undersigned secretary of the Departmental
Government of the California doth certify
that the plat traced on the other side is
equal to the original which is annexed
to the Expediente of Mr David Spence

Monterey second of January eighteen hun-
dred and forty four.

(Signed) Manuel Jimeno

There is no sealed paper corresponding
to this certificate.

(Signed) Jimeno

Seal of the third class. Two Reals

1 27

For the Seal } years eighteen hun-
dred and twenty six, and eighteen hun-
dred & twenty seven,

Testimony

Seal for 1828
& 1829 } Proposal of the Committee on vacant
lands appointed by the most
Excellent Deputation.

Seal for
1830. & 1831

The grant made to Citizen David
Stephen Spence of the land called
the Encinal granted on the twenty
ninth of November, eighteen hun-
dred & thirty four is approved.

Seal for
1832. & 1833

Monterey August twenty eighth
eighteen Hundred & thirty five.
Jose Castro.

Seal for
1834. & 1835

4 SD
PAGE 27

Resolution of the Most Excellent Dip-
utation. Monterey twenty ninth of August
eighteen Hundred and thirty five.
In the session of to day the Most Excellent
Diputation approved the proposal which
closes the proceeding opinion of the
committee, and it was resolved that
this Expediente be returned in order to be
concluded to the Political Chief. Jose
Castro President.

Jose Maria Maldonado
Secretary

Decree of the Political Chief.
Monterey twenty ninth of August, eighteen
hundred and thirty five.

In view of the approval granted in the session
of to day by the Most Excellent Territorial
Diputation, let a testimony thereof and
of this Decree be given to the party of
Citizen David E. Spence, in confirmation
of the grant of the land called Encinal
which he obtained on the twenty ninth
of November eighteen hundred and thirty
four.

1 28

Don Jose Figueroa Super-
ior Political Chief of the Territory of upper
California did thus command I decree and
sign, whereof I give testimony
Jose Figueroa.

Francisco del Castillo Regente
Secretary

The foregoing is a literal copy of the original filed in the Secretary's Office of the Political Government in the bundle of Expedientes respecting Lands approved by the Most Excellent Diputation, marked number one, to which I refer.

Monterey Twenty ninth of August eighteen hundred and thirty five,

(Signed) Francisco del Castillo Segrate
Secretary

Fee 12 Reals. paid

(Signed) with the Secretary's Scroll

Seal of the third class, Two Reals
Authorized provisionally by the Collector of the Maritime Customs House of Monterey Upper California for the years eighteen hundred and thirty four and eighteen hundred and thirty five.

(Signed) Figueroa (Signed) A. Ramirez

Senior Constitutional Alcalde, David E. Spence
A Mexican Citizen says; that having obtained the proper grant of the Land known by the name of Rincon de Buena Esperanza He requests that you would be pleased to give him juridical possession thereof, in conformity with the requirement of the 3rd Article of the Title to said Land, which was given on the twenty ninth of November eighteen hundred and thirty four and which is duly accompanied, together with the respecting approval, in order that the whole may produce the desired effect, and therefore I request that you would be pleased to give me the possession which I solicit, whereby I shall receive favor & Justice.

Monterey 17th September 1835

4 SD
PAGE 28

(Signed) David E. Spence
Monterey 17th September 1835

Considered as presented and admitted.
The present Alcalde will proceed to effect
the measurement designation of boundaries
and judicial possession solicited by the
party interested in this petition; fixing as
the day for putting it into execution, the
twenty fourth of the present month, in
order to which the neighbouring land holders
shall be summoned. Thus the constitutional
Alcalde of second nomination did decree
command & sign with the assisting wit-
nesses.

COL 4 SD
PAGE 29

(Signed) Jose Rafael Gonzalez
Assisting witness

Full signature (Signed) Wm E. Hartnell (Signed) Pedro Zepeda
Assist^y witness

On the same date Citizen David
Spence, was notified of the foregoing decree,
and having understood it said, that he
heard it and considered himself as sum-
moned, signing it with me and the assisting
witnesses.

Half signature (Signed) Gonzalez (Signed) David E. Spence
Assist^y witness Assist^y witness
(Signed) Wm E. Hartnell (Signed) Pedro Zepeda

1 30

On the same date the summonses
ordered in the foregoing decree were dispatched
and in testimony I wrote it down and
sign with my Roll on flourish.
(Signed) J. R. G. (to Rubric)

Scroll

Scroll

In the Rancho of the Pincon de Buena
Esperanza on the 24th day of the month
of September, eighteen hundred and thirty
five, in fulfilment of the Decree of the 17th
instant being present Citizen Mariano
Estrada, William Edward Hartnell, Jose

Antonio Estrada and ...

Antonio Estrada and Joaquin Estrada, owner of the adjoining ranches summoned to witness the measurement designation of boundaries and possession. I appointed as measurers citizens Vicente Felix and Vicente Garibay, who after accepting the appointment and taking oath will proceed to comply with their commission. Thus I the Alcalde of second nomination did decree and sign with the assisting witness.

Full signature (Signed) Jose Rafael Gonzales
Asst. Witness Assist. Witness
Wm. E. Keatnell Pedro Zepeda

At the same date the foregoing decree was notified to the adjoining land owners, who having understood the same said that they heard it, and signed with me and the assisting witnesses

(Signed) Gonzales (Signed) Jose Mariano Estrada
(Signed) Wm. Edw. Keatnell Assist. Witness
Asst. Witness (Signed) Pedro Zepeda
(Signed) Wm. E. Keatnell

At the same day month and year the decree of appointment was notified to citizens Vicente Felix and Vicente Garibay, who said that they accepted it, and did accept it, and swore by the Lord our God and the sign of the cross that they would exercise the functions of said appointment faithfully and legally, to the best of their knowledge and ability, without fraud towards any person, and they did not sign, because they said they could not write, and I signed with the assisting witnesses. (Signed) Gonzales

1 31

Half signature (Signed) Wm. Edw. Keatnell. Pedro Zepeda
Assist. Witness Assist. Witness

At the same moment I the said Alcalde ordered the cords wherewith the land was to be measured to be brought into my presence, and that the measures should make it of the length of fifty varas, and I signed with the assisting witnesses.

(Signed) Gonzales

Kealy Signature

Assist. Witness

Assist. Witness

(Signed) Wm. Edw. Keatnell (Signed) Pedro Zepeda

4 SD

PAGE 31

Immediately in presence of me the said Magistrate, the said measurers took a hempen cord and with a common Mexican vara rod, measured off fifty varas to make the measurement with in testimony whereof I affixed my scroll.

scroll

(Signed) with the Alcaldes scroll

On the same spot, day, month and year, being at eleven o'clock of the day, I the present second constitutional Alcalde commanded the appointed measurers to get ready for measuring the land to Citizen David E. Spence, and placing themselves on the banks of the river the measurement was commenced going N. E. 1/4 E. to the five Buttonwood trees (Alisos) to where one hundred and fifty two cords were counted.

1 32

From said five alisos in the same direction towards the hills as far as the Canada grande twenty cords, the spring of water near said alisos, remaining within the boundaries of Mr Spence. From the Canada towards the boundaries of Mr Wm Keatnell in the encinal in the direction of N. 1/4 N. ninety six cords, and from this point following the direction of said boundaries, until the landmarks

of Buenevista & Heartnell one hundred and twenty cords, from said land mark toward the south until the river one hundred cords, and from the oak tree, the boundary of Buenevista towards the S.E. $\frac{1}{4}$ E until the boundaries of the Estradas, (where the measurement commences) one hundred cords: at which point I ordered the corresponding land marks to be formed besides the plantation of fruit trees and wild ones of some utility, in order that both the former and latter may designate the boundaries belonging to him,

The land measured consists of two square leagues, and the party interested, together with the neighbouring land owners and assisting witnesses, signed with me, whereof I give testimony.

(Signed) Jose Rafael Gonzales

(Signed) David E. Spence (Signed) Mr. Edw. Heartnell

(Signed) Jose Mariang Estrada

Assist. witness

Assist. witness

(Signed) Mr. Edw. Heartnell Pedro Zepeda

In the Rancho of Buena Esperanza on the twenty fourth day of the month of September, eighteen hundred and thirty five of the second Constitutional Alcalde of Monterey Citizen Jose Rafael Gonzales after having concluded the measurement of the said farm, which gave a result of two square leagues and being present the owners of the immediate adjoining ranches, Citizens Mariang Estrada, William Edward Heartnell, Jose Antonio Estrada, and Joaquin Estrada, and agreeing to all that appears in the proceedings, I command that Citizen David E. Spence

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PAGE 32

Full signature

4 SD
PAGE 33

should enter into pacific possession of said Rancho, according to the aforesaid measurement, and the formalities customary in like cases which he put into execution immediately, leaving up grass and making demonstrations as owner of the land whereof possession has been given to him the validity of which I authorize and sign in the Rancho of Buena Esperanza and the owners of the adjoining farms, the party interested and the assisting witnesses signing with me according to Law.

(Signed) Jose Rafael Gonzales
(Signed) David E. Spence,
(Signed) Mr. Edward Hartnell
(Signed) Jose Mariano Estrada
Assist. witnesses
(Signed) Mr. Edward Hartnell
(Signed) Pedro Zepeda

Monterey 25th September 1838.

Let a record be made in the Book of Possessions kept in the archives of the First Alcaldes court of this capital, and let this original Expediente be returned to the party interested in order that it may serve him for a title. Thus, I the Alcalde of second nomination did decree, command & sign with the assisting witnesses.

1 34

(Signed) Jose Rafael Gonzales
Assist. witness
(Signed) Mr. Edward Hartnell
Assisting witness
Pedro Zepeda

On the same date a record was made in the 3rd folio in part of the Book ordered in the foregoing decree, and the original Expediente was returned to Citizen David E. Spence consisting of seven useful folios, in testimony whereof

I made it down & sign with me

I note it down & sign with my scroll
(Scroll) (Signed) with the Alcaldes scroll

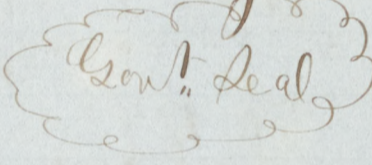
I the undersigned do hereby certify
the foregoing to be true and faithful trans-
lations of the original Title to the Rancho
of Rincon de Buena Esperanza, the
original to the copy of the Plot of said
Rancho, the original certificate to the appro-
val of the Diputation, and the Governors
Decree in consequence thereof, and of
the original proceedings & act of posses-
sion of said Rancho to David E. Spence

W. G. P. Heatwell

State Translator

State Translators Office

Monterey 28th November 1851,

 Monterey April 18th 1839.
Whereas Mr David Spence by
petition dated the 13th Instant has solle-
cited for his personal benefit and that
of his family, the adjudication of the
ownership of the portion of land asked
for by citizen Francisco Lugo known
by the name of Aguaje del Encinal this
person having desisted in his claim
thereto, as appears by the respective
document, which land serves as an
addition to that which he actually
possesses with a just title, and as
this land no longer belongs to the
Pueblo of San Carlos and is besides ab-
solutely vacant I have by virtue of the
powers conferred upon me by the Law of
the 18th August 1824 and the regulations
of 21st November 1828 in the name of
the Mexican Nation acceded to said pe-
tition of Mr Spence granting unto
him the ownership thereof to which

4 SD

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effect he will apply to the respective Magistrate and asks for the corresponding possession. Let a testimony of this grant be given to the party interested that it may serve him as a title. Let it be recorded in the corresponding Book and this Expediente be annexed to the one belonging to said Spence respecting the Ranch of the Encinal subject to the conditions stipulated in the title granted for the occupation of said Land on the 29th of November 1834.

Thus I Juan B. Alvarado, Governor ad interim of the Department of the California, did command and sign

(Signed) Juan B. Alvarado
 (Signed) Manuel Jimenez
 Asst. Secretary

(Note) The Land whereof mention is made consists of the extent of one square League (un sitio de ganada mayor)

(Signed) Alvarado

A record of this title has been made in the respective Book at folio 4 in testimony whereof I sign.

(Signed) Manuel Jimenez

His Excellency the Governor of the Department has commanded this to be recorded in the Office of the Prefect of the First District

(Signed) Jimenez

A record has been made on the other side of folio 6 of the respective Book kept in the archives of the Office of the Prefect of the First District.

Pueblo of San Juan de Castro
April 26th 1839
(Signed) Jose Maria Covamiba
Secretary

4 SD
PAGE 36

I the undersigned do hereby certify the foregoing to be a true and faithful translation of the original in possession of Mr David Spence.

W. E. P. Heatwell
State Translator

State Translators Office
Monterey 25th November 1851

Filed in Office Feb'y 19th 1852
Asst. Fisher
Secy

David S. Spence Claimant

Opinion

The United States } W.S. Land Commission
for California Session
at San Francisco No 54. "Encinal y Buena
Esperanza"

Opinion by W. S. Thornton.

The claim presented in this case is founded upon two Grants made at differant times by differant Governors for contiguous parcels of land to the same grantee under and in virtue of the Decree of the 18th of August 1824, and the Federal Executive Ordinance of the 21st of November 1828, of the Mexican Government. The first grant was signed and issued on the 29th of November 1834 by Governor Figueroa, for two square leagues, on two sitios de ganado

mayors, a little more or less, which last terms we have held in the case of John Reyes assignee No 222. Heretofore decided neither vitiate the grant for uncertainty nor increase or diminish the quantity specified. The Approval of this grant by the Territorial Deputation, was afterwards obtained by the Governor, on the 28th of August 1830 the measurement was had and judicial possession delivered in the manner usual at that time in the country. The second grant for one square league said to be in extension of the tract first granted as above stated, was made by Juan B. Alvarado Governor of the Province on the 15th of April 1839, of this there does not appear to have been obtained by the Governor the approval of the Territorial Deputation, nor does it appear that there was any measurement and formal delivery of the possession of this part of the place. It appears that the occupation and cultivation of the land granted has been continuous from the year on date of the grant, to the present time. The Authority of the Governors to grant land and the genuineness of their signatures in this instance are not controverted.

1 38

It appears from the statement of the Surveyor General admitted in the case that the Public Archives of the former Government of the country contain a fair Expediente relating to the claim.

The facts above recited are satisfactorily established by the depositions, and documentary evidence on file in the case. The objection that the land

4 SD
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granted lies within the ten literal leagues, and all others to which the claim is obnoxious have been fully considered by this Board and overruled in the case of Cruz Cervantes and of others heretofore decided, according to the principles of decision prescribed to this Board by the 11th Section of the Act of the 3^d of March 1851. We think the claim is valid and proceed to enter the following decree of final confirmation. Commissioner Neale concurs in the result.

Henry J. Thornton

Decree of
Confirmation

This Board upon full consideration of the various grounds affecting the validity of the said claim, having come to the conclusion that the same is valid; therefore now proceeds to make, and does hereby make the following decree on report of final confirmation viz: It is decreed that the said claim be confirmed to the claimant to the extent and quantity of three square leagues, on three sitios de ganado mayor and for no more, being the same land described in the grant and expediente referred to therein, and of which possession has been had and long enjoyed under the said grant by the claimant; Provided that the said quantity of land granted, and now here confirmed be contained within the boundaries called for in the said grants and maps and Expedientes to which the grants refer, and if there be less than the said above named quantity

37

within the said bounds then we confirm
to the claimant, that less quantity, it being
apparent that said quantity exceeds the
minimum of two hundred varas
prescribed by the ordinance of the 21st
of November 1828. Given under
our hands this 14th day of July 1853

William Hall
Henry J. Thornton
Commissioners

Vol 4 SD
PAGE 39

Filed in Office July 14th 1853
Geo. Fisher
Secy

1 40

Office of the Board of Commissioners,

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

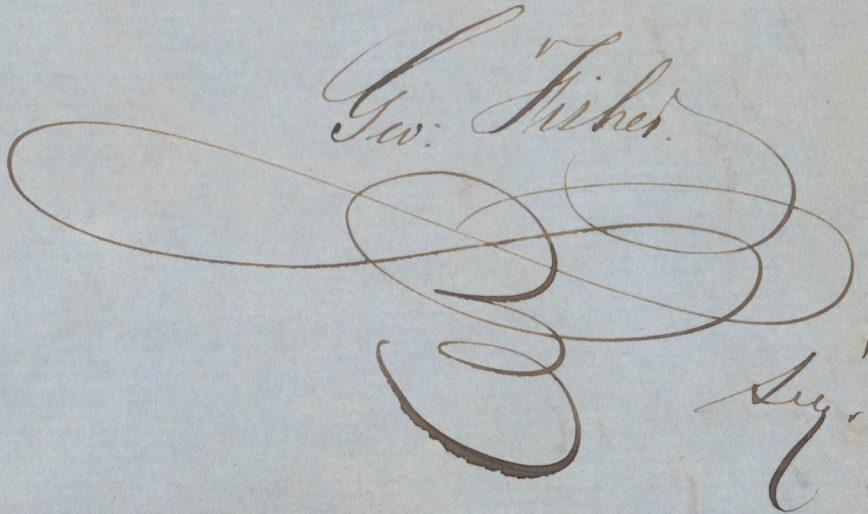
4 SD
PAGE 40

I, George Fisher Secretary to
the Board of Commissioners to ascertain and settle the Private
Land Claims in the State of California, do hereby certify the
foregoing — thirty seven — pages, numbered from
1 to 37, both inclusive, to contain a true, correct and full Tran-
script of the Record of the Proceedings and of the Decision of the
said Board, of the Documentary Evidence and of the Testimony
of the Witnesses, upon which the same is founded, on file in this
Office, in Case No. 54 on the Docket of the said Board,
wherein David S. Spence is

the Claimant against the United States, for the place known by
the name of Encinal and Buena Esperanza

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

Geo. Fisher.





4

4

4

S.D.

4

2. August

(1)

In the District Court of the United States, for the Southern District of California Los Angeles County.

David S. Spence, app^o.

vs.

The United States, app^{et}.

} N^o 54.

4 SD
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To the Hon^{ble} Isaac S. K. Ogier,
Judge of the District Court of the United States for the Southern District of California.

The petitioner of Pacificus O'Neil (of Monterey County) Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court in his proper person, in the name and behalf of the United States, represents as follows.

That heretofore, to wit, on or about the 19th of February A.D. 1852, David S. Spence, of Monterey County California, presented his petition to the Commissioners to ascertain and settle the private land claims in the State of California, claiming a certain tract or parcel of land known and called 'Encinal of Buena Esperanza', in said County and State, under a Mexican grant by Governor Figueroa of the date of the 29th of November A.D. 1834, and alleging that the said grant was approved by the Territorial Deputation on the 28th day of August

A.D. 1835; That the quantity of land so granted as aforesaid was two leagues less or more as the boundaries thereof were fixed and lines agreed upon at the time of the alleged judicial possession.

That he claimed also another tract of land, adjoining the aforesaid tract, to the extent of one league of land, under a grant made by Governor Alvarado to him, dated April 15th 1839, in augmentation of the grant first set forth.

That, thereafter, to-wit, on the 14th of February A.D. 1853, the said Commissions confirmed, by final decree, the said claim of said David S. Spence, for said lands to the extent of three square leagues.

That, thereafter, to-wit, on the 23rd of May A.D. 1854, a duly certified transcript of the said decree, and proceedings, and the papers and evidences on which it was founded, in said cause, was filed in the Office of the Clerk of the District Court of the United States in and for the Southern District of California, and marked N.º 54, reference to which, it is prayed, may be had ^{and made} a part of this petition.

1 45 That, thereafter, to-wit, on the 29th of May A.D. 1854, the Hon^{ble} Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said certified transcript of the said final

decree and proceedings of said Commis-
-ioners in said cause, (N. 54) and the
papers and evidence on which the said
decree was founded.

4 SD
PAGE 43

That, thereafter, to-wit, on the 23rd of
September A.D. 1854, the said Attorney
General of the United States, filed, or
caused to be filed, in behalf of the
United States, a notice in writing, with
the said Clerk of said District Court
for the Southern District of California,
that an appeal, in said case of David S.
Spencer as the United States, from the
decision of the said Commissioners to as-
-ertain 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, would be prosecuted
by the United States.

Your petition further represents that the
said land, claimed as aforesaid, is with-
-in the jurisdiction of this Hon^{ble} Court.

And your petition further represents
and alleges that the said claim of
said David S. Spencer, for said land,
claimed, and confirmed by said Commissioners,
as aforesaid is invalid; ~~and~~
and said confirmation erroneous; on
the following grounds.

1 46

1. That the said David S. Spencer shows
no valid title to the lands claimed by
him. And it is denied that he has any
valid title or titles to said lands, claimed
and confirmed as aforesaid.
2. That the said lands, claimed as aforesaid

are within ten (littoral) leagues of the Sea Coast; and were not, therefore, sub-
-ject to colonization or grant by the ^{Said} Governors of California, without the previous appro-
-bation of the Supreme government, or Executive power: which is not shown to have been given. And it was not had.

3. That the said lands so claimed and ^{confirmed as} ~~were~~, at the time or times of the alleged grants, in the occupancy of the Missions, or Indians of Upper California, particularly the Mission of San Carlos, or the Indians of the said Mission; and were not, therefore, subject to grant by the said Governors of California.

4. That the said Claimant, at the time of the alleged grants by Governor Figueroa, and Governor Alvarado, as aforesaid, was not a Citizen of the Republic of Mexico, and was not, therefore, competent to take the lands alleged to have been granted as aforesaid.

5. That the said alleged grant of Governor Figueroa of the said date of the 29th of November 1834, was made subject to the approval or disapproval of the Supreme Government (of Mexico); which is not shown. And it was never had.

6. That the second condition of said alleged grant by said Governor Figueroa, of the date aforesaid, required the said Claimant to build a house (on the land) within one year at furthest, and that it should be inhabited. The performance

4 SD, AGE 44

1 4

of this condition is not shown. And it was ~~never~~ not performed.

7. That the description of the land in the said alleged grant of Governor Figueroa, is vague and uncertain.

8. That the Magistrate who, as alleged, gave judicial possession of the said land granted as aforesaid by Governor Figueroa, did not cause it to be measured according to law, as required by the fourth condition, of said alleged grant.

9. That the said alleged grant of Governor Alvarado, dated April 15. 1839, is invalid, on the grounds above stated; and the further grounds:

10. That it is ^{not} made on sealed or stamped paper, such as is required by law.

11. That there is no description of the land ^{or quantity given} in the said alleged grant of Governor Alvarado, by which it could be surveyed or identified. That the "Note" written outside of and at the foot of the said alleged grant of said Governor Alvarado, and signed "Alvarado" only, is not a part of the grant, and cannot, therefore, cure the said defect. That this "Note" wants the signature of the Governor of California as such, and that of his Secretary.

12. That the said alleged grant of Governor Alvarado, was never confirmed by the Territorial Deputation or Departmental assembly of California. That judicial possession was never asked for, or had, by

4 SD
PAGE 45

The said claimant, for said land.

13. That the said alleged grant of Gov-
-ernor Alvarado, was made subject to the
same conditions stipulated in the aforesaid
alleged grant of Governor Figueroa of the
date of the 29th of November 1834, and
that it is not shown that any of these

4 SD
PAGE 46

conditions were ever performed, particularly
the building a house within a year, and
having it occupied. And these conditions
were not performed.

Wherefore the said Pacificus Ord,
Attorney of the United States for the
Southern District of California, for and
in behalf of the United States, by reason
of the premises, and the laws and Statutes
in such case made and provided, prays
that the said David S. Spence, or his
Attorney, may be served with a copy of
this petition, and that this Hon^{ble}
Court will review the said decision
or final decree of said Commissioners
to ascertain and settle the private land
claims in the State of California, and
decide on the validity of said claim of
said David S. Spence for said ^{square} three
leagues of land, confirmed as aforesaid,
and that the same may be decreed
invalid. And all such other orders,
judgments, or decrees, as may be just, with
costs, and general relief.

1 49

P. Ord

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

C7.

No. 4.

2

David S. Spence *app.*

adv.

The United States *app.*

Petition of *adv.* of *adv.* for
Crews &c.

Filed Dec. 4. 1854.

C. E. Jones
clerk

1 50

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In the District Court of
the United States for the Southern District of the
State of California
Los Angeles County.

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David Spence Apl^{ee} }
Ads } No 54
The United States Apl^t }

The answer of the said
David Spence Apl^{ee} to the Petition or Bill of Complaint
filed in this Hon^{ble} Court on the 4th day of December
A. D. 1854 by Pacificus Ord Esq^r, District Attorney
for said Southern District of California in behalf of
the United States in the above entitled cause

And now the said David
Spence Apl^{ee} appearing, and reserving to himself
all manner of advantage and all exceptions to the said
Petition or Bill of Complaint and protesting against the
same - Answers and says - That true it is that
heretofore, to wit, on or about the 19th day of Feb^r. 1852
he did present his Petition to the Commissioners appointed
by the President of the United States under the Act
of Congress Approved March 3rd AD 1851 to ascertain
and settle private land claims in the State of California
That in his (the said Spence's) petition to said Commissioners
he did claim the said two tracts of land referred to
in the said Petition or Bill of Complaint of the said District
Attorney to this Hon^{ble} Court in the above cause -

The said David Spence App^{ee} prays that his said petition to said Commissioners together with all and singular the Deeds, Documents, papers, transcripts, plans and maps or the legal and authentic copies and transcripts ^{thereof} may be taken deemed & considered as a part of this answer.

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And the said Spence App^{ee} further answering saith that he believes the proceedings, orders and decrees of the said Commissioners on his said petition to them for the said lands are correctly set out and truly stated in the Petition or Bill of complaint of the District Attorney aforesaid to this Hon^{ble} Court; and that in so far as relates to the filing of the transcript in said cause No 54 with the clerk of this court and the action of the Atty Gen^l of the United States in reference to notice of appeal therein and his intention to prosecute said appeal - he, this Appellee, supposes may be true but of this he cannot say with certainty as of his own knowledge -

The said App^{ee} admits that the lands claimed by him in ^{said} this cause are within the jurisdiction of the Hon^{ble} the District Court of the Southern District of California -

1 54

The said David Spence App^{ee} further answering negatives and denies the allegation in the said Petition or Bill of complaint of the said District Attorney wherein it is stated and alleged as follows, ^{to wit,} that the claim of the said David Spence for said land claimed and confirmed by said Commissioners is invalid and said confirmation

erroneous,— but on the contrary the said Spence avers and affirms that his claim to the said lands is good and valid in law and equity and that his said claim to said lands was rightfully confirmed to him by said Commissioners and not "erroneous" as alleged by said District Attorney in his said Petition or Bill of complaint in this cause.

And the said David Spence Appl^{ee} further answering negatives and denies the charge and allegation set out in the said Petition or Bill of complaint of the said District Atty. as the 1st ground of complaint as follows, to wit, "that the said Spence shows no valid title to the lands claimed by him, and it is denied that he" (meaning the said Spence) "has any valid title or titles to said lands"— but on the contrary the said David Spence avers that he did in fact show, exhibit and prove before the said Commissioners a good and valid title or titles to said lands and that he has such good & valid title and titles thereto.

And as to the 2nd ground of complaint as set out in the said petition or Bill of complaint of the said District Attorney in this cause, the said David Spence Appl^{ee} saith that he admits that the said lands as above claimed by him are within ten (littoral) leagues of the sea coast, but he denies that such, being the fact, renders his claim or title thereto invalid or in any way impairs or invalidates his right and title to said lands— And the said Spence
1 55 negatives and denies that there is ^{or was} any necessity upon him in establishing the validity of his claim to said lands to show the approval of the Supreme government or Executive power to his grants for said lands as aforesaid by the Governors of California. Whether said grants were so approved or no the said

Spence cannot say of his own knowledge, but he the said Spence avers that the presumption of law & equity is that his said grants were so approved.

And to the 3rd ground of complaint as set out by the said District Attorney in his said petition or Bill of Complaint. The said Spence further answering negatives and denies that the said lands so claimed by him and confirmed to him by the said Commissioners were at the time or times of his said grants, in the occupancy of the Missions or Indians of Upper California or of the Mission of San Carlos or the Indians of said mission but on the contrary the said Spence avers and declares it to be true that at the time & times of his said grants to said lands they were vacant (baldios) open, unoccupied and subject to grant.

And as to the 4th ground of complaint as set out in the petition or Bill of Compl't. of the District Attorney as aforesaid, the said Spence Appl^{ce} negatives and denies the charge "that he was not, at the time & times of said grants made to him a Mexican citizen" - but on the contrary, the said Spence avers and asserts it to be true that at the time and long before the first of said grants was made to him by Governor Figueroa, he said David Spence was a naturalized citizen of the United States of Mexico - that he was
1 56 at that time married to a daughter of the country and had full right and legal qualification to take, have & hold land in California under the laws of Mexico.

And to the 5th ground of complaint as set out in the petition or Bill of Complaint of the District Attorney as aforesaid the said Spence further answering saith that the approval

of the Spence by Government of Mexico to said grants are

of the Supreme Government of Mexico to said grants are to be presumed by the rules & principles of law & equity.

And as to the 6th ground of complaint as set out in the petition of the District Attorney as aforesaid, wherein it is alleged "that said Spence did not build a house and have it inhabited within a year after said lands were granted to him" - he the said Spence further answering negatives and denies the charge aforesaid and on the contrary avers and declares it to be true that he did build a house on said land within one year from the date of his first grant from Gov^r Figueroa and caused said house to be inhabited, the lands put in cultivation in part, and the residue stocked with cattle horses and other stock -

And as to the 7th ground of complaint as set out by the said District Attorney in his said Petition or Bill of Complaint, wherein it is alleged that the "description of the land in the Grant of Gov^r Figueroa is vague and uncertain" the said Spence further answering negatives and denies the said charge and on the contrary avers and declares it to be true that the description of the land granted to him, the said Spence, by the said Gov^r Figueroa, are definite, certain and distinct and the boundaries thereof intelligible and easily ascertained and settled as in fact was done by the magistrate who gave the juridical possession thereof.

And as to the 8th ground of complaint as set out by the said District Attorney in his said Petition or Bill of Complaint wherein it is charged "that the magistrate who gave the juridical possession did not cause the land to be measured according to law" the said David

Spence negatives and denies the said charge - and on the contrary, he said Spence, avers and declares it to be true that the said magistrate did cause the said land to be measured and the monuments to be established and juridical possession thereof to be given to the said Spence strictly according to law and the usages and customs of the country wherein said lands were situated at the time the said act was done & performed.

And the said Spence further answering negatives and denies the 9th charge as set out in the Petition or Bill of Complaint of the said District Attorney wherein it is charged "That the said ^{grant} of land, by Governor Alvarado to said Spence, of the 15th of April 1839 is invalid" - and on the contrary the said Spence avers and declares it to be true of his belief that the said grant of Gov^r Alvarado is good and valid and that the said land described therein in law and equity rightfully belongs to him.

And the said Spence further answering negatives and denies the charge as set out in the 10th ground of complaint in the petition or Bill of Complaint of the said District Attorney wherein it is charged "That the said last mentioned grant is not made on sealed paper such as required by law" - but on the contrary the said Spence avers and on his belief declares it to be true that the said grant is made upon proper paper with a good and sufficient seal to make and constitute a good and valid deed of conveyance of the land therein granted.

And the said Spence further answering

And the said Spence further answering negatives and denies the allegations as charged in the 11th ground of complaint in the said Petition or Bill of Complaint of the said District Attorney wherein it is charged, "that in the said grant by Gov^r Alvarado there is no description of the land in quantity by which it could be surveyed or identified" and on the contrary the said Spence avers and declares it to be true that the said grant of said land by the said Gov^r Alvarado is by good, sufficient and well defined boundaries, severing the same from the public domain so that it is well, certainly and easily identified and can be surveyed without the least difficulty. And the said Spence further avers and declares it upon his belief to be true that in Law and Equity, the "Note" mentioned in the petition or Bill of Comp^t of the said District Attorney and the signature thereto of "Alvarado" does rightfully legally and properly appear upon said grant, and that the Note upon said grant as well as the signature aforesaid are to be taken deemed & allowed as a part of said grant and are all to be considered & construed together as one transaction. And the said Spence negatives and denies that there is any legal necessity or requirement for the signature of the secretary to a grant of land to give it force effect or validity under the Mexican law.

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And the said Spence further answering says in reference to the 12th ground of Complaint as set out in the petition or Bill of Comp^t of the said District Atty^y that whether or no the grant of said land by Gov^r Alvarado was approved by the Departmental assembly he cannot say of his own knowledge. But the said

David Spence avers and on his belief declares it to be true that it is not necessary or material to the validity of his grant to the land aforesaid for him, said Spence, grantee of said land, to show or prove the approval of the (Junta Departamental,) departmental assembly of his said grant. That such approval is in law & equity to be presumed as it was the duty of the Governor making the grant to do all things requisite to make the grant definitively valid to his grantee.

And the said David Spence, further answering to the 13th ground of complaint as set out in the Petition or Bill of Comp^{ts} of the said District Attorney, avers and declares it to be true that the ^{grant of} said land, granted by said Governor Alvarado was made, ^{& granted} as an augmentation to his the said Spence's Rancho called Encenal de Buena Esperanza and as such to become part & parcel of the said Rancho and in augmentation & extension of said Rancho then in the possession of said Spence with a dwelling house thereon, cultivation made, and said lands stocked with cattle horses and other stock as usual and customary in California at that time. And the said Spence negatives and denies that there was any legal necessity for further compliance on his part with other conditions ^{established} to the validity of his grant aforesaid to the land aforesaid by Gov^r Alvarado in augmentation of his said Rancho. -

All which is filed in answer to the said Petition or Bill of Complaint of the said District

Attorney, ^{filed} in this Hon^{ble} Court in the above entitled
Cause —

Wherefore and by reason of which the said
David Spence respectfully submits to the Hon^{ble} the
^{United States} District Judge now here for the said ~~Southern~~ District of
California, that upon review of the said proceedings
and decree of the Commissioners in said cause
No 54 wherein the said David Spence was Claimant
and the United States were Defendants. His Honor,
will reaffirm the said decree of the said Com=
missioners and further Decree the claim of the
said David Spence to the lands aforesaid to be
good and valid and confirm the same to him
with Costy —

^{State of California,}
Southern District, U.S. District
Court Feb'y. 21st 1855

D. Spence

James Wilson

Solicitor for the Appl^{ts}

I served this answer on Ford Attorney of the
United States, by leaving with him
personally a certified copy of the same
at his office this March 21st 1855

Edward Hinckley
U.S. Marshal

Sworn to & subscribed
before me this 21st of March 1855.

J. C. Carr.
Clerk.

4. No. 4. 3

David Spence App^{ts}

vs

The United States App^{ts}

Answer of the App^{ts}

to

Petition of Bill^{ts} Att^{ys}.

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Filed Feb 28th 1855

1 62

J. C. Carr
Clerk.

James Wilson
Att^{ys}

Office of the Attorney General of the United States,

Washington, 17th January 1855.

Vicente Peralta et al. }
vs. } 4.
The United States.

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You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 13th day of September 1854, the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Clusking

No 4

U. S. District Court
Southern Dist of Cal.

The United States

vs

Vicente Peralta et al.

Appeal notice.

Filed March 8th 1885.

J. S. Carr
clk.

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1 64

In the United States Dist Court
for the Southern Dist of California
in Session on this 11th day of
April 1853

David Spurr Appellee

vs

United States Appellor

} No 4
Transcript
No 54

On motion of Henry Hancock
for James Wilson Atty. of record for
Appellee it is ordered by the Court
that either party may take further
evidence in the above entitled cause

No. 4

4

U.S. Dist. Court.

Southern Dist. of Cal.

David Spencer

Appellant

vs

United States

Appellant

Order to take
further testimony

Filed April 11th 1885.

J. E. Fox
clerk.

4 SD

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1 66

No 4.
U. S. Dist Court.
South Dist of Cal.

David L. Spencer,
App
v.
W. T.

The United States,
App.

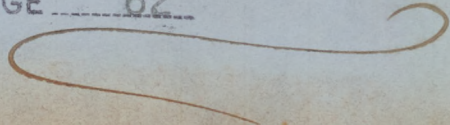
Deportation of
a la Jones & Gonzalez.

Taken June 13th 1855.

J. E. Sparrow

U. S. Court.

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David S. Spence, Appr. } United States District
adv. } Court, Southern
The United States, Appr. } District of California
No. 4.

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Deposition of Teodoro Gouzales, a witness on
the part of Claimant Appellee, taken by consent
of parties before Charles E. Can, U.S. Commr,
appointed to take testimony in this case, at
Monterey, this 13th day of June A.D., 1855. Present
David S. Spence, in proper. P. Ord. U.S. Attorney,

Teodoro Gouzales, at witness on the part
of the Claimant being duly sworn deposes
and says.

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

Answer 1st - My name is Teodoro
Gouzales, my age is fifty two years -
I am a native of Mexico I am a resident
of Monterey - and have resided in California
since the year eighteen hundred and twenty
five, and my occupation that of a Ranchman.

Question 2^d. State if you know the Rancho
of Encinal de Buena Esperanza, and for
how long a time has it been occupied, and
by whom?

Answer 2^d - I know the Rancho of Buena
Esperanza, which ^{to my knowledge} has been occupied
by Don David S. Spence since the year
one thousand eight hundred and thirty
four, up to the present time - said Spence
had and has on said Rancho cattle, and
cultivated portions of it. He had also ^{on it} a
house and corral built of adobe.

I was assisting the Mayor of said Ranchos at the time the House and Corral were built. In the year one thousand Eight hundred and forty four, said Spence built another large adobe House and Corral on said Ranchos. And last year he built a new House of wood.

Question 3^d. Do you know anything about the tract of land granted by Governor Alvarado to said David S. Spence, about the year Eighteen hundred and thirty nine, in addition, or augmentation of the Rancho of Buena Esperanza. And if ya, do you know its local extent and boundaries?

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SD

Answer 3^d. I know the land very well granted to said David S. Spence by Governor Alvarado, in Eighteen hundred and thirty nine. It was given as an addition or augmentation of the Rancho of Buena Esperanza. Said land had been occupied temporarily by Francisco Lopez. I think it has than one league of land, it is entirely shut up in the hills - by the line of the Guadalupe Rancho on the eastern side - by the line of Buena Esperanza on the South side - On the North by the Mountain or Sierra de Bruno at a place called "El Infierno" and to the West by Mr Hartnell's Rancho - the Cañada of the Codornises - belonging to said D. S. Spence and I have always known said Spence to be in the quiet and peaceable possession of said land.

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Question 4th. Do you know whether

of said lands.

Question 4th Do you know whether said augmentation was ever occupied by said Spence?

Answer 4th - I know that it has been occupied by said Spence since about the year Eighteen hundred and ~~thirty~~ ^{thirty} nine, with cattle and horses. Said land is not suitable for any purpose but for the grazing of cattle during the prevalence of the high winds and storms of winter. Cross examined by the U.S. Attorney.

Question 1st What is the form of said land?

Answer 1st It is not exactly a square. It is wider ^{on} the ^{side near the} mountains than on the opposite side, bounding on the Rancho of Orena and Esperanza.

I sworn to and subscribed at the City of Monterey, this 13th day of June A.D., 1855. before me

J. C. Farr,
U.S. Comm'r.

Teodoro Guerrero

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65D

No 4. 9

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

David S. Spencer.
Appel.

advs.

The United States.
applt.

Deposition of Leonardo
Gonzales

1 70

Filed June 13th 1885

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J. C. Jan.
CK.

David S. Spence, Appellé, } United States Dist Court
advs. } Southern Dist of Cal.,
The United States, Applt } No 4.

Deposition of Teodoro Gonzales, a witness on the part of Appellee, taken by consent of Parties before Charles E. Cu, U.S. Commr appointed to take testimony in this case, at Monterey this 13th day of June ad. 1855, Present David S. Spence, in presence. P. Ord. U.S. attorney.

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Teodoro Gonzales, a witness on the part of the Claimant, being duly sworn before and says

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

Answer 1st My name is Teodoro Gonzales, my age fifty Two years, I am a native of Mexico - I am a resident of Monterey, and have resided in California since the year 1828, and my occupation that of a Farmer.

Question 2^d Did you Governor Echandia and his Secretary Agustin S. Lamoranda

Answer 2^d I knew them perfectly well, I came with them in the same vessel from Mexico.

Question 3^d Look at the paper marked "exhibit 2^e" filed and annexed ^{to} the deposition of Gabriel de la Torre in this case, and state whether the same is a certificate of naturalization to David S. Spence, from the Mexican authorities, dated May 20th 1830, and state whether the

signatures to the same are true and genuine?
Answer 3. The signatures of Echeandia and Zamorano to said paper are their genuine signatures.

Cross Examined by the U.S. Attorney.
Question 4. Did you ever see Echeandia and Zamorano write. If so, when and where?

Answer 4. I have seen them write, & formerly delivered them cattle for the troops, and saw them writing in their office often. Sworn to and subscribed at Teodoro Gonzalez Inquest, this 13th day of June A.D. 1855. before me

J. E. [Signature]
U. S. Comm[issioner]

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No 4.

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

David S. Spencer,
appet.

vs.

The United States,
appet.

Defendant of
Teodoro Gonzalez

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Filed June 13th 1888

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J. C. Lang
clerk

David S. Spence, Apper. } United States District
adv. } Court, Southern District
The United States, App'ts. } of California
No 4.

Deposition of Gabriel de la Torre, a witness
on the part of appellee, taken by consent
of parties before Charles E. Carr,
U. S. Commissioner, appointed to take testimony
in this case, at Monterey, this 13th day
of June, A.D. 1855. Present David S.
Spence, in propria persona. P. Ord.,
U. S. attorney.

Gabriel de la Torre
a witness on the part of claimant being
duly sworn deposes and says as
Question 1st. What is your name, age, place
of residence and occupation?

Answer 1st. My name is Gabriel de la
Torre, my age is forty seven years, I
am a native of California, and a
resident of Monterey, and I am a
laborer by occupation.

Question 2nd. Did you know Governor
Echeandia, and his Secretary, Augustus
S. Zamorano?

Answer 2nd. I knew them both.

Question 3rd. Look at the paper marked
"exhibit" "L." ^{and annexed} filed with this deposition,
purporting to be a letter of naturalization
to David S. Spence, from the Mexican
authorities, dated May 20th Eighteen hun-
dred and thirty, and state whether the
signatures to the same are true and genuine.

1 7th Answer 3rd. I recognize the signatures of
Echeandia, and Zamorano, to said paper.

and I believe them to be true and genuine
Cross Examined by the U. S. Attorney,
Question 1st Did you ever see Echeandia
and Zamorano write?

Answer: Yes, I have often seen them write,
and was a clerk in the Office of Gov-
ernor Echeandia, about the year Eighteen
hundred and Twenty Seven.

I sworn to and subscribed
at the City of Monterey, this
13th day of June, A.D. 1835,
before me.

J. S. San,
U. S. Commr

Gabriel delatorre

No 4.

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

David T. Spence,
Appel.

adv.

The United States.

applr.

De Position of Gabriel
delatorre.

Filed June 13th 1835.

J. S. San
Clerk

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David S. Spence. apper } United States District
ads. } Court, Southern District
The United States. apper } of California.
No. 4

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Deposition of Gabriel de la Torre, a witness on the part of Appellee, taken by Consent of Parties before Charles E. Carr, U.S. Commissioner ^{appointed} to take testimony in this case, at Monterey, June the 13th 1855. Present D. S. Spence in proper P. Ord. U. S. Attorney.

D

Gabriel de la Torre, a witness on the part of the claimant being duly sworn deposes and says.
Question 1. What is your name, age, place of residence and occupation?

Answer. My name is Gabriel de la Torre, my age is forty seven years, ~~my~~ I am a native of California and resident of ^{Monterey} ~~California~~, and my occupation that of a laborer.

Question 2. State if you know the Rancho of Encinal de Buena Esperanza? and for how long a time has it been occupied. and by whom?

Answer 2. I know the Rancho of Encinal de Buena Esperanza. It has been occupied by Doa David S. Spence. I passed by there on my way to San Antonio in the ~~year~~ year Eighteen hundred and Thirty two, and slept there in Spence's house. And it was then occupied by Spence, who cultivated it, and had cattle and horses on it.

Question 3. ~~State if said Spence~~, Do you know if said Spence built a house on the

said Rancho, afterwards, and at what time? And if the same has been inhabited ever since?

Answer 3. I do. A fence built in the year Eighteen hundred and thirty four, a house ^{and} Corral of adobe, on said Rancho, ~~which~~ ^{and} has always been occupied by him from that date to the present time.

Question 4th State whether D. S. Spence has, since ^{since about what time} the year Eighteen hundred and thirty four, occupied said Rancho by cultivation and with stock?

Answer 4th. Since the year Eighteen hundred and ~~thirty~~ thirty four, it was occupied with stock, portions of it being enclosed in corals, and fields under cultivation, and which are so at this present time.

Question 5th. Do you know anything about the tract of land granted by Governor Alvarado to said David S. Spence, about the year Eighteen hundred and thirty nine, in addition to or augmentation of the Rancho of Buena Esperanza, and if yes, do you know its locality, extent and boundaries?

Answer 5th. Yes. I know that said land was granted to said Spence in Eighteen hundred and thirty nine, as an augmentation to the Rancho of Buena Esperanza. Said land was formerly occupied temporarily by ^{one} ~~some~~ Francisco Lugo. I know its location,

extent and boundaries. It is something

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1 77

~~San Francisco Augo.~~ I know its location,

extent and boundaries. It is something less than one league, It is bounded on the East side by the Rancho of Guadalupe, On the North by a very old mountain called Inferno, On the West by the mountain - the line of the Alisal, including the Cañada de Codornices, and on the South by the Rancho of Buena Esperanza belonging to David S. Spauld.

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PAGE 74

Question 6th Do you think that ~~said~~ land the boundaries of said tract of land could be located without difficulty by a surveyor,

Answer 6th I think a surveyor could locate the boundaries of said land without difficulty and as it is shut up by the same boundaries in the hills.

Cross examined by the U. S. Attorney.

question 1st Do you know anything about surveying?

Answer 1st I am not a surveyor and know nothing about surveying land.

Sworn to and subscribed at the City of Monterey, this 13th day of June, 1855, before me,

J. C. Carr,
Commissioner.

Subscribed
[Signature]

No 4. 8

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

David S. Spence
app.

vs.

The United States
app.

Deposition of
Gabriel de la Torre.

Filed June 15th, 1887.

J. E. Sparrow
Clk.

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4 SD
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It has not been verified

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

David Spence

Appellee

vs

The United States

Appellant

No 4.

For "Criminal of

Buena Esperanza"

4 SD

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To David Spence or his attorneys.

Take notice that the above
entitled cause will be brought to a
hearing by the United States on Friday
the 19th day of October A D 1855, or as
soon thereafter as the same can be
heard by the Court.

Los Angeles October 11, 1855-

F. P. D.
W. D. D. - Atty

1 80

No 4, ¹⁰
David Spence
and

The United States

Notice of hearings
by U. States

Filed Oct 11th 1857
J. E. Fox,
Clerk.

4 SD
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1 81

P. O. A. W. A. L. L.

United States
District Court for
the Southern Dist. of
California

David Spence

December term 1855

Appellee

No. 4.

vs

The United States

"Encinal of Buena

Appellant" } "Encinal of Buena
Esperanza"

4 SD

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This cause having come on to be heard upon appeal from the final decision of the ^{Board of} United States Land Commissioners appointed "to ascertain and settle private land claims in the State of California", under an Act of Congress approved March 3^d 1851. upon the Transcript of the proceedings, papers and evidence had and taken before said Board, and additional evidence taken in this Court; and it appearing that the Transcript of the proceedings before said Board has been duly filed in this Court, as also a notice of the intention of the said Appellants to prosecute the appeal in this case; And counsel for the respective parties having been heard: It is Ordered, adjudged and decreed by the Court, that the decree of the Commissioners aforesaid in this case be affirmed, and that the claim of the said David

Spence appelle herein be decided to be
good and valid to the extent of three
square leagues of land (tres sitios de
ganado mayor), as follows; two square
leagues of land ~~a little more or less~~ (dos sitios de ganado mayor)
called "Rincón de Buena Esperanza" bounded
by the Ranchos of "Buena Vista" and "Alisal";
the spring of the Encinal, the five button=
wood trees, (Alisos) and the river of
Monterey, as described in the original
Grant by Gov José Figueroa dated the
29th day of November A.D. 1834, and
the map or plot, ^{and the testimony of said} ~~contained~~ ^{publicity} in the
proceedings in this case, also one
square league ~~a little more or less~~
(un sitio de ganado mayor) granted
to said appellee as an augmentation
or addition to said first mentioned
tract of land, by Gov Juan B Alvarado
April 18th A.D. 1839, and bounded as
follows; on the eastern side by the Rancho
de Guadalupe, on the southern side by
the line of "Buena Esperanza" (the first
mentioned tract of land), on the northern
side by the mountain or "Sierra de Buena"
at a place called "El Infierno", and on
the western side by Mr Hartnell's Rancho
including the ^{Cañada de} "Corderos" belonging to
the said appellee; both of said tracts

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PAGE 79

1 83

including the "Cedrosinos" belonging to

the said appellee; ~~both of said tracts~~
~~of land containing about three square~~
~~leagues of land.~~

the land of which confirmation
is made is of three square leagues
within the boundaries, and more
times provided there be said
quantity of three leagues contained
within said boundaries ^{if they} and
be less than said quantity of
three leagues, then to make
less quantity.

Donald Ogilvie
U.S. Circuit Judge

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No 4, //

U. S. Dist Court
Southern Dist California

David Spence
Appellee

vs

The United States
Appellant

Traces

Filed Dec 21st 1885

1 85

J. E. Jan.
Clerk.

Recorded on Page 179

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

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

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David Spence,

.....
APPELLEE,
VS.
UNITED STATES,
APPELLANT.

No. 4.
(No. 34 of Transcript.)
On Appeal from the United States Land Commission.

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

ORDERED by the Court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this Court against the said United States in the above entitled cause, rendered on or about the 19th day of *December* A. D. 1855.

*P. Ord
Dist. Att.*

1 86

75

No. 4.

W. S. Duffout
South Gate, California

David Spence
Appellant

vs

The United States
Appellants

Notice of Appeal, S.C.

Dated March 29, 1906
C. E. Gann cm

By Morgan Deffen

1 87

4 SD

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California Land Claims

Attorney General's Office

18 September 1858

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PAGE 84

Sir:

In the case of the claim of David S. Spence, confirmed to the claimant by the Commissioners, case no. fifty-four (54), 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

Yours

Wm. C. Gilman Esq.

1 88

U. S. Atty for the

Southern Dist. of Cal.

4

Wm. J. Spence

54

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Dec 21 1836

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

Now Isaac S. Gwin Judge December Term 1856

The United States
Appellant

David Spence
Appellee

Rocket No 4

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Transcript from the Board of Land Commissioners No

In pursuance of a letter from the Attorney General
of the United States, herewith 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

P. M.

Directly

Myron Norton
attor for appellee

U. S. Dist Court
South Dist. Cal

No. 4

The United States
Appellants

vs
David Spence
Appellee

Appetator
to vacate order of
Appeal to Supreme Court

Filed July 23^d 1857

Chas
C.R.

1 90

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

Hon James S. King Judge December Term 1856

The United States

Appellants

vs
David Spence

Appellee

Book No 4

Transcript from the Board of Land Commissioners to

The Attorney General of the United States having given
Notice that the appeal to the Supreme Court from the de-
cision of this Court in the above entitled Cause will not
be prosecuted by the United States. And a stipulation has
since been entered into by the United States District Attorney
and the Attorneys of the Claimant: that the order grant-
ing 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
the Court be made final if 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 ren-
dered in this Cause as under a final decree.

James S. King

Judge

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United States Dist
Court South Dist Cal
No 4

The United States
Appellants

vs

David Spence
Appellee

Order
Vacating Appeal

Filed 23^d February 1854
C. Smith clerk
J. H. Coleman
clerk

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4 SD

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Attorney General's Office,
19th August 1852,

David S. Spencer, Claimant.

vs.

The United States.

} 54.

You will please take notice that an appeal in the above case (a Transcript of the proceedings in which was received at this office on the 29th of May 1852), 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.

Anthony
Attorney General.
U. States.

¹
No 4,
The U. S. Dist. Court

South. Dist. of Cal.

D. S. Spence
vs.

The United States
for No. 54

Notice of Appeal
from Atty. Genl Aug. 19/84

~~No. 26~~

Rec 22 Sept. 84

Filed 23^d do 84

At Taylor

1 43

Sp. Clk

4 SD

PAGE

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Sello 4.º de Oficio

Habilitado provisionalmente por la Comisaria Subalterna Interina del Puerto de Monterey por el año de 1881

Echaudea

Passara

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

4 SD

PAGE 92

Habiendo Mr David Estevan Spence originario del Reino de Hanley en el Condado de Aberdeen en Escocia, 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 al modo con que debe concederse la Carta de Naturalización a los extranjeros y acompañando los documentos que le acreditan, declara al referido Mr David Estevan Spence por las presentes, naturalizado en los Estados Unidos Mexicanos, en virtud de la Autoridad que por aquella ley parece conferirse al Puerto de Monterey de la Alta California el día veinte y ocho de mayo de mil ochocientos veinte

José M. de Echaudea
Agustín V. Gaudreau
Señor

(Exhibat 7)

United States of America
South Dist California

I John Wheeler
Clerk of the United States District Court in and for
the Southern District of California do hereby cer-
tify the above and foregoing to be a full true and
correct copy of its original filed in my office
in Case No 4 David Spence Claimant against
the United States for the place called "Buen Esperanza"
and withdrawn this day from the files by order
of said Court

Witness my hand and the Seal
of said Court at the City of
San Diego this 5th
day of June 1865, at the
City of Monterey

John Wheeler
Clerk of the District Court

No 24
U. S. Dist Court S. Dist

David C. Spencer

vs

The United States

Cert^y Copy of Letters
of Naturalization,
filed in place of original
Withdrawn per order of
June 5th 1865

Filed June 5th 1865

John D. Wheeler
Clerk

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

TO

The President of the United States,

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David Spence

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 David Spence, for a tract of land called Encinal de Amena Esperanza, in the County of Monterey, California, to the extent of about two leagues; which said claim was presented, by your petition, to said Commissioners, on or about the 19th of February A.D. 1852, and by them confirmed on or about the 14th of February A.D. 1853.

and that
after the
days if s
served or
petition,
of the su
relief &

you, ~~and each of you~~, are required to appear at said Court, in said City, within ten days service hereof, if served on you within the County of Los Angeles, and within twenty served on you in the County of San Diego or San Bernardino, and within forty days if you in any other County of said State, exclusive of the day of service, and answer said 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*

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. Farr,
Clerk.

Marshals cost
 Copying Summons 1,00
 Sewing " 4,00
 Printing Petition 4,00
 actual tracking copies 88,00
 \$122,00

24.
 2024

United States of America,

Southern District of California,

U. S. DISTRICT COURT.

David Meuser, Apper

vs

The United States.

SUMMONS.

Received February 2-1855

Edward Meunter
 U. S. Marshal

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4 SD

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I served this summons along with the proper copy of the petition upon *David Meuser* the Defendant by leaving with him personally a true copy of the summons & petition at his house in the city of Monterey in the Southern District of California

the 9th day of February
 Sworn to and subscribed before me, this 10th of
 March. 1855. }
 J. E. Saw. Clerk.

in the Southern District of California on
 A. D. 1855.
 Edward Meunter
 U. S. Marshal by
 Deputy
 Rich. L. Jones.

I gave the
 of the summons
 to the Defendant

U. S. District Court

David Spence

Appellee

vs

The United States

Appellant

Case No. 4,

Transcript No. 54.

For "Criminal of Puerto
Esperanza".

Index of Transcripts.

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Pages 3 & 4. Petition of Claimant to the U. S. Land
Commissioners

" 4 to 6. Exposition of Jacob P. Leese.

" 6 to 8. Exposition of John Parrott.

" 8 & continued on Page 24. Exposition of José Arago.

" 11. to 14. Original Grant in Spanish by Figueroa
dated Nov 29, 1834, with the map and
certificate of Manuel Jimeno Secretary
of State -

" 14 & 15. Approval of the departmental Assembly
and decree of the Political Chief in Spanish,
and certificate of the Secretary.

" 16 to 21. Act of judicial possession in Spanish
duly executed and signed by all the
"Colindantes".

" 21 & 22. Original Grant of the "argumentation" by
Gov Alvarado dated April 15, 1839, and
Note, with certificate of Record of the
Secretary of State, and Secretary of
the Prefecture - and the Recorder of
Monteury Co.

P. 26 to 28. Translation of Original Grant by Figueroa
Pages not } with certificate of record, and certificate of
marked } genuineness of the map.

" 27 + 28. Translation of the approval of Departmental
Assembly, decree of the Political Chief and
Certificate of the Secretary -

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" 28. to 32. Translation of Act of Judicial possession
and certificate of Translator.

" 32 + 33. Translation of Original Grant by Gov
Alvarado of the augmentation, and note,
and certificate of record and certificate
of translation -

" 34 to 36. Opinion of N. S. Land Commissioners.

" 36 + 37. Decree of confirmation.

Additional testimony.

1. Deposition of Gabriel de la Torre.
2. Deposition of Teodoro Gonzalez.
3. Certificate of naturalization of claimant.
4. Further deposition of Gabriel de la Torre.
5. Further deposition of Teodoro Gonzalez.

No 4.

United States Dist
Court, S. Dist California

David Spence
Appellant
vs

The United States
Appellant

Index of Transcript.

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