

CASE No.

6

SOUTHERN DISTRICT

TEMECULA GRANT

LUIS VIGNES

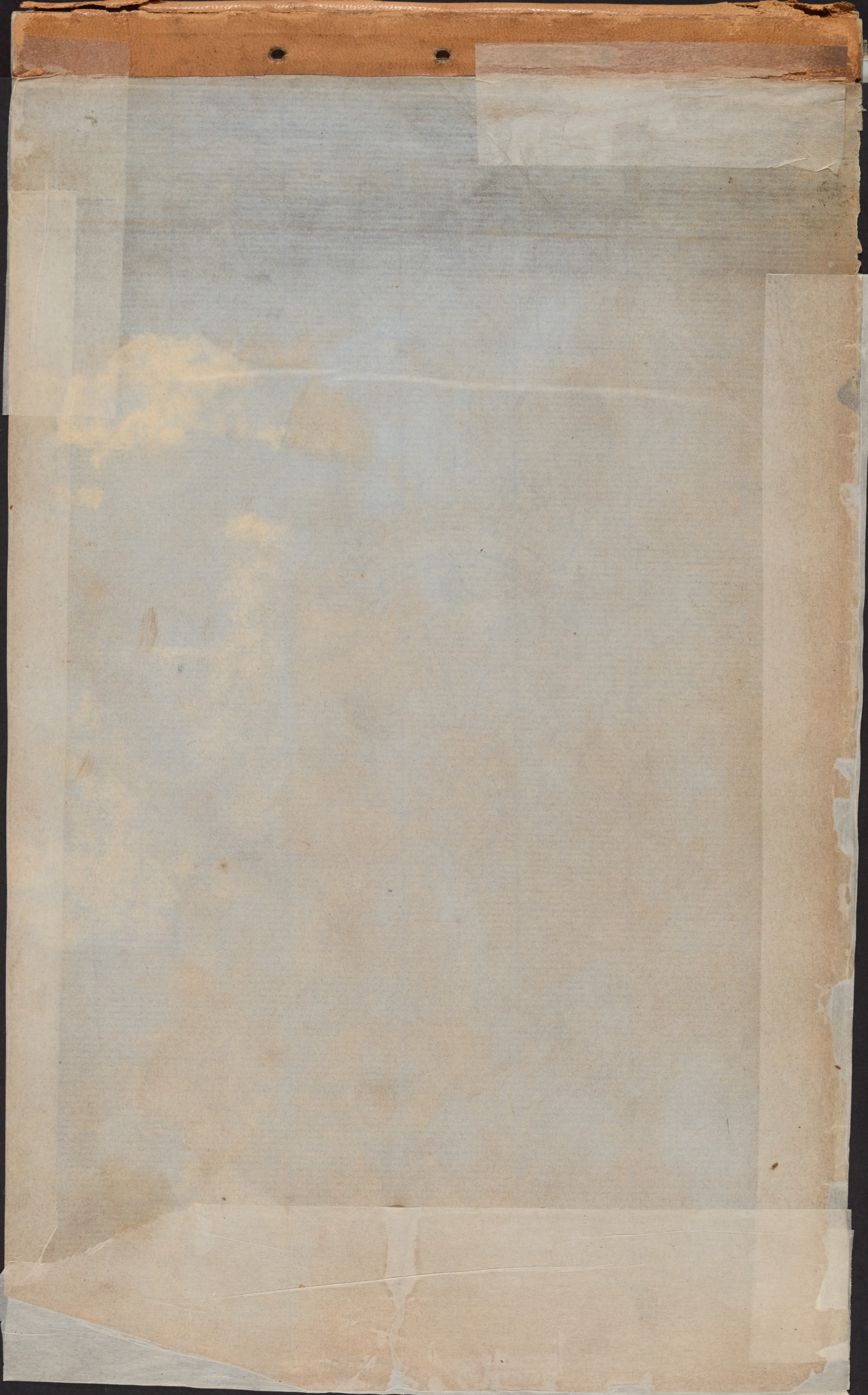
CLAIMANT

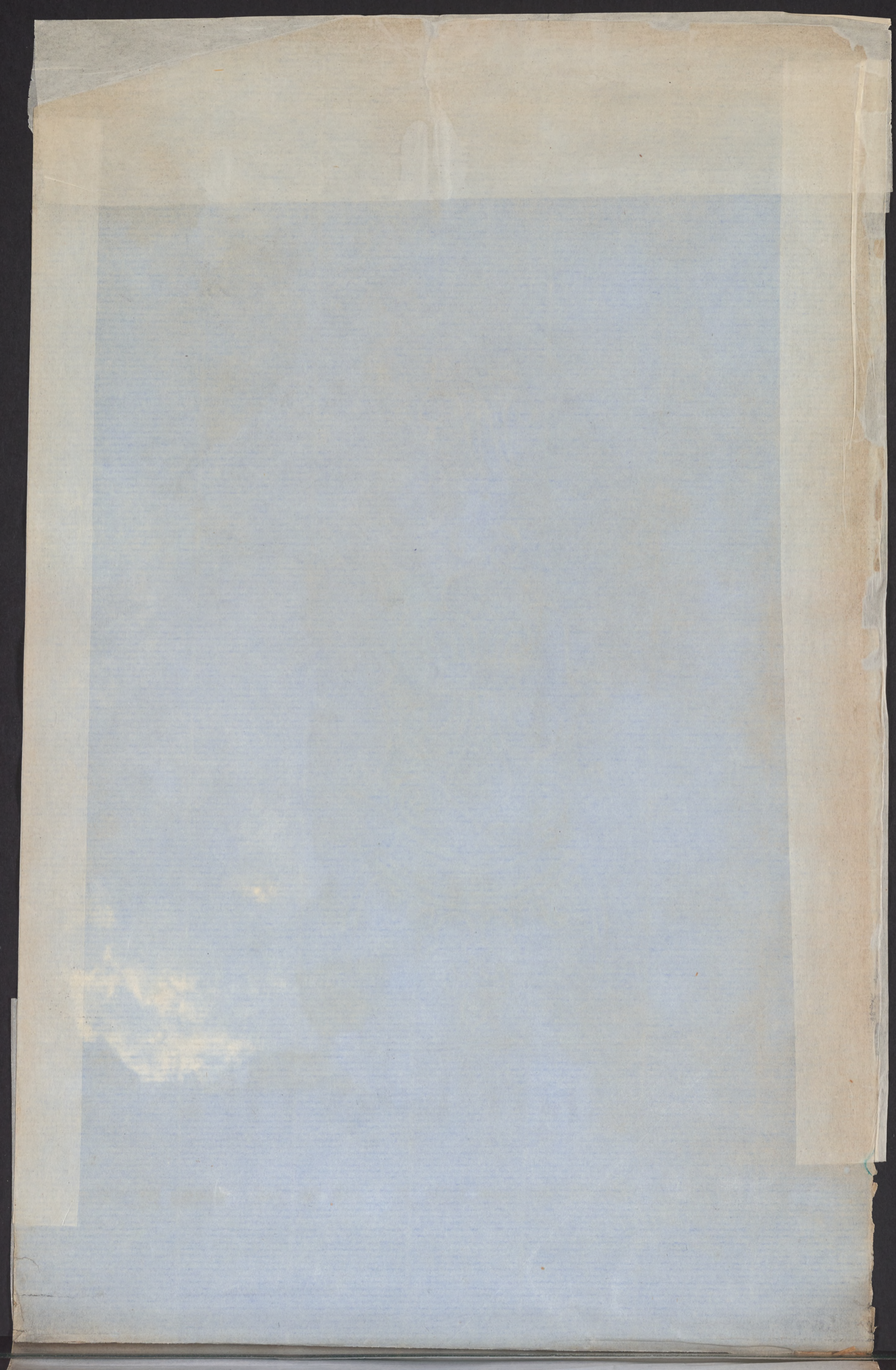
LAND CASE 6 SD PAGES 96

FEB 7 1963

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TRANSCRIPT

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PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. 342

Luis Vignes,

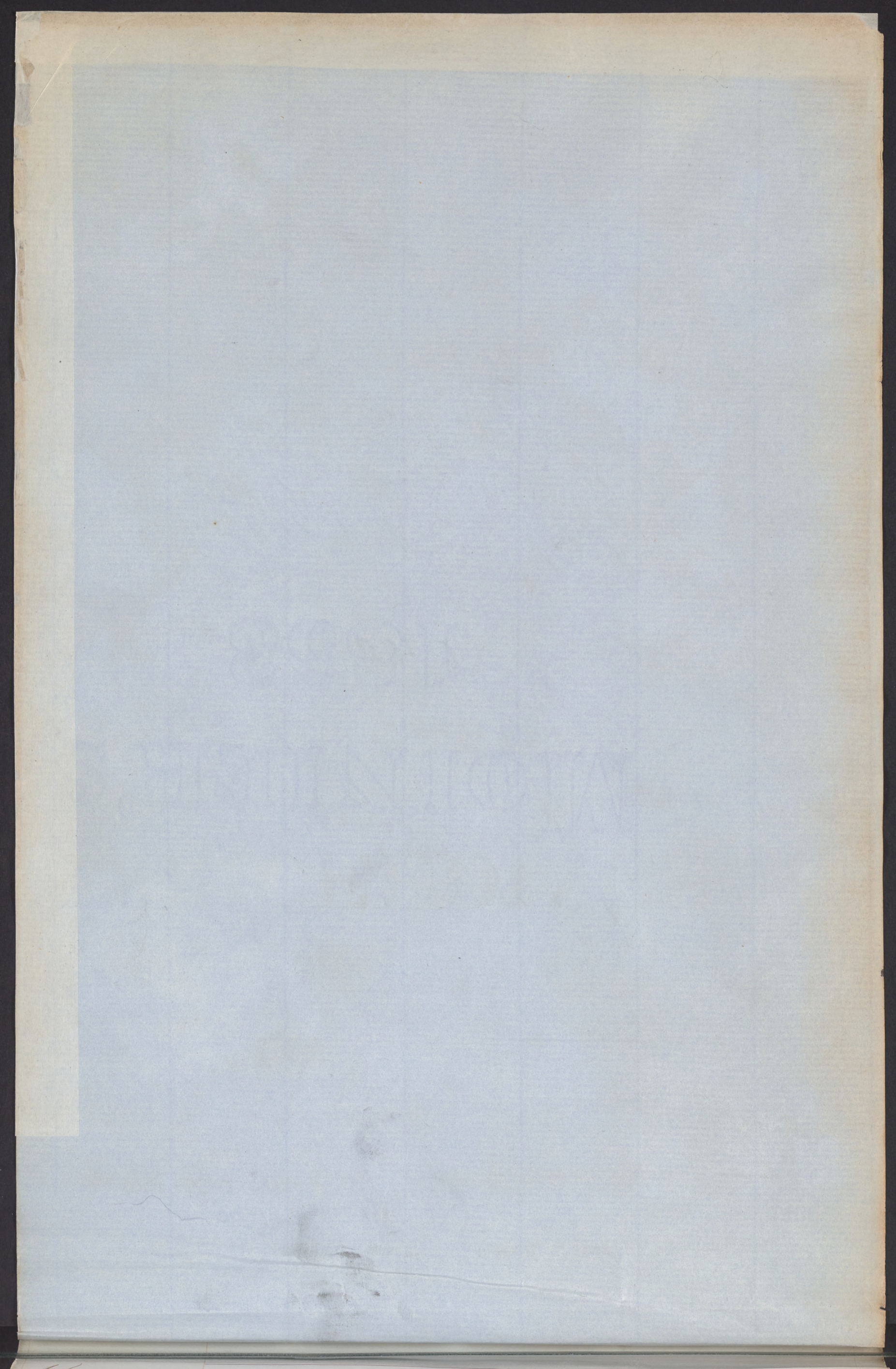
CLAIMANT,

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Semecula."



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

1)
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PAGE 2

Be it Remembered, that on this *Fifteenth day of September*, 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 *Luis Vignes*,
for the Place named
"Temicula,"
was presented, and ordered to be filed and docketed with No. *342* and is as follows, to wit;

(Vide page *Three* of this Transcript.)

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

Sept. 27th 1852.

In case No. *342*, *Luis Vignes*, for the place named *"Temicula"*, the Deposition of *Ygnacio del Valle*, a witness in behalf of the Claimant, taken before Commissioner, *Harry J. Thornton*, with Documents marked "Exhibits *M., N., O., P.*", annexed thereto, was filed, and is in the words and figures as follows, to wit: (Vide pages, *5, 6 & 7*, of this Transcript.)

Sept. 30th 1852.

In case No. *342*, *Luis Vignes*, for the place named *"Temicula"*, the Deposition of *Antonio Fran^{co}. Coronil*, a witness in behalf of the Claimant, taken before Commissioner,

2)
Harry A. Thornton, was filed, and is in
the words and figures as follows, to wit:
(Vide pages, 35 & 36, of this Transcript.)

Oct. 11th, 1852.

In Case N^o. 342, Louis Vignes, for the
place named "Temeula", the Deposition of
Juan Manzo, a witness in behalf of the
Claimant, taken before Commissioner, the
Land Hall, was filed, and is in the words
and figures as follows, to wit: (Vide
Pages, 37 & 38, of this Transcript.)

March 14th 1854.

In case N^o. 342, Luis Vignes, for the place
named "Temeula", Commissioner, Thompson
Campbell delivered the opinion of the majority
of the Board, rejecting the claims.

For the same case, Commissioner, Re.
Aug. Thompson, delivered his dissenting
Opinion -

Which Opinions and Decree of final
Rejection are in the words and figures
as follows, to wit: (Vide pages, 73,
74, 75, 76, 77, 78, 79, 80, 81, 82, 83,
84, 85, 86, 87, 88, 89, 90, 91, 92, 93,
94, 95, 96, 97, 98, & 99, of this
Transcript.)

Petition

To the Commissioners appointed to investigate and settle private land claims in the State of California.

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Luis Viguera represents that on the 14th day of December 1844, Manuel Micheltonno, then Governor of California, acting under authority of the laws and regulations then in force, granted to Don Felix Valdez, a tract of land called "Teme-cula" which lies within the limits of the present County of San Diego, embraced within certain definite definite boundaries, as explained in the diseño and supposed to contain six leagues more or less - which grant was regularly approved on the 12th of May 1845 by the Departmental Assembly - all which will more fully appear on reference to the copy of the Especificante and translation thereof, herewith filed, and severally marked ^{Exhibit} A and B.

That on the 3^d of June 1845 judicial possession of said land was formally given to the grantee.

That on the 15th of June 1846, Don Felix Valdez, by his Attorney Don Juan Manzo sold and conveyed the said tract of land to the petitioner.

That the petitioner knows of no other claim to any part of the land.

That in support of his claim he relies upon the papers herewith filed and such other evidence as he may hereafter produce.

He prays the confirmation of his title,

A. P. Crittenden

Attorney for Don Luis Viguera.

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Filed in office Sept 13. 1852

(Signed)

Geo. Fisher

Geo

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Officer of the Board of Comrs
of California Land Claims
Los Angeles Sept 27th 1852

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Deposition of Ig-
nacio del Valle

On this day before me Harry J Thornton, one of the Commissioners for ascertaining and settling private land claims in California, personally appeared Don Ignacio del Valle, a witness produced on behalf of the claimant of the Rancho of Temucula, In Luis Vigne, in the car which is No. 342 on the docket of said Commissioners, who having been duly sworn, testified as follows: The Law Agent having been notified and attending—

Question First. What is your name and age? Where do you reside? If in California, how long have you resided here.

Answer. My name is Ignacio del Valle. I am forty four years of age. I reside in Los Angeles, California, and have resided in California twenty seven years.

Question Second. Are you acquainted with the signatures of Manuel Micheltonno, Manuel Jimeno, Pio Pico, Feliz Valdez, Leonardo Cota, Juan Manzo, and Jose R. Arzillo? If yes, how did you become so?

Answer. I am acquainted with the signatures of all of said persons, from having frequently seen them write and make their signatures.

Question Third. Examine the document marked "Exhibit-

"N^o," which is shown to you, and which contains the original grant to Don Feliz Valdez of the place called "Temucula", dated the 14th of December 1844, and also a conveyance of the rancho of Temucula by Juan Manzo, as attorney of Don Feliz Valdez, to Luis Viguera dated Jan 15th 1846, and say whether or not the signatures of Manuel Micheltonio and Manuel Jimeno to the former, and those of Leonardo Cota and Juan Manzo to the latter, are genuine?

Answer. I have examined said papers. The signatures referred to are genuine.

Question Fourth. Examine the paper marked "Exhibit N^o," which is shown to you, being a letter dated March 25th 1845 by Feliz Valdez to Juan L Viguera (In Luis Viguera) Also, the paper marked "Exhibit O," containing a copy certified by Pio Pico, of the approval by the Departmental Assembly of the grant of "Temucula" to Don Feliz Valdez, also the paper marked "Exhibit P," containing the proceedings of Jose R. Arguello, 2^o Alcalde, in giving judicial possession of the Rancho of Temucula to the Attorney of Feliz Valdez - and say whether or not the signatures of Feliz Valdez to the first of said papers, of Pio Pico to the second, and of Jose R. Arguello to the third are genuine?

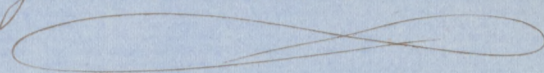
Answer. I have examined the three papers

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referred to. The signatures mentioned are genuine.

Ignacio del Valle

U. S. Law Agent present



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Sworn to and subscribed
before me this 27th. of September
1852

Harry J Thornton

Cour &c

Filed in Office Sept 27th. 1852
(Signed)

Geo. Fisher,

Secy.

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"Exhibit
No."

annexed to Depo.
of G. del Valle.

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Documento
de
Fumiculae,
à favor de
D. Luis Vignes

[Large decorative flourish]

Año de
1846

[Large decorative flourish]

10

Sello Segunda Cuatro Pesos.
Habilitado provisionalmente por la Ad-
uana Maritima del Puerto de Monterey,
en el Departamento de las Californias,
para los años de mil ochocientos cuarenta
y cuatro y mil ochocientos cuarenta y
cinco.

Micheltorena. Pablo de la Guerra.

Seal. 3
Luis

El Ciudadano Manuel Michetta, Gen-
ral de Brigada del Ejército Mexicano Ayu-
dante General de la Plaza Mayor del
mismo Gobernador Comand. Genl. e In-
spector del Departamto. de las Califor-
nias.

Por cuanto el Comandem-
te de Batallon Don Felix Val-
dez ha pretendido para su
beneficio personal y el de su
familia el terreno conocido con
el nombre de Simicula, co-
lindante al N. con el Sr. Es-
tudillo, al S. con Pala, al P.
con Sr. Margarita, y al E. y
S. E. con la Agua Caliente:
practicadas previamente las

diligencias y averiguaciones convenientes según lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas á nombre de la Nación Mexicana, he venido en concederle el terreno mencionado declarandole la propiedad de él por las presentes letras sujetándose á la aprobación de la Exma. Asamblea Departamental y bajo las condiciones siguientes:

- 1.^a No podrá venderlo, enajenarlo ni hipotecarlo imponer censo, vinculo fianza ni otro gravamen alguno.
- 2.^a Podrá poseerlo sin perjudicar las traversías caminos y servidumbres; lo disfrutará libre y exclusivamente destinándolo al uso ó cultivo que mas le acomode pero dentro de un año habitará la casa que se halla allí construida.
- 3.^a Cuando se le confirme la propiedad solicitará del Juez respectivo que le dé la posesion jurídica en virtud de este Despacho por el cual se demarcarán los linderos en cuyos limites pondrá unas de sus mojoneras algunos arboles frutales ó silvestres de alguna utilidad.
- 4.^a El terreno de que se hace donación es de seis sitios de ganado mayor poco mas ó menos según esplica el diseño respectivo. El Juez que

dere la posesion lo hará medir conforme á ordenanza quedando el sobrante que resulte á la Nacion para los usos convenientes.

2.^a Si contraviniere á estas condiciones perderá su derecho al terreno y será denunciado por otro.

En consecuencia mando que sirviéndole de título el presente y teniéndose por firme y valdado se tome razon de él en el libro á que correspondá y se entregue al interesado para su resguardo y demas fines. Dado en Monterey á catorce de Diciembre de mil ochocientos cuarenta y cuatro.

Man. Michelt.
Man. Jimeno
Sais

Queda tomada razon de esta condicion en el Libro respectivo á f. 14.

Jimeno

En la Ciudad de los Angeles de la Alta California á los quince dias del mes de Junio de mil ochocientos cuarenta y seis, ante mi Leonardo Cora Regidor decano de este Ilustre Ayuntamiento y fungen-
 do de Alcalde segundo Constitucional, y por ante mis Escribas de asistencia con quienes actuo á falta de Escribano Pu-
 blico, comparecio Don Juan Mungo de esta vecindad y presentando un poder del Comandante Don Felix Valdez, dijo: Que á nombre de su poderdante y de sus herederos sucesores y de quien de ellos hubiese titulo voz y causa en cua-
 lesquiera manera, cede, endona, y tras-
 paza todo el derecho goce, y ampliacion, que tiene su poderdante en el Rancho de Temeula constante de seis sitios de ganado mayor poco mas ó menos, se-
 gun esplica el titulo que agrega á estos documentos, sin pedir otra recompensa que la indignisacion, de los gastos que erogó su poderdante los que han ascen-
 dido á la cantidad de mil pesos y de los que se dedujeron unicamente tres ci-
 entos cincuenta que anticipo el Sr. Vique para pago de las fincas del espu-
 rado Temeula, y que por lo tanto decla-
 ra que su poderdante al hacerlo hace-
 sion amistosa y haber recibido los mil pesos que espresa esta escritura, garanti-
 za no se haya vendido ese rancho ena-

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PAGE

ganado ni empeñado, que esta libre de
 tributo, memoria, capellanía, vínculo,
 patronato, fianza y otro gravamen re-
 al, perpetuo, temporal, tácito y expreso,
 y como tal se lo cede con todas sus en-
 tradas, salidas, pastos, montes, arre-
 vaderos, usos regalias y servidumbres, y
 todas las demás cosas que atenido y
 tiene y le pertenecen según derecho, re-
 nunciando la Ley nueva título primero,
 Partida quinta, y asimismo declara que
 hace gracia y donación pura, nuda, per-
 fecta e irrevocable en sanidad con insin-
 uación y demás formas legales, renuncia
 la Ley dos, Libro diez, título primero,
 que trata de los contratos de venta, true-
 ques cambios u otros en que hay lesión
 en mas ó menos de la mitad del justo
 precio por no tener lugar en este caso: —
 y desde hoy en adelante para siempre
 se desapodera su poderdante y herederos
 del dominio, propiedad, título, voz, recur-
 so y cualesquiera otro derecho que le com-
 peta al enunciado rancho, lo cede, renun-
 cia y trasfesa con las acciones reales,
 personales, utiles mistas, directas y eje-
 cutivas en Don Luis Vignes ó en quien
 la puya represente le confiere poder e
 irrevocable, con libre, franca y general
 administración para que del tomo y
 aprienda la real tenencia y posesión que
 por derecho le compete, y para que no ne-

cesite tomarla se le entrega la escritura
 y título original los que deberá protocoli-
 zar cuando le convenga y por lo mis-
 mo nadie le inquietará ni mover ple-
 ito sobre su posesion goze y disfrute,
 y si se le inquietare o moviere se com-
 promete el otorgante por si ay á nombre
 de su poderdante á dejar al referido Sr
 Vignes en quietá y pacífica posesion;
 y de no conseguirlo se le reintegrará la
 cantidad que ha desembolsado, las me-
 joras que haya echo, y se le pagarán
 todos los daños, perjuicios y menos-
 cabos que se le siguieren ó irrogaren,
 pues para todo lo cual se ha de poder
 ejecutar en virtud de esta escritura ó ju-
 ramiento del que la posea ó en quien di-
 fiere su importe. Y á la firmeza y
 total validacion de lo referido se obliga
 el Sr. Mazarzo por si y su poderdante
 con su persona y bienes habidos y por
 haber y con ellos se somete al fuero y
 jurisdiccion de los Señores jueces que
 en este negocio puedan y devan cono-
 cer para que lo compelan y apremien-
 en por todo rigor de derecho y via ejecu-
 tiva como por sentencia definitiva de
 juez competente, pasada en autoridad
 de cosa juzgada y que por tal la reco-
 noce, renunciando su propio fuero, do-
 micilio y vecindad las leyes de su favor
 y defenza con la general del derecho en

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forma, en cuyo testimonio asi lo otorgo
y firmo conmigo y los de asistencia
que lo fueron Don Ignacio Coronel
y Don Mariano Boldan presentes y
vecinos doy fe = No hay papel
sellado

Leonardo Cota Juan Maura

assa.

assa.

Yg. Coronel. Mar. N. Boldan

Derechos 3
Siete pesos 3
cuatro reales 3

~~~~~

Filed in Office Sept. 27<sup>th</sup> 1852,

(Signed) Geo. Fisher

*[Signature]*

*[Large decorative flourish]*





"Exhibit  
N."

annexed to the  
Depo. of Gynaris  
del Valle

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Sor. D.<sup>na</sup> Juan L. Vignes  
Palos Verdes Marzo 25 1845.

Mi estimado am.<sup>o</sup> con esta fha  
le mando á V. una carta poder por el  
Sor. D.<sup>na</sup> Juan Manso, este amigo le  
doy las instrucciones p.<sup>a</sup> q. Si V. le  
cubiere el Rancho, lo ajusto, en los  
plazos q. V. y el combengan, cuyo im-  
porte en dinero ó lieores lo entregara  
V. á dho. Sor. Manso exigiendole un re-  
cibo por el cual este va cubierto, y es-  
te me satisfaga en Mazatlan en Me-  
xico.

Conservese V. bueno y mande  
á su aff.<sup>o</sup> am.<sup>o</sup> L. B. S. M.

Felis Valdes

Sor. D.<sup>na</sup> J. Luis Vignes  
en los  
Angelos.

Felis Valdes -  
Marzo 25 de 1845 -  
Por la Rancho de  
Temicula

Filed in Office Sept. 27<sup>th</sup> 1852.  
(Signed) Geo. Fisher  
Secy

Translation  
of "Exhibit  
N."

annexed to the  
Deps. of G.  
del Valle

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Palos Verdes, March 25, 1843.  
To D<sup>o</sup> Juan L. Vignos  
My esteemed friend—

I send you  
to-day a power for D<sup>o</sup> Juan Manzo and  
give him instructions that if you con-  
sent about the Rancho, he shall arrange  
it on the terms upon which you and  
he may agree. I deliver to D<sup>o</sup> Juan  
Manzo the price in money or liquors,  
taking a receipt by which you will  
be protected. He will arrange it with  
me in Mazatlan in Mexico.

Wishing you health and re-  
maining your affectionate friend  
Feliz Valdez

Filed in Office Sept. 27<sup>th</sup> 1852.

(Signed) Geo. Fisher  
Secy

*[Large decorative flourish]*

"Exhibito  
O."

annexed to the  
Deposition of  
Yg: del Valle.

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PAGE 19

Se aprueba la concesion hecha en favor del Ciudadano Felis Valdez del parage nombrado Temecula concedido en propiedad por el Gobierno de este Departamento en titulo legitimamente librado con fecha catorce de Diciembre del año proesimo anterior de entera conformidad con lo prevenido en la ley de 18 de Agosto de 1824 y el articulo quinto del Reglamento de veintinueve de Noviembre de mil ochocientos veintiocho — Angeles Mayo 12 de 1845 — En sesion de este dia se aprobó por la Honorable Asamblea Departamental la proposicion del dictamen antecedente, mandando se devuelva el expediente q. se presentó al Exmo. Señor Gobernador para los fines consiguientes —  
 P. P. Presidente — Agustín Olvera —  
 Secretario — Angeles Mayo 13 de 1845 —  
 En vista de la aprobacion otorgada con fecha de ayer por la Exma. Asamblea Departamental. Librese testimonio de ella y de este decreto á la parte de D.<sup>o</sup> Luis Vignes como apoderado de D.<sup>o</sup> Felis Valdez, en confirmacion á la concesion del terreno de Temecula que obtuvo el segundo en catorce de Diciembre del año proesimo pasado y entreguese al referido Sr. Vignes el documento que acredita su personeria reservando en la Secretaria el testimonio de las diligencias practicadas, mientras tanto se tiene á la vista su expediente original para entonces de

volver el primero al interesado — Pio  
 Pico Vocal mas antiguo de la Hono-  
 rable Asamblea y Gobernador interino  
 del Departamento de California asi lo  
 decreto mandó y firmo de que doy fé—  
 Pio Pico — Juan Bandini Secretario

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Concuerda a la letra con su ori-  
 ginal del cual hice sacar el presente  
 testimonio para resguardo del interesado  
 en la Ciudad de Los Angeles Capital  
 del Departamento a 10 de Mayo de  
 1845. Siendo testigos los Ciudadanos  
 Ygnacio del Valle y Francisco Lopez  
 de esta vecindad.

En testimonio de Verdad

Pio Pico

Filed in Office Sept. 27<sup>th</sup> 1852.

(Signed) Geo. Fisher  
 Secy

*[Large decorative flourish]*

Translation  
of "Exhibit  
O."

annexed to the  
Depto of Yg:  
del Valle,

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The concession made in favor of the citizen Felix Valdez, of the place called Temecula, granted by the Government of this Department by a title legally issued dated the 14<sup>th</sup> of December last, in entire conformity to what is provided by the law of the 18<sup>th</sup> of August 1824 and the 3<sup>rd</sup> article of the Regulations of the 21<sup>st</sup> of November 1828, is approved— Angles May 12<sup>th</sup> 1845— In its session of this day the Hon. Departmental Assembly approved the preceding proposed decree, ordering the Expediente which was presented to be returned to his Excellency the Governor for further purposes— Pio Pico Pres. — Agustin Choera Secretary — Angles May 13<sup>th</sup> 1845— In view of the approval of yesterday by the Departmental Assembly, let a copy thereof and of this decree be delivered to D<sup>n</sup> Luis Vignes as the attorney of D<sup>n</sup> Felix Valdez, in confirmation of the concession of the land of Temecula which the latter obtained on the 14<sup>th</sup> of December last, and deliver to the said Luis Vignes the paper which shows his authority, retaining in the office a copy of all the proceedings taken from the original Expediente before returning it to the party. Pio Pico Senior Vocal of the Hon. Assembly

Gov. ad. int. of the Department of the  
 Californias, thus decreed, ordered and  
 signed, to which I certify = Pio  
 Pio = Juan Bordini Rey.

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A literal copy of the original from  
 which this was copied for the protec-  
 tion of the party interested in the  
 City of Los Angeles, Capital of the  
 Department, the 15<sup>th</sup> of May 1843 -  
 the citizens Ygnacio del Valle and Fran-  
 cisco Lopez being witnesses.

In testimony of the truth.  
 Pio Pio

Filed in Office Sept. 27<sup>th</sup> 1852.

(Signed) Geo. Fisher  
 Secy

*[Large decorative flourish]*

"Exhibit  
P."Linn. & Co. Dep.  
of Y. del Valle6 SD  
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En el precidido de San Diego á los treinta y un dias del mes de Mayo del año de mil ochocientos cuarenta y cinco; ante mí José R. Argüello Alcalde segundo Constitucional de este referido punto y su demarcación. En virtud de la solicitud verbal hecha por el C. Ant. Coronel apoderado del Sr. Dr. Luis Vignos en representación del Sr. Dr. Feliz Valdez y una orden de veinte y tres del presente del Excmo. Sr. Gobernador de este Departamento para efecto de poner en posesión jurídica del paraje de Temucula al Sr. Dr. Feliz Valdez, y en cumplimiento de lo espuesto y del título que presento con fecha del catorce de Diciembre del año de mil ochocientos cuarenta y cuatro; pase por mí y testigos de asistencia al mencionado paraje y pongase en segura posesión de él al expresado Sr. Valdez: Así yo el Juez que suscribo decreté, mandé y firmé con los de mi asistencia según derecho — José R. Argüello — asistencia — Juan M. Warren — asistencia — Juan María Abila — Estában en el paraje de Temucula á los tres dias del mes de Junio del mismo año, y en cumplimiento del anterior decreto á efecto de verificar las medidas y posesión del ya mencionado

cionado paraje dispuse nombrar dos  
 oficiales cordeleros los que por no saber  
 escribir se omiten sus nombres á los  
 cuales les tome el jurament<sup>o</sup> respectivo  
 bajo el cual ofrecieron desempeñar  
 fiel y legalmente su encargo previ-  
 as las formalidades de ley lo que  
 asiento por diligencia que autorizó y  
 firmé con los testigos de mi asis-  
 tencia según decreto — José B. Ar-  
 guillo — asistencia — Juan M.<sup>a</sup> —  
 Marron — asistencia — Juanario  
 Abila — En el mismo día mes y  
 año estando en el paraje ya indica-  
 do á efecto de verificar las medidas  
 de posesion de Don Felix Valdes y con  
 arreglo al titulo de este Sr. previas  
 todas las requisitas de estilo y estando  
 ante mí los testigos de asistencia y  
 oficiales cordeleros ise medir un cor-  
 del que tenia cien varas y á los extremos  
 unos Saucos de madera previa obser-  
 vacion y calculo por mí disposicion pa-  
 rados en la esquina de la Huerta del  
 Indio Fran.<sup>co</sup> á la parte del O. con el  
 lindero de Don Vicente Moraga quien  
 estando presente espuso pertenecerle un  
 pedazo del terreno que se midio y  
 examinado el titulo que en el acto pre-  
 sente se observo no pertenecerle, por en-  
 zo motivo se tiro el cordel rumbo N.  
 y se midieron y contaron veinte mil



cuinientas varas que remataron en la falda de la Sierrita de San Miguelito lindero del Sr. D.<sup>n</sup> José Ant. Estudillo donde se mandó al interesado pusiese su mojonera de este punto se tiro el cordel rumbo E<sup>+</sup> y se midieron y contaron dos mil cuinientas varas que remataron en la mojonera de D.<sup>n</sup> Julian Manrique en el mismo Serrito de San Miguelito, lindero del espresado Estudillo; de este punto con direccion al rumbo N. E. se tiro el cordel por todo el lindero de D.<sup>n</sup> Julian Manrique y se midieron y contaron veinte y cinco mil varas, que remataron arriba de la Sierra donde se marco por mojonera un picacho de Dha. Sierra de este sitio se tiro el cordel rumbo O y se midieron y contaron diez y siete mil cuinientas varas que remataron en un morro que esta del otro lado del camino real que sale de Temeuta para San Luis y forma cabecera del potrero á la parte del O. de este lugar se tiro el cordel rumbo N. y se midieron y contaron cinco mil varas y remataron en la punta de la misma cañada de este punto, con direccion al E. se midieron cuatrocientas varas que remataron en el lindero del Indio Pablo Apis que se marco por mojonera

S. O.

S. E.

ra un picacho que esta arriba del es-  
 forzado lindero de aqui se tiro el  
 cordel rumbo N. por todo el lindero  
 del Indio Pablo Apis el hijo y fué  
 dando buelta hasta la Huerta donde  
 comenzamos las mediciones y se conta-  
 ron cinco mil varas que remataron  
 en la esquina donde se dio principio  
 á las mediciones; en cuyo lugar se le  
 ordenó al interesado pusiese su cor-  
 respondiente mohonera y se le dijo  
 quedaba en su guarara y pacífica  
 posesion p.<sup>a</sup> que disfrutara libre  
 y francamente del enunciado paraje  
 segun la consecion de la Superioridad,  
 dandose por concluido el acto que auto-  
 rise y firme con los de mi asistencia  
 segun derecho = José R. Arguello =  
 asistencia = Juan M.<sup>a</sup> Marron = asis-  
 tencia = Juanario Abila = Acto  
 continuo en cumplimiento del Superior  
 Decreto para el nombramiento de  
 dos peritos uno por la parte del Sr.  
 D.<sup>a</sup> Felix Valdes y otro por la del Sr.  
 D.<sup>a</sup> Joaquin Ortega por parte de la  
 Misión de S. Luis Rey como admin-  
 istrador; afecto del abalado de las  
 fincas que se hallan en el sitio de  
 Temucula impuestas las partes pre-  
 sentaron: por la del primero D.<sup>a</sup> Juan  
 Warner: y del segundo D.<sup>a</sup> Juan  
 M.<sup>a</sup> Marron y examinando mis-

cios ante dicha finca segun su leal  
 saber y entender conformes en su ca-  
 lificación resulto el valor de tres cien-  
 tos veinte y cinco pesos lo que anoto  
 por diligencia que autorize y firma-  
 ron conmigo y los de asistencia se-  
 gun derecho — José R. Argüello —  
 = perito = Juan M.<sup>a</sup> Marrón = perito  
 = Juan Warner = asistencia = Ed-  
 uardo Stokes = asistencia = Juanario  
 Abila — San Diego cinco de junio  
 de mil ochocientos cuarenta y cinco  
 = Estando concluidas estas diligen-  
 cias protocolense en el Archivo res-  
 pectivo y desele testimonio á la par-  
 te para los usos que conbenzan. Asi  
 yo José R. Argüello Alcalde segundo  
 Constitucional del Pueblo de S. Diego  
 y su demarcacion decreto mande y  
 firme con los de asistencia segun  
 derecho = José R. Argüello = asis-  
 tencia = Juan M.<sup>a</sup> Marrón = asis-  
 tencia = Juanario Abila = Rason =  
 En la fecha se libro el testimonio res-  
 pectivo = Rubrica.

Concuenda con su original á que  
 me remito del cual esta fielmt.<sup>o</sup> sacado  
 corregido y confrontado en cuatro fo-  
 jas útiles de papel comun por fal-  
 ta del sellado.

San Diego junio 3 de 1843.



Translation  
of  
"Exhibit P."  
annexed to the  
Depo. of Ygnacio  
del Valle.

6 SD  
PAGE 29

In the Presidial of San Diego on the  
31<sup>st</sup> day of May 1845, before me,  
Jose R. Arguello, 2<sup>nd</sup> Constitutional  
Alcalde of said Pueblo and District. In  
virtue of the verbal application made by  
the citizen Ant<sup>o</sup>. Coronel, Attorney of D<sup>o</sup>.  
Luis Vigne representing D<sup>o</sup>. Felix Valdez  
and of the order of the 23<sup>o</sup> of this month  
made by his Excy. the Gov<sup>t</sup> of this De-  
partment to put D<sup>o</sup>. Felix Valdez in  
judicial possession of the place called  
Temecula, in fulfillment of what is or-  
dered and of the title presented to me  
dated Dec<sup>r</sup>. 14<sup>th</sup> 1844, let my ass<sup>y</sup> wit-  
nesses go with me to said place and  
deliver possession to said Valdez: Thus  
I the Juago subscribed, decreed, ordered  
and certified with my ass<sup>y</sup> witnesses,  
according to law = Jose R. Arguello  
= ass<sup>y</sup> = Juan M<sup>o</sup>. Manon = ass<sup>y</sup> =  
Juan Luis Abila =

Being at the place called Temecu-  
la on the 3<sup>o</sup> of June 1845, in fulfil-  
ment of the preceding Decree and for  
the verification of the measurements  
and possession of said place, I pro-  
ceeded to name two chainbearers, (not  
knowing how to write their names are o-  
mitted) who took the oath according to  
law faithfully to discharge their duties,  
which I authorized and signed with my

assisting witnesses — José R. Arguello  
 = ass'g — Juan M<sup>o</sup>. Maaron = ass'g.  
 = Juanan's Abileo =

On the same day, month and year, being at the place already named, for the purpose of verifying the measurements and possession of D<sup>o</sup>. Fdez. Valdez according to his title, all the requisites of the law being complied with and the assisting witnesses and chain bearers being present I caused a cord to be measured, one hundred varas in length and stakes of wood to be attached to its extremities. After observation and calculation we began the survey at the corner of the garden of the Indian, Francisco, which adjoins on the West the boundary of D<sup>o</sup>. Vicente Moraga (he being present and insisting that he owned a piece of the land we were measuring, but after looking at the title, admitting that it was not his) and measured North 23,300 varas to the brow of the little hill of San Miguelito, the boundary of D<sup>o</sup>. José Ant<sup>o</sup>. Estudillo, where I ordered the party to put a land mark, thence E 2,500 varas to the land mark of D<sup>o</sup>. Julian Manriquez in the same hill of San Miguelito, the boundary of said Estudillo, thence to the North East

along the whole length of the boundary of said Manriquez 25000 varas which reached above the Sierra where the peak of said mountain was taken as a land-mark; thence West 17,500 varas to a round hill on the other side of the road from Temucula to San Luis and which forms the upper end of the potrero on the East; thence Northward 5000 varas to the point of the same Cañada; thence Eastward 400 varas to the boundary of the Indian, Pablo Apis, where a peak which is above said boundary was taken as a land mark; thence Northward the whole length of the boundary of the Indian Pablo Apis and returning towards the garden where we commenced the measurement 5000 varas to the place of beginning, at which <sup>place</sup> the party interested was told to put his land mark and that he remained in safe and peaceable possession, freely to enjoy the said land according to his grant, this act being declared finished authorized and signed by me and my assisting witnesses according to law— José R. Argüello — assy. — Juan M.<sup>a</sup> Barrón — assy. — Juanario Silva.

Further in fulfillment of the Superior decree for the appointment of two appraisers, one on the part of Don

Feliz Valdez and the other on the part of the Mission of San Luis Rey as Adms. for the purpose of appraising the improvements on the rancho of Temecula, the parties appeared - for the former Don Juan Warner, and for the latter Don Juan M<sup>a</sup>. Maron, who examining said property minutely fixed its value at three hundred and twenty five dollars, which was noted down authorized and signed by one and my ass'g. witnesses according to law - José R. Argüello - app<sup>r</sup>. - Juan M<sup>a</sup>. Maron - app<sup>r</sup>. - Juan Warner - ass'g. - Edward Stokes - ass'g. -  
 Juanario Abila

San Diego, June 5<sup>th</sup>, 1845. - These proceedings being concluded, let them be registered in the proper office and the copy be given to the party for his use. Thus I, José R. Argüello, 2<sup>d</sup> Constitutional Alcalde of the Pueblo and District of San Diego, ordered and signed with assisting witnesses, according to law - José R. Argüello - ass'g. - Juan M<sup>a</sup>. Maron - ass'g. - Juanario Abila - Registered - On the same day I delivered the copy - Certified. Compara with the original &c. San Diego June 5 - 1845

Filed in Office  
 Sept. 27<sup>th</sup> 1852.  
 (Signed) Geo. Fisher  
 Secy.

ass'g.  
 Juanario Abila.

Jose R. Argüello  
 ass'g.  
 Juan M<sup>a</sup>. Maron.



Office of U. S. Land Commission  
Los Angeles Sept<sup>r</sup> 30<sup>th</sup> 1852

Deposition of  
Antonio F. Coronel

6 SD  
PAGE 33

On this day before me Harry J. Thornton one of the Commissioners for ascertaining and settling private land claims in California, personally appeared Antonio F. Coronel, a witness produced on behalf of the claimant of the Rancho of Temecula, Don Luis Vigness, in the case which is No. 342 on the Docket of said Commissioners who, having been duly sworn testified as follows—

Examination by the Claimant.

Question First. What is your name and age? Where do you reside? If in California, how long have you resided here?

Answer. My name is Antonio F. Coronel. I am thirty three years of age. I reside in Los Angeles - California and have lived in California about eighteen years.

Question Second. Do you know the Rancho of Temecula - Have you been upon it often?

Answer. I know where the rancho of Temecula is and have been on it often. I was present in 1845 when judicial possession of Temecula was given to Don Felix Valdez and attended on that occasion for Don Luis Vigness, who was the agent of Don Felix Valdez.

Question Third. In May and June 1845 who was

acting as second Alcalde of San Diego?

Answer. Don Jon Ramon Arguillo.

Question Fourth. When was this Rancho occupied? was there any house built upon it and occupied by Don Felix Valdez or Don Luis Vigners? If yes, when? Were any cattle ever put on the Rancho by them? If so, at what time?

Answer. At the time judicial possession of Temucula was given, there was upon the Rancho a large adobe house which had been built long before by the Mission and I believe abandoned - There were also some indian huts. Don Luis Vigners afterwards built an adobe house upon the Rancho, and had a corral there and cattle. This house was occupied by the Mayor Domo of Don Luis. It was built I think, the same year that judicial possession was given. I do not know at what time the cattle were sent there. They were there I know in 1847.

Cross Examined by the Law Agent

Question First. Is the Rancho still occupied. are there persons living upon it - and cattle there

Answer. Yes, I believe so.

U. S. Law Agent present

A. F. Corwin

Sworn to and subscribed before me

this 30th of September 1852

Harry J. Thornton

Comr &c

Filed in office Sept 30th. 1852

J (signed) Geo: Fisher, Secy.

Office of U. S. Land Commission  
Los Angeles October 4<sup>th</sup> 1852

Deposition of  
Juan Manzo

6 SD  
PAGE 35

On this day before me Meland Hall one of the Commissioners for ascertaining and settling private land claims in California personally appeared Don Juan Manzo a witness produced on behalf of Don Luis Vique, the claimant of the Rancho of Temecula, in the case which is No. 342 on the Docket of said Commissioners, who having been duly sworn testified as follows: the law Agent was notified and attended —

Examined by the Claimant.

Question First. What is your name and age and where do you reside? If in California, state how long you have resided here?

Answer. My name is Juan Manzo. I am thirty eight years of age and reside in Los Angeles. I have resided in California nine years.

Question Second. Are you acquainted with the signature of Don Feliz Valdez? If yes, examine the Document marked N. on file as part of the deposition of Ignacio del Valle and say whether the signature thereto purporting to be that of Feliz Valdez is genuine.

Answer. I am acquainted with the signature of Don Feliz Valdez. I have examined the document referred to. The signature of Feliz Valdez appearing there is genuine.

Question Third. Examine the document marked Exhibit  
it M. on file with the deposition of Ignacio del Valle  
and say whether the conveyance therein contained  
was executed by you.

Answer. I have examined the document referred to.  
The deed therein to Don Luis Vigne was executed by me  
as the Agent or Attorney in fact of Don Felix Valdez.

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Question Fourth. Do you know any thing of the  
payment by Don Luis Vignes of any money for  
the buildings or improvements on the Rancho of  
Tumacaca?

Answer. The Rancho of Tumacaca had belonged  
to the Mission and the Mission had built an  
adobe house on it. When it was granted to Don Felix  
Valdez it was required that he should pay the apprais-  
ed value of the building to the Mission. When judi-  
cial possession of the land was given I was present. There  
was an appraisement of the building and it was valued  
at three hundred and twenty five dollars. There may  
have been some other trifling improvements on the place.  
The whole was valued at that. The amount of the valu-  
ation was paid, during same year that it was made,  
to Don Pio Pico, then Governor, for the Mission. It  
was paid by Don Luis Vigne.

Juan Manzo

Sworn & subscribed before me

Hoiland Hall, Comr

Filed in office Oct 4th. 1852.

(Signed) Geo. Fisher

Prof.

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I.L.M.

1844

6 SD  
PAGE 37

# Expediente

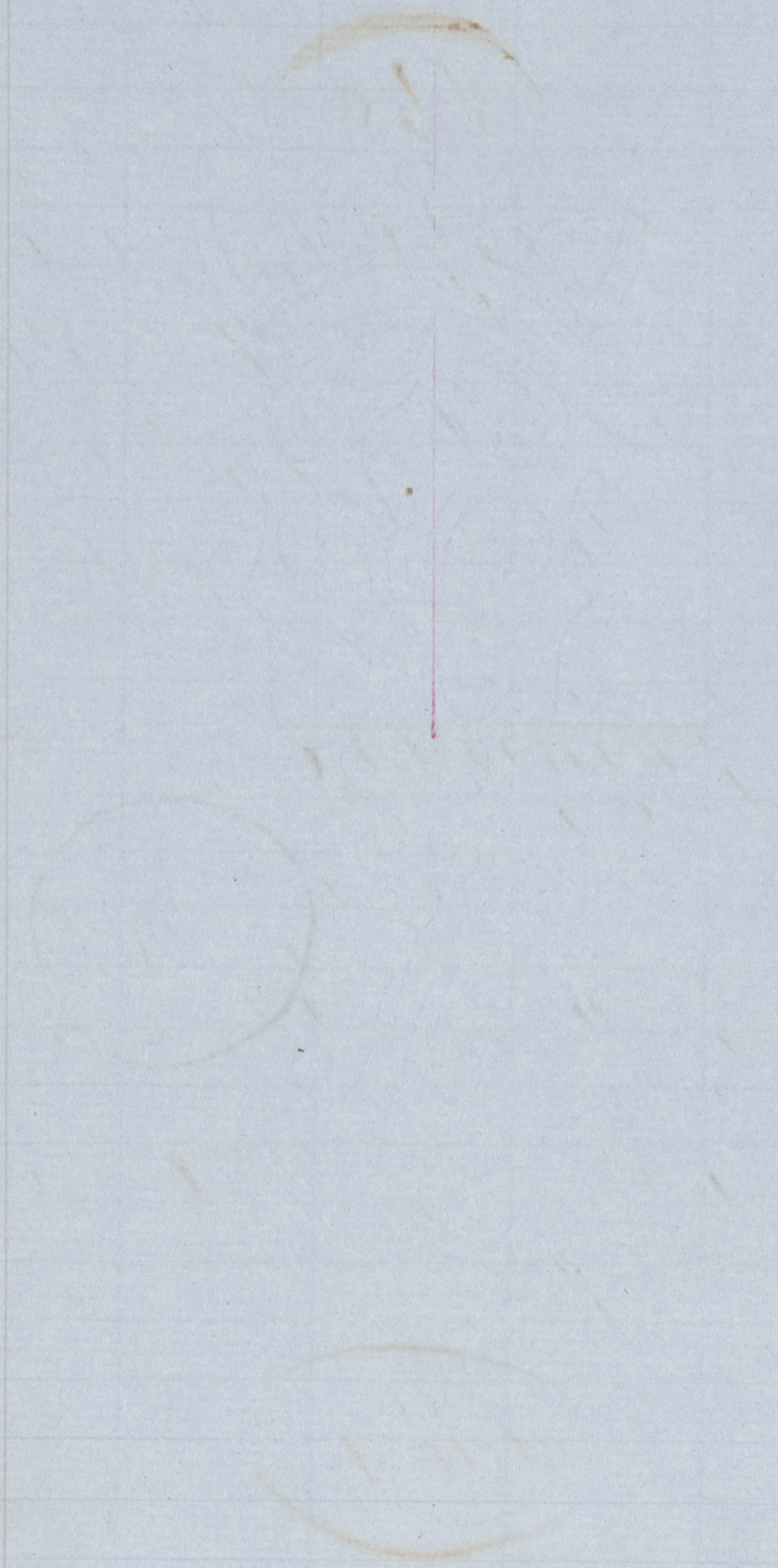
Promovido por el Comandante de Batallon  
de este Departamento, D<sup>no</sup> Felix Valdez en  
solicitud del paraje conocido con el nombre  
de.

Tomecula.

No

398

40



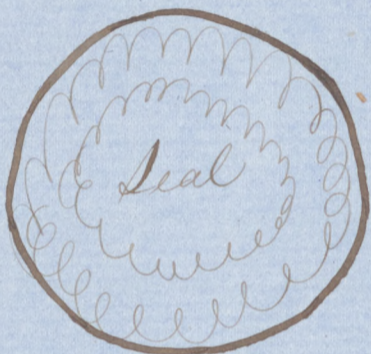
L. S. M.

Sello Quinto Un Real.

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

Michitovena.

Pablo de la Guerra,  
Por aus.<sup>a</sup> del Admor.  
Guill. Ed. Hartnell.



C. Sr. Gob.<sup>o</sup>

Monterey Agto. 30 de 1844.

Agreguese al Expediente en q. piden igual terreno los s. s. Ortega y Stokes p.<sup>a</sup> q. en vista de todas, se informe como esta prevenido en aquellas p.<sup>o</sup> decretos de hoy y practicados el Gob.<sup>o</sup> pueda resolver en justicia.

Michetta,

Felis Valdez Comandante de B.<sup>o</sup> del E.<sup>o</sup> de la Republica Mexicana ante V. E. con el mas profundo respeto hace presente: Que habiendose informado de D.<sup>a</sup> Joaquin<sup>m</sup> Ortega Admor. de la Mision de S. Luis Rey al el Rancho de Tencenta perteneciente a la mencionada Mision tenia algunos interes de ella o no, para en el segundo caso policiarlo el que suscribe, a lo que contesto el referido Ortega que podia francamente solicitarlo, compromitiendose

B. L. W.

ademas q. uno de susernos  
levantaria el diceno respectivo  
y dirigirlo al q. es pona para  
que hiciese la solicitud que  
deseaba; mas hoy con vastan-  
te asombro vé el que suscribe  
E. S. que faltandole á la buena  
fe el repetido Ortega ha so-  
licitado para sí aquel terreno  
aprovechandose de las atenci-  
ones se que ha estado ocupado  
por el desempeño de mi deber  
militar para no ocuparme  
de asuntos propios; pero en  
vista de lo es puesto y en a-  
tencion á mis dilatados ser-  
vicios así como á los dros. y  
concederaciones que segun la  
ley de Colonizacion le corres-  
pondan al que representa  
espera de V. E. que en caso  
de que sea consesible el citado  
Rancho de Temeula se le  
tenga presente segun creé de  
justicia. Por tanto

A V. E. suplica accida  
á su solicitud en lo que re-  
cibirá gracia.

Monterrey Agosto 25 de  
1844.

Felis Valdes.



6 SD  
PAGE 40  
4 J. L. W.

El terreno nombrado Temicula, que solicita el Señor Don Felis Valdez, Comandante del Batallon del Ejercito de la Republica Mexicana se halla enteramente valdío, terreno que igualmente han solicitado los Señores Ortega y Estoe, y vista la circunspeccion en que lo pretendieron, tubo abien esta comunidad en atencion á los servicios de ambos, preperirlos á otro alguno en la ocupacion del mencionado paraje. Es quanto puedo informar con toda sinceridad.

Mision de S.<sup>m</sup> Luis Rey 26 de Sep.<sup>o</sup>  
de 1844

Fr. José Maria de Zaludcar

El paraje conocido con el nombre de Temicula que se solicita en la presente instancia se haya enteram<sup>te</sup> valdío y pueda concederse al solicitante. Es quanto puedo informar sobre el particular en consecuencia al Superior decreto que antecede.

Puerto de S.<sup>m</sup> Diego 30 de Septiembre de 1844.

Juan M.<sup>a</sup> Carron

Excmo. Sr. Gobernador.

6 SD  
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5 L. No.

Ya que los Señores Oruega y Scot desisten de su pretension, del Terreno de Tomacula, queda solamente en pie la solicitud del Sr. Valdez, y por los buenos informes que se ven en este Expediente, parese que el parago esta baldio y en un estado de poderse conceder, pero como pertenece á la Misión de S. Luis Rey, y sobre este particular á dado un decreto la E. Asamblea Departamental á V. E. le corresponde lo que tubiere por conveniente.

Monterrey 18 de Oct. de 1844.

Mano. Jimeno

Monterrey Nov. 13 de 1844.

Diga el S. Sr. del Despacho el avalis prudencial de las fincas y bienes raices.

Michet

Excmo. Sr. Gobernador.

Para que no halla un error en el abalio de las fincas y bienes raíces de Temecula, seria conveniente; si á V.E. le parese bien, se nombren dos Peritos uno por parte del Sr. Valdez, y otro por de la Misión, para que estos den su opinion con presencia de otras fincas, y con el resultado podrá volver el expediente, por conducto del Juez de la Ciudad de Los Angeles para que V.E. resuelva lo q. tubiere por conveniente. fha ut supra.

Moan. Jimeno.

fha id.

Conforme  
Michitrad.

6 SD  
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Monterrey Ay.<sup>ta</sup>  
25 de 1844.

Informe el  
Sr. Srío del Des-  
pacho de este  
Gov.<sup>to</sup> Fernando  
proviamente  
el del M. R. P.  
Monro. de la  
Mision de S.  
Gab.<sup>l</sup> q. reci-  
bio la de S.  
Luis Rey y  
del Yten de S.  
Diego p.<sup>o</sup> no  
poderlo dar  
los encargados  
de las ultimas  
mencionadas  
Misiones y  
agregando al  
Expediente p.<sup>o</sup>  
tenerse presen

José Joaquín Ortega  
y Eduardo Stokes vecinos de  
la municipalidad de S. Die-  
go en este Departamento, y  
Mexicanos, el primero por  
nacimiento, y el segundo  
por naturalizacion, ante  
V. E. en la mejor forma  
y como mas haya a lugar  
en derecho, nos presenta-  
mos diciendo; que no si-  
endonos posible subsistir  
con solo el muy limitado  
terreno de que con anterior-  
idad se nos ha hecho dona-  
con en los terminos de es-  
tito por su escasez de agua,  
y principalmente para el  
riego de las labores que  
demanda la manutencion  
de nuestras familias, soli-  
citamos de la consideracion  
de ese Gobierno, el que se  
sirva conceder á nuestros  
hijos menores de edad,  
Ante M.<sup>o</sup> Ortega y Fran-  
cisco Adolfo Stokes, seis  
sitios de ganado mayor,  
en el terreno conocido por  
el nombre de Temucula,

47

6 SD  
PAGE 44

J. L. W.

te cuando se  
puebla a este  
Gov. la soli-  
citud relativa  
de D. Felix  
Valdez acerca  
ta tambien en  
la pta

Michelt.

pertenciente a la Misión  
de San Luis Rey, el que  
se halla enteramente baldío.  
Es colindante con el Rancho  
de San Jacinto de la  
propiedad de D. J. Ant.  
Estrella con el de la Sa-  
guna perteneciente a D.  
Julian Morriquo, y con  
las tierras de labor de la  
esperada Misión, todo  
conforme se demuestra

por el diseño que debidamente adjunta  
mos á V. E. para su sup. conve-  
niente, suplicandole que haga poner  
en tramites lo mas pronto posible  
esta nuestra solicitud que con nec-  
sidad hacemos, y por tanto

A V. E. pedimos se digno  
acceder á ella como queda solicitado.  
Sirviendose dispensarnos el uso del  
papel comun por falta del Sellado  
que corresponde.

Juramos no ser de malicia  
y lo necesario.

San Diego Julio 18 de 1844

Jose Joq. Ortega  
Eduardo Flores

Como dispone el Excmo. Sr. Gob.<sup>do</sup>  
pase la presid<sup>ta</sup> con los documentos  
que la acompaña al R. P. Ntro. de  
S. Luis Rey, y al Juez de S. Diego  
pa. y informen sobre su contenido  
pta la misma.

Man<sup>l</sup>. Jimenez

6 SD  
PAGE 45

None follows the map

49

9. S. D. N.

6 SD  
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El paraje de Temecula, que solicito en  
presente instancia los Señores Ortega y  
Estro se halla enteramente baldío, y no si-  
endo de publica beneficencia á esta Misión,  
y atendiendo á los servicios, que ambos han  
prestado á esta comunidad, les cede con  
preferencia á otro alguno la ocupacion de  
dho sitio, y para que en vista del presente  
informe pueda su Excelencia decretar en  
favor de los mencionados Ortega y Estro.  
Es cuanto puedo manifestar á Vuestra Ex-  
celencia en obsequio de la verdad,

Misión de S. Luis Rey 26 de  
Septiembre de 1844.

F. Jose Maria Zaludear

El paraje que se solicita en la presente  
instancia se haya enteramte baldío y pue-  
de concederse á los interesados amas tienen  
los bienes suficientes para cubrirlo y es  
cuanto puedo informar en consecuencia al  
Superior Decreto que ante sede S.

San Diego Septiemb. 30 de 1844.

Juan M. Marion

Excmo. Sr. Gobernador.

El Ciudadano Joaquin Ortega, por sí y á nombre de D.<sup>n</sup> Eduardo Stokes aseme presento á V. E. que desistimos del derecho que podemos tener á la precedente solicitant pretendiendo el paraje de Temeucula p.<sup>a</sup> q. pueda ocuparlo el Sr. D. Felix Valdez siempre q. V. E. tubiere abien con searsele.

Monterrey Octubre 20 de 1844.

Jose Joaquin Ortega.

10 S.D.N.

El C. Manuel Michetta Gonal. de Brigada del Ejercito Mexicano, Ayunte General de la Plana Mayor del mismo, Gobernador &<sup>o</sup>

Por cuanto el Comandte de Batallon D.<sup>n</sup> Felix Valdes ha pretendido para su beneficio personal y el de su familia el paraje consido con el nombre de Temeucula, colindante al N. con el Sr. Estudillo, al S. con Pala, al P. con Santa Margarita y al E y S.E. con la Agua Caliente; practi-



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= cada vez previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos; usando de las facultades que me son conferidas a nombre de la Nacion Mexicana he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras sujetandose a la aprobacion de la Exma. <sup>Asamblea</sup> Departamental y bajo las condiciones siguientes = 1<sup>a</sup> No podrá venderlo enajenarlo ni hipotecarlo imponer censo, vinculo fianza, ni otro gravamen alguno = 2<sup>a</sup> Podrá sercarlo sin perjudicar las traversias caminos y servidumbres; lo disfrutará libre y exclusivamente destinandolo al uso o cultivos que mas le acomode; p.<sup>o</sup> dentro de un año habitará la casa que se halla allí construida = 3<sup>a</sup> = Cuando se le confirme la propiedad solicitará del Juez respectivo que le dé la posesion juridica en virtud de este Despacho por el cual se demarcarán los linderos en cuyos limites pondrá arboles de sus mojoneras algunos arboles frutales o silvestres de alguna utilidad = 4<sup>a</sup> = El terreno de que se hace donacion es de seis sitios de ganado mayor pocos mas o menos segun explica el diseño respectivo. El Juez que diere la posesion lo hará medir conforme a ordenanza quedando el sobrante que resulto a la Na-

11 S.D.W.

cion para los usos convenientes — 3<sup>a</sup> — Si  
 contraviniere á estas condiciones perderá  
 su derecho al terreno y será denunciado  
 por otro — En consecuencia mando  
 que sirviéndole de título el presente y te-  
 niéndose por firme y valioso, se tome  
 razon de el en el Libro <sup>de</sup> que corresponda  
 y se entregue al interesado para su res-  
 guarda y demás fines. Dado en Mon-  
 terey á catorce de Dic. de 1844 —

Manuel Micheltorena — Manuel Ji-  
 menez Srío — Queda tomada ra-  
 zon de este título en el libro respectivo  
 á fojas 13<sup>a</sup> vuelta — Jimenez

12 L.D.M.

Excmo. Sr. Gobernador.

El q. suscribe en  
 cumplimiento á lo acordado  
 por la Exma. Asamblea De-  
 partamental en sesion del  
 dia 30 del pasado, acom-  
 paño á V.E. respetuosam<sup>te</sup>.  
 el Expediente que se me de-  
 volvió y el documento q.  
 acredita el derecho con q.  
 representa, p<sup>a</sup> solicitar la

aprobacion del terreno de Temecula.

Luego q. el Honorable cuerpo queda sesionado, publica a V.E. se sirva devolverme lo p<sup>a</sup> mi resguardo; y admitirme esta en papel comun por falta del sellado necesario en el lugar.

Angles y Mayo 3 de 1845.

Jn. L. Vignes

13 L.D.V.

Señor.

La Comision de Terrenos Valdios ha visto y examinado con todo el detenimiento posible el Expediente formado sobre el terreno de Temecula concedido al Sr. Comand<sup>te</sup> de Batallon D<sup>o</sup> Felix Valdes por titulo legalmente expedido p<sup>o</sup> el Gobierno de este Departamento con fha 14 de Diciembre del año proximo anterior. Asi como tambien se ha impuesto de estar suficientemente legalizado el poder con q. se presenta el Sr D<sup>o</sup> Jn. L. Vignes pidiendo la aprobacion de la Honorable Asamblea

6 SD  
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a la concesion del referido terreno p<sup>o</sup>. lo cual la Comision se ha persuadido q<sup>o</sup>. se han practica- das todas las diligencias q<sup>o</sup>. aparesen, con total arreglo a lo q<sup>o</sup>. sobre el particular dis- ponan las leyes y q<sup>o</sup>. fueron suficientes p<sup>o</sup>. conceder la propiedad de dho. terreno al nominado Sr. Valdes. En tal virtud la Comision sugere a la deferencia de la res- pectable corporacion la proposicion sig<sup>te</sup>.

Si aprueba la concesion hecha en favor del Ciudadano Felix Valdes del paraje nombrado Fincienta considerado en propiedad p<sup>o</sup>. el Gobierno de este Departamento en titulo legalmente librado con fha. catorce de Diciembre del año proximo anterior de entera conformidad con lo prevenido en la Ley de 18 de Agosto de 1824 y el Ar- ticulo 5<sup>o</sup> del Reglamento de 21 de Noviembre de mil ochocientos veinte y ocho.

Angeles Mayo 8 de 1845.  
Ygnacio del  
Valle. Narciso Botello

14 L. D. N.

Angelus May 12 de 1845.

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En sesion de este dia se aprubo por la Honorable Asamblea Departamental la proposicion del dictamen antecedente, mandandose devuelva el Expediente q. se presento al Exmo. Señor Gobernador para los fines consiguientes.

Pio Pico  
Agustin Olvera  
Sres.

15 L.M.

Angelus May 13 de 1845.

En vista de la aprobacion otorgada con fecha de ayer por la Exma Asamblea Departamental. Librese testimonio de ella y de este decreto a la parte de D. Luis Vignes, como apoderado de D. Felix Valdez, en confirmacion a la concesion del terreno de S. Encuentra q. obtuvo el segundo en catorce de Diciembre del año p.p. y entreguese al referido Sr. Vignes el documento q. acredita su posesion reservandose en la Secretaria el testimonio de las diligencias practicadas, mientras tanto se tiene a la vista su expediente original p. entonces devolva

el primero al interesado.

Pío Pico vocal mas antiguo de la Honorable Asamblea y Gobernador interino del Departamento de California así lo decretó, mandó y firmó, de q. doy fé

Pío Pico.

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16. L. V. O.

Excmo. Señor Gobernador.

Atentamente acompa-  
Angels Abril 28 de 1845. no a V.E. el Expediente  
que se practico para obte-  
ner del Superior Gobierno  
la concesion del Terrero de  
Tinnenta; con el fin de que  
se digno V.E. llevarlo al co-  
nocimiento de la Honorable  
Asamblea para los efectos que haya  
lugar.

Pico.

Atentamente acompa-  
no a V.E. el Expediente  
que se practico para obte-  
ner del Superior Gobierno  
la concesion del Terrero de  
Tinnenta; con el fin de que  
se digno V.E. llevarlo al co-  
nocimiento de la Honorable  
Asamblea Departamental  
para su aprobacion segun  
se refiere en el mismo tu-  
tulo. Por tanto.

A V. E. Suplico se sir-  
va dispensar el uso del  
papel por falta de sel-  
lado correspondiente.

Angels Abril 28 de 1845.

Jm. L. Vignier

Angéles Abril 28 de 1845.

Daos cuenta en sesion de hoy con esta instancia y Expediente á q. se refiere y se acompaña pass á la comision de terrenos valdicos

Pio Pico  
Pres.<sup>te</sup>

Agustin Obora  
Secio

17 S.D.N.

Señor.

La Comision de Terrenos Valdicos desea de llenar el objeto de su encargo de la manera mas conforme á las leyes, ha resaminado con detenimiento el Expediente y título relativo al paraje Temicula concedido por el Sr. Gov. D.<sup>o</sup> Manuel Michel Torina, en favor del Sr. Comandante de Batallon D. Felix Valdez, en 14 de Sete del año pasado, y aunque es verdad se hallan corridos todos los tramites de estilo seg.<sup>a</sup> estas consideras, la Comision se encuentra con un tropeso y no le es facil vovser sin ocurrir antes á V.E. a hacerlo presente, como lo verifico, y es el de que Temicula fué concedido al Sr.

Valdez, antes dho, y ahora representa el Sr. D. Luis Viques pidiendo la aprobacion de esta Honorable Asamblea, en la citada concesion, sin justificar el dho. q. tenga p.<sup>a</sup> ellos; en tal virtud, la Comision pone a la deliberacion de V. S. la siguiente proposicion.

Devuélvase al que represento esta solicitud y Expediente adjunto, p.<sup>a</sup> que manifieste el dho. que tenga al sitio de Tenucula que refiere.

Angelos Abril 30 de 1845.

Narciso Boruto.

Ygnacio del Valle

Angelos Abril 30 de 1845

En sesion de este dia se aprobó por la Honorable Asamblea la proposicion del dictamen que antecede acordando se ponga el expediente en manos de Excmo. Sr. Gov.<sup>r</sup> p.<sup>a</sup> los fines consiguientes.

Pis Pico.  
Presd.

Agustin Olvera.  
Seco.



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Office of the Surveyor General of the  
United States for the State of Cali-  
fornia.

I Samuel D. King, Sur-  
veyor General of the United States for  
the State of California, am, as such,  
now having in my Office, and under  
my charge and custody, a portion of  
the Archives of the former Spanish  
and Mexican Territory or Department  
of Upper California, do hereby certify  
that the eighteen preceding and hereunto  
annexed pages of tracing paper, num-  
bered from one to eighteen inclusive,  
and each of which is verified by my  
initials (S. D. K.) exhibit true and ac-  
curate copies of certain documents now  
on file, and forming part of the said  
Archives, in my Office.

In testimony whereof I have  
hereunto signed my name,  
officially, and affixed my  
private seal (not having a  
seal of office) at the City of  
San Francisco, Cal., this sixth  
day of November A. D., 1851.

Sam. D. King,  
Sur. Gen. Cal.

60

Filed in Office Sept. 10<sup>th</sup> 1832.  
(Signed) Geo. Fisher  
Secy

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*[Large, illegible cursive scribble]*

Translation of  
Esprohante

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The place known by the name of Temucula which is solicited in the present instance is entirely vacant and may be granted to the applicant. This I can say upon the subject in obedience to the preceding decree -

San Diego Sept 30<sup>th</sup> 1844 Juan Ma Marron

To His Excellency the Governor  
Now that Ortega & Stokes have desisted from their application for the land called Temucula, there only remains the application of Sr Valdez, and from the favorable reports which are seen in this Esprohante, it appears that the place is vacant and in a condition to be granted, but as it belongs to the Mission of San Luis Rey and the Departmental Assembly has made a decree upon this subject, it is for your Excy to determine what may be proper.  
Monterey Oct 18 - 1844 Manuel Jimeno.

Monterey Nov. 13. 1844  
Let the Secy of the office state the estimated value of this property and real estate  
Michelto

To His Excellency the Governor  
In order that there may be no error in the valuation of the property and land of Temucula, it would be well if your Excy thinks proper, to name two experts, one on the part of Sr Valdez and the other on the part of the Mission to give

Their opinion after seeing said property, and when this is done the Especificante may be returned through the Judge of the City of Los Angeles in order that your Excy may determine upon what is right.

Date as above

Mans Jimeno

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Date as above -

Let it be done -

Michelto

To his Excellency the Governor

I Feliz Valdez, Commandant of a Battalion of the Mexican Army, with the utmost respect, represent - that having inquired of Dn Joaquin Ortega, Adm. of the Mission of San Luis Rey, whether the Rancho of Semecula, belonging to said Mission, was of any value to it or no, with a view of afterwards asking for it, the said Ortega replied that I could freely solicit it, promising moreover that one of his sons in law should prepare the proper diseno and send it to me in order that I might make the application I desired, but to day I am very sorry to see that, in violation of good faith, the said Ortega has solicited that land for himself, taking advantage of the attention which I have been obliged to give to the discharge of my military duties and my consequent inability to attend to my own affairs; but in view of what I have

stated and as a reward of my long service, as well as from regard to the rights and consideration due me according to the laws of Colonization, I hope, if this Rancho of Temucula can be granted that your Excellency will do what is just - Wherefore I pray your Excellency to grant my application, whereby I shall receive favor.

Monterrey Aug 25<sup>th</sup> 1844

Feliz Valdez

Monterrey Aug 25<sup>th</sup> 1844

Let the Expediente be attached in which Ortega and Stokes ask for this land, in order that in view of every thing and being informed as to what is determined by decree of this day, the Governor may decide with justice -

Micheltó

The land called Temucula, which Sr Feliz Valdez, Com<sup>at</sup> of a Batallon in the Army of the Mexican Republic, solicits, is entirely vacant. This land is also solicited by Ortega and Stokes who have first asked for it. This community, out of regard for the services of both, has thought proper to prefer them to any other in the occupation of the said place. This I can report with all sincerity.

Mission of San Luis Rey Sept 26<sup>th</sup> 1844

Sr Jos<sup>e</sup> Maria de Zalvidea

To his Excellency the Governor  
Jon Joaquin Ortega and Edward Stokes residents of

the municipality of San Diego in this Department and Mexicans, the former by birth and the latter by naturalization, present ourselves before you in the best form and as may be most effectual in law, and say - that it not being possible for us to subsist upon the very small quantity of land which has been heretofore donated to us on account of the scarcity of water and principally for the irrigation of the cultivated land necessary for the support of our families, we solicit from the consideration of this Government that it would grant to our minor children Ant<sup>o</sup> Ma Ortega and Francisco Adolpho Stokes, six leagues of <sup>the</sup> land known as Truncula belonging to the Mission of San Luis Rey and which is entirely vacant. It adjoins the rancho of San Jacinto belonging to D<sup>o</sup> J Ant<sup>o</sup> Estudillo, the Rancho de la Laguna belonging to D<sup>o</sup> Julian Mouriquiz and the tillable lands of the said Mission, as shown by the map which we attach hereto for your information, praying that this our application which we make from necessity, may be proceeded with as soon as possible. Wherefore we pray that you will think proper to grant this as it is asked, excusing the use of common paper for want of sealed. We swear that we proceed in good faith &c

San Diego July 18. 1844.

Jos<sup>e</sup> Joa<sup>q</sup> Ortega  
Edward Stokes.

Monterrey Aug 25 - 1844

Let the Secy of the office of this Government report, first obtaining the report of the Rev<sup>d</sup> Minister of the Mission of San Gabriel who received that of the Mission of San Luis Rey and the Judge of San Diego, the latter

being given because the Admr of the last mentioned Mission could not report, and attaching to the Expediente when it is returned to this Government, the petition of D<sup>n</sup> Felix Valdez upon which a decree was made of this date

Micheltó

As ordered by his Excy let this together with the documents which accompany it be laid before the Rev<sup>d</sup> Minister of San Luis Rey and the Judge of San Diego in order that they may report upon the contents. Same date -

Maul Jimeno

The place called Tinecula solicitada in the present instance by Ortega and Stokes is entirely vacant and of no public benefit to this Mission. Out of regard to the services they have both rendered to this community, the occupation of said land is ordered to them in preference to any other person and in view of this report it can be granted by your Excy to said Ortega and Stokes. This I can make known to your Excy with truth.

Mission of San Luis Rey Sept 26. 1844 Fr. Jon Maria de Talvidra

The place now solicitada is entirely vacant and can be granted to the parties interested, who have, moreover, property sufficient to use it. This is what I can state in obedience to the preceding Superior Decree

San Diego Sept 30 - 1844

Juan Ma Marron

To His Excellency the Governor

The citizen Joaquin Ortega for himself and in the name of D<sup>n</sup> Eduardo Stokes represents - that we renounce the right which we might have under our preceding application to the place called Truncula in order that D<sup>n</sup> Feliz Valdez may occupy it, should you think proper to give it to him.

Monterey Oct 20 - 1844

Jose Joaquin Ortega

The Citizen Manuel Michelmoreno Brigadier Genl of the Mexican Army, Adjutant Genl of the Genl Staff, Governor &c

Whereas the Commandant of Battalion D<sup>n</sup> Feliz Valdez has asked, for his own benefit and that of his family the place known by the name of Truncula, bounded on the north by the land of Estudillo, on the south by Pala, on the west by Santa Margarita and on the east and south east by the Agua Caliente, the necessary proceedings having been taken and inquiries made as prescribed by the laws and regulations, in the exercise of the powers which are conferred upon me in the name of the Mexican Nation, I have thought proper to decree him the said land declaring it his property by this presents, subject to the approval of the Departmental Assembly and under the following conditions

1<sup>st</sup> He shall not have power to sell, alienate nor hypothecate



Decate it, nor to impose upon it any ground rent, entail, pledge nor other charge.

2<sup>d</sup> He may enclose it without injury to the crossings, roads and servitudes: may enjoy it freely and exclusively appropriating it to such use or cultivation as may suit him; but within one year he shall occupy the house now built on it.

3<sup>d</sup> When the property is confirmed to him he shall solicit the proper judge to give him judicial possession in virtue of this decree, by whom the boundaries shall be marked, upon which he shall place in addition to the landmarks some fruit trees or forest trees of some utility.

4<sup>th</sup> The land of which donation is made is six leagues "de ganado mayor", a little more or less, as is explained in the proper diseno. The judge who gives possession shall have it measured in conformity to the ordinance, leaving the surplus which may remain to the nation for its uses.

If he should violate these conditions he shall lose his right to the land and it shall be open to be denounced by another.

Wherefore I order that these presents serving for a title and being held firm and valid be recorded in the proper book and be delivered to the party interested for his protection and other purposes. Given at Monterrey the 14<sup>th</sup> of December 1844

Manuel Micheltorano

Manuel Jimeno - Secy

This title is recorded in the proper book - page 13 - vuelta

Jimeno

To his Excellency the Governor

I respectfully present to your Excellency the espediente prepared to obtain from the Superior Govt a concession of the lands of Temucuca with a view that you will be pleased to bring it to the notice of the Departmental Assembly for its approval as is required by the title

Angles April 28-1845

In L Vigne

6 SD  
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Angles April 28-1845

According to the prayer of the petitioner let this be laid before the Assembly for its action

Pico

Angles April 28-1845.

This application and the espediente to which it refers and which accompanies it were presented in the Assembly this day and referred to the Committee on vacant lands.

Pio Pico - Pres-

Agustin Olvera - Secy

The committee on vacant lands desirous of fulfilling its duty in the manner most conformable to Law, has examined minutely the espediente and title relating to the place called Temucuca, granted by Genl Manuel Michelto to the Comd of Batallion Dn Feliz Valdez on the 14<sup>th</sup> of Decr last, and although all the proceedings are regular in making this concession, the committee has encountered a difficulty which it is not easy to overcome without applying to the Assembly - which is, that Temucuca was granted to Sr Valdez and now Dn Luis Vigne asks the approval of

5  
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the Assembly without showing his right to do so -  
Wherefore the Com<sup>rs</sup> presents for deliberation the fol-  
lowing proposition - "Let this application with the es-  
pediente attached be returned to him who presents it  
in order that he may show the right which he may  
have to the Rancho of Temucula referred to -  
Angels April 30 - 1845

Narciso Botello  
Ignacio del Valle

Angels April 30 - 1845.

In its session of to day the Assembly approv-  
ed the foregoing proposition, ordering the espediente  
to be plac'd in the hands of the Gov<sup>r</sup> for further purposes.

Pio Pico - Pres.

Agustin Olvera - Secy.

To His Excellency the Governor

I the undersigned in obedience to what is decreed  
by the Assembly in its session of the 30<sup>th</sup> of last month,  
respectfully present to you Excy the espediente which  
was returned to me and the document which es-  
tablishes my right to represent, and solicit the ap-  
proval of, the grant of the land of Temucula. As soon  
as that Hon<sup>ble</sup> Body can confirm it, I pray your Excy  
to return it to me for my protection - and to receive  
this on common paper &c

Angels May 3 - 1845

In I Vique

The Committee on vacant lands has seen and  
examined with the utmost care the espediente re-  
lating to the lands of Temucula granted to the Com<sup>rs</sup>

of Battalion D<sup>n</sup> Feliz Valdez by title legally issued by the Gov<sup>t</sup> of this Dept, dated Dec 14 of last year, and also finds sufficiently legal the power under which D<sup>n</sup> Luis Viquez presents himself asking the approval of the Assembly of the grant of said land; from all which the committee is persuaded that all the proceedings which appear have been taken in conformity to the laws on the subject and were sufficient for the grant of said land to Sr Valdez, and there-<sup>fore</sup> submits to the consideration of the Hon. Assembly the following proposition.

The conversion made in favor of the citizen Feliz Valdez of the place called Temucua granted in full property by the Gov<sup>t</sup> of this Dept by a title legally issued the 14<sup>th</sup> of Decr last in entire conformity to what is provided in the law of the 18<sup>th</sup> of August 1824 and article 5 of the Regulations of the 21<sup>st</sup> of November 1828, is approved.

Angels May 8 - 1845

Ignacio del Valle

Narciso Botello

Angels May 12 - 1845

In its session of to day the Hon. Assembly approved the foregoing proposed decree, ordering the espediente which was presented to be returned to his Excy the Governor for further objects

Pio Pico - Pres

Agustin Olorra Secy

Angels May 13 - 1845

In view of the approval by the Departmental

Assembly, bearing date on yesterday, let the evidence of it and of this decree be delivered to Don Luis Vique, as attorney of Don Felix Valdez confirming the grant of the land called Truncula which was granted to the latter on the 14<sup>th</sup> of Decr last; and let the document which proves his power be delivered to the said Viques, retaining in the office a copy of the proceedings taken from his original espediente, which is to be returned to the party interested

Pio Pico—

Senior Vocal of the Assembly and Govr ad int. of the Dept of the Californias, thus decreed, ordered and signed - To which I certify -

Pio Pico  
\_\_\_\_\_

Filed in Office Sept. 13. 1852  
(Signed)

Geo. Fisher,  
Secy.

1892  
S. J. ...

1892

1892

Luis Vignes  
 vs  
 The United States } "Tenucula"  
 Six square Leagues

6 SD  
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Opinion

This claim is based on a grant made to one Felix Valdez by Governor Micheltonna, bearing date December 14<sup>th</sup> 1844, the papers on file show that said grant was on the 12<sup>th</sup> day of May A.D. 1845 duly confirmed by the Departmental Assembly, and that on the 3d. day of June A.D. 1845, judicial possession of the premises in question was formally given to the Attorney of the grantor. The petitioner has also placed on file a deed of conveyance, purporting to have been executed by Juan Manzo who represents himself as Attorney of Felix Valdez, this deed of conveyance is made to the present petitioner, and is the instrument through which he derives title from Felix Valdez the original grantor. The handwritings of the respective persons attached to the foregoing several documents is proved to be genuine.

The power of Attorney by virtue of which the said deed was executed, has not been produced. It is however recited in the deed, that the power under which Juan Manzo acted was produced and shown to the magistrate, besides the petitioner has produced a letter from Felix Valdez, in which the authority of Manzo to act for him is fully recognized, the deed may therefore be considered

as having been executed by competent authority, and as conveying to the petitioner whatever interest Felix Valdez had in the premises therein described, at the date of its execution.

The next inquiry which arises in the investigation of this case is, in regard to the performance of the conditions annexed to the grant, by the original grantee Felix Valdez.

The depositions which have been taken by the petitioner and placed on file as evidence in the cause, together with the history of the grant, as contained in the traced copy of Expediente, show that, at the time the grant was made, the land which it embraced was claimed by the Mission of San Luis Rey, and that the grantee was required to pay the appraised value of the buildings which the Mission had erected on the land, it is further shown that the buildings were valued at three hundred and twenty five dollars. The buildings here referred consisted principally of an adobe house, with some other trifling improvements. It is proved by the deposition of A. F. Coronel that, in addition to the Mission buildings, which were on the place at the date of the grant, the present petitioner, Don Luis Vignez, "afterwards" built an adobe house upon the rancho, and had a corral there, this however, the witness states was occupied by the mayor domo of Don Luis Vignez, and he thinks the house was built the same year that judicial possession was given. The house which the witness Coronel states was built by Luis Vignez, could not have been built the same year that pos-



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session was given to Valdez, because he did not purchase the premises from Valdez until the following year, 1846. There is no proof that either the original grantee or the petitioner, ever lived upon the place known by the name of Temucula. The second condition annexed to the grant expressly provides that "within one year he shall occupy the house now built on it." The requirements of this condition goes far to confirm the views heretofore expressed in other cases which have been decided by this Commission, first, in regard to the condition of building a house within a year, we have decided that, when it appeared that a house had been built, and was on the land at the date of the grant, the condition was unnecessary, and the party could not be required to build an additional house. So far as having a house upon the land was essential, that requirement of the law was fully and substantially complied with. Secondly, the language of the condition annexed to the grant now under consideration, sustains another view of the law heretofore expressed by this Commission, viz that it devolved upon the party to show an actual inhabitation of the land. We see in the case before us that the condition does not require a house to be built, for the reason that one was already built, but it does require that he, meaning the grantee, shall within one year occupy the house then on the land. If ~~then~~ the grantee had complied with this condition, the policy of the colonization law would then have been fully satisfied and carried out, there would have been a house upon the land, and that

house would have been inhabited by the grantee. There is no proof that the grantee ever complied with this condition, indeed it is evident that he acted by Attorney not only in procuring the judicial possession, but in every other matter connected with it. The judicial possession was given to his Attorney, and when he sold the premises to the petitioner, he conveyed by Attorney, all the evidence in the case goes to show that he lived at a distance from the land, and most likely never even saw it, much less occupied it. This grant contains a condition against alienation. A majority of this commission have heretofore decided that this condition was authorized by the regulations of 1828, and that according to those regulations the party before he could be relieved from the restraint which the condition imposed upon him, was bound to show that he had complied with the other conditions of his grant, otherwise his grantee would take nothing by his deed of conveyance. In the case before us the petitioner has failed to show a compliance with the essential condition of his grant, viz, the inhabitancy of the house, we are therefore of opinion that the <sup>original</sup> grantee sold the premises to the petitioner in violation of a material condition of his grant, and that his grantee took nothing by such sale and conveyance. In illustration of the foregoing views, it may be further stated, that it is apparent from the letter of Valdez to Viquez, written as early as the month of March 1845, in which he discloses the fact, that a negotiation had already commenced, between himself and Viquez for the sale of this rancho and this it will be remembered was some three months before his grant had

been approved, and before, Viguera, as his Attorney had received judicial possession of the premises. From this I think it is plain, that he never intended to comply with the conditions of his grant, but obtained the grant for purposes of speculation alone. That he did make a very handsome speculation is evident from the consideration as expressed in his deed to Viguera, which is one thousand dollars, deducting the amount paid by Viguera for the Mission improvements, which amounted to something over three hundred dollars. This deed bears date the 15<sup>th</sup> of June 1846. Whether Viguera was the actual owner of the premises before that time is not shown, but taking the date of the deed as the true time when the ownership passed from Valdez to Viguera, the material condition of his grant, and upon the performance of which his right to sell depended, was at that time wholly unperformed. The subsequent acts of the petitioner are not material particularly as more than a year had expired from the date of the grant to the time the sale was made, but it may be stated this is no proof that even the petitioner after he had purchased the property resided upon it. The party in this case occupies the position of one seeking a specific performance of his contract, without being able to show that he had complied with the conditions which the contract had imposed upon him. If this application had been made to the Government of Mexico, would that government have felt itself so bound, that in good conscience, an obligation would have rested upon it, to complete the claimant's title. I think not. The party instead of showing a performance of his part

of the contract, shows a palpable violation of its letter and spirit, he did nothing which he was required to do, but he did do that which he was positively enjoined from doing. Where then is the moral obligation to be found, that it is said was binding upon the former government to complete this title? It is sought for in vain in the acts of the party himself. The consideration which the government had a right to demand for the public domain, was never paid. The policy which the government had in view was, in this instance, disregarded, and so far as the acts of the party were concerned the land remained in precisely the same condition it was before the grant was made. It was no part of the policy of the colonization law of 1824 to make grants of the public domain for the mere purpose of speculation, without any corresponding benefit to the government, and to prevent the very object, which the facts of the case show the grantee had in view, the article prohibiting the party from alienating the land, until, ~~until~~ he had proved a compliance with the terms of his agreement was, no doubt, inserted in the regulations of 1828. For these reasons, we are of opinion that the claim in this case should be rejected.

Filed in office March 14. 1854.

(Signed)

Geo: Fisher,

Prof.

Dissenting  
Opinion.

Case No. 342

Luis Vignes  
vs.  
The United States

"Tomecula."

6 SD  
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When the opinion of the majority of the Commission, rejecting this claim, was delivered, I expressed verbally my non-concurrence therein for the reasons contained in former opinions delivered by me in cases involving some of the same questions.

As the one now under consideration presents a point which did not directly arise in the others, I avail myself of the occasion to give my views on that question in connection with those already referred to.

I dissent therefore from the opinion of the majority as to their first objection to the validity of this claim, to wit: the non-performance of the conditions of the grant;

1<sup>st</sup> For the reasons set forth in my opinion on the same point, delivered in case No. 327, Anastasio Carrillo, for the place called "Punta de la Concepcion".

2<sup>nd</sup> Because the grant in this

case, having every sanction which the Mexican Government could confer, vests in the grantee a perfect title to the land granted; and, although it was unencumbered with conditions, still, as their performance was to happen subsequent to the vesting of the Estate, the want of performance would only be taken advantage of, by a proceeding instituted by the Government for that especial purpose - See *Glemet et al. vs The United States*, 13 Howard P.P. 257, 258. In that case, although the court decided the grant was an imperfect one, and did not vest the fee in the grantee, and that the conditions were precedent and not subsequent; consequently, the principle, as stated above, did not apply, yet its correctness, as contended for by the counsel for the applicants, is distinctly admitted and affirmed.

It follows, then, that the grant was not ipso facto void by the failure of the grantee to fulfil its conditions, but was only voidable, and liable to be declared forfeited, by a particular proceeding instituted by competent authority, to ascertain the fact of the failure to perform the conditions, and declare the forfeiture. That pro-

ceeding, according to the Mexican Law, was by denouncement, and is referred to in the grant itself, when it declares that, in such a case, the grantee shall forfeit his right to the land, and it may be denounced by another;— until it was had, therefore, the promises were subsisting and continuous.

In the case of Hancock vs McKinley 7<sup>th</sup> Texas Reports, where this whole question is ably discussed, the occasion of the event is in entire accordance with these views. After defining what was essential to constitute a valid Mexican grant, so as to invest the grantee with the legal title to the estate, they decide that the rights vested under it could not be divested, by the simple failure of the grantee to fulfil its conditions, but that a subsequent proceeding, by competent authority, was necessary for that purpose, and in order to insure the forfeiture. That the State of Texas had succeeded to all the rights of the States of Texas and Coahuila under the Mexican Government, and without inquiring into the right of the State, under the Constitution, to pass a law for the enforcement of such a forfeiture; they hold, that, until some such proceeding was provided

for by law, the Courts had no power to do it, and the rights of the grantees remained unimpaired.

It is not pretended, that any such proceeding was had in the present case before change of Government, — and I know of no authority, by which it can be done now, or could have been done at any period, since that event took place. The proceeding by denouncement is entirely unknown, both to the common law, and to our Statute law, and the practice of issuing grants with conditions subsequent, upon which it is founded, is opposed to our whole system of Land Laws. Admitting that the United States succeeded to all the rights of Mexico in the ceded Territory, she took them subject to the provisions of the treaty of Guadalupe Hidalgo and of the Law of Nations, and it will scarcely be contended, that Congress has any authority to pass a law for the forfeiture of private property, the rights to, which had vested and was subsisting at the date of the treaty. — The 9th Article of that instrument declares that Mexicans, who shall have elected to become citizens of the United States, "shall be maintained and protected in the free enjoyment of their liberty and



property." On the case of *Smith vs The United States*, 10th Peters, P. 329, the Supreme Court define the word property and its legal import, as used in the Treaty of 1803, for the cession of Louisiana, from which the provision in the 9<sup>th</sup> <sup>article</sup> above quoted, is copied, verbatim, as follows: "It was never doubted by this Court that property of every description in Louisiana, was protected by the Law of Nations, the terms of the Treaty, and the acts of Congress; nor, that, in the term property, was comprehended every species of title, inchoate or perfect, embracing those rights which lie in contracts; those which are executory, as well as those which are executed." See also, to the same effect, 4 Peters, 512 and 9<sup>th</sup> Peters, 117.

Such a law, then, according to the terms of the Treaty and the principles above cited would, in my opinion, be a palpable violation of the national faith, and in contravention of the Constitution of the United States.

The decision of the majority of the Board, in this case, according to my view of the question, is, in effect, to decree such a forfeiture - a result, I am satisfied, not contemplated or authorized by the law of Congress, creating

the Commission, or which, if authorized by it, would never receive the sanction of the Supreme Court.

I, who dissent from the opinion of the majority of the Board, in their second objection to the validity of the claim, to wit— the violation of the first condition of the grant, prohibiting the grantee from alienating the land granted— 1<sup>st</sup> For the reasons contained in my opinion, filed in Case No. 8, Robert F. Stockton, for the place called "Pórrero de Santa Clara"— 2<sup>nd</sup> Because, I consider it opposed to the Laws, usages, and customs of the Mexican Government in California, which are prescribed for our Government by the act of the 3<sup>rd</sup> of March, 1851.

How far the Mexican Government in California were authorized by law to insert such a condition in the grants made by them, has already been considered in the case last referred to. In relation to the usages and customs of the country on this point, an examination of a great number of cases submitted to the Board, shows that sales were frequently made by the grantees, notwithstanding the prohibition contained in the grant. In some cases, the permission of the Governor appears to have

been first obtained, but in others, and perhaps the most numerous, they were made without his consent, and without regard to the prohibitory clause, and I have as yet met with but a single case, in which the legality of a sale of land, and <sup>the</sup> validity of the rights acquired under it, were called in question before the Mexican authorities in California, and the decision in that case fully sustains the legality of the act, and its binding effect upon the parties. The original Record or Expediente of the proceedings in that case is filed among the papers in claim, N<sup>o</sup>. 333, now pending before the Board for its decision, and presents the following state of facts.

It appears, that on the 17<sup>th</sup> of August, 1839, the then Governor of California granted to Thomas Boun a tract of land, called "San Felipe of Las Animas," of the extent of two square leagues, in the usual form. On the 7<sup>th</sup> day of October, 1842, the grantee, Boun, conveyed the land to Francisco Garcia and Carlos Moreno. On the 1<sup>st</sup> of August, 1844, Francisco Garcia presented his petition to Governor Micheltorona, setting forth the fact of the said sale and conveyance, and alleging

that, at the time of executing the same, Boun was not the owner of the land, because in the three years which had elapsed, he neither built on nor cultivated it, and that he had no right to sell it— he therefore prayed to be relieved from the payment of the balance of the purchase money remaining unpaid— moreover, de nouncing the land in due form as vacant on the part of Boun," and soliciting a regrant of it to himself.

This petition was referred by the Governor to the Secretary of State, who on the same day makes the following report.

"To his Excellency the Governor.

I find no objection to allowing the person interested to occupy as his own the land named "San Felipe," by the right which Don Tomas Boun conveyed to him; but with respect to the release from the payment (of the amount) in which the resident Francisco Garcia purchased, I think it belongs to the Superior Tribunal to decide, as a meeting was executed in relation to the sale of the land to which I refer.

Your Excellency's superior disposition will be most proper.  
date the same.

(Sg.<sup>a</sup>) "Moad. Jimeno."

Upon this report the Governor issued the following decree.

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Monterey August 1<sup>st</sup> 1844.

In entire conformity to the foregoing report, I declare the place to be the property of him who represents, and with respect to the second part upon the payment of that contracted for before the Magistrate, the title not having the conditions of not being able to sell, alienate, &c., let it be sent to the Supreme Tribunal for its decision.

(Sg.<sup>a</sup>) Micheltrona."

The proceedings before the Supreme Tribunal to which was referred the question in relation to the payment of the balance of the purchase money, are as follows.

"Superior Tribunal of Justice

Let the Magistrate of the Pueblo of San José report whether from the 7<sup>th</sup> (17<sup>th</sup>) of August, 1839, in which the land, known by the name of "Cañada de las Animas y San Felipe", was granted to Don Tomas Bon, he

had it without fence, house, plantings  
or cultivation until the 7<sup>th</sup> of October,  
1842, on which day he alienated it  
by sale to Don Francisco Garcia.

Monterey August 2<sup>d</sup>, 1844.

On account of the sickness of  
his honor the president,

(Sg.ª.) José Maria Castañares."

"In compliance with the Superior  
decree which precedes, I have the honor  
to say, that the land granted to Don  
Tomas Bon has never had any improve-  
ment, whether house, corral, fence or  
planting, but in the month of Decem-  
ber of last year, Don Francisco Garcia  
made a corral which still exists; with  
which, I think I give the due com-  
pliance.

Pueblo de San José Aug. 8, 1844,

(Sg.ª.) Ant. M.ª Pied."

The following is the decision of the board upon the question submitted.

Monterey, September 12, 1844.

"As the contract, which was made  
between Francisco Garcia and Tomas  
Bon, appears to have been perfected by  
the delivery which the former made to  
the latter, of a part of the amount for  
which he purchased and by the occu-  
pation of the land by him, and Bon  
not having been paid on the sale

which he made, the person representing cannot be relieved from the payment of that which he owes to Bon, for although it may be true, that he did not occupy the land in three years, and by that, according to the title, had lost his right, it is also true, that both the contracting parties, having consented to the delivery and receipt, without any denouncer of the land intervening, until it was made, the vendor made use of that which he had acquired with a just title, and in this view Garcia is bound to pay Bon.

Pass this to the Magistrate of San José, that he may notify both parties, returning all (the papers) to him who represents.

(Signed.) Malvarin."

This decision of the highest judicial tribunal in California, delivered by its President, a gentleman of acknowledged ability, <sup>and eminence as a jurist</sup>, is, in my view of the stated principles of law, conclusive and obligatory on this Commission in adjudicating the questions it involves. I have already had occasion in a former opinion to refer to the rule adopted and laid down by the Supreme Court in construing the laws of particular

States or foreign nations; but the doctrine is so clearly and forcibly presented in the case of *Edmundorff vs Taylor*, 10<sup>th</sup> Wheaton, P. 159, that I am induced to quote that portion of Judge Marshall's opinion, which relates to it. He says:

"This Court has uniformly professed a disposition in cases depending on the laws of a particular State, to adopt the construction which the Courts of the State have given to those laws. This course is founded upon the principle supposed to be universally recognized that the judicial department of any government where such a department exists, is the appropriate organ for construing the legislative acts of that government.

Thus no Court in the universe which professed to be governed by principle, would, we presume, undertake to say the Courts of Great Britain or France or of any other nation had misunderstood their own Statutes, and therefore erect itself into a tribunal which should correct such mistakes. We receive the construction given by the Courts of the Nation as the true sense of the Law and feel ourselves no more at liberty to depart from that con-



struction, than to depart from the words of the Statute." Again, in 2 Peters, P. 84, Judge Story in delivering the opinion of the Court, says, "If the question had been settled by any judicial decision in the State where the land lies, we should upon the uniform principles adopted by this Court recognize that decision as a part of the local Law."

The application of these principles to the questions presented in this case must, I think, be apparent.

A question arises as to the legal effect and consequence of a failure to comply with the conditions of a grant made under the authority of the Mexican Laws of Colonization. This question is referred to the highest judicial tribunal for adjudication, and the decision, <sup>of the</sup> most distinctly affirms the right of property in the grantee, notwithstanding his failure to comply with the conditions of the grant, by recognizing his power to exercise over the land granted the highest attribute of ownership, that of alienating to another for a valuable consideration. This decision is a remarkable one, and establishes two propositions, 1<sup>st</sup> That the contract having been perfected by the payment of a part of the purchase money by

the vendor and the occupation by him of the premises, and no suit having been brought to set it aside, the latter had no right to go behind it, and enquire into the right of the vendor to sell, in order to be released from the payment of the balance due; and 2<sup>nd</sup> That, although the vendor might have forfeited his right by reason of his failure within three years to occupy the land, yet, as no denouncement had been made prior to the execution of the contract by which that forfeiture could have been perfected and enforced, the right of property which had vested in him under the grant was still subsisting and valid, and he could, in the language of the decree dispose of that which he had acquired with a just title. If then, I am right as to the true meaning and effect of the decision, it fully sustains the two positions I have been attempting to establish; 1<sup>st</sup> That, although by reason of the failure of the grantee to fulfil the conditions of the grant, the right of property he acquired under it became liable to forfeiture, yet, this forfeiture did not become absolute, so as to divest the Estate, until the proper proceeding by denouncement was had, in order to complete and enforce it; and, 2<sup>nd</sup> That

the grantee had full power to sell or dispose of the land, notwithstanding said failure, at any time prior to a consummation of the premises.

Applying, then, the rule of construction, as laid down by the Supreme Court of the United States and cited above, it furnishes a precedent which this Commission is bound to respect, and to which, in my opinion, its decisions should be made to conform.

I am aware, that, in relation to the second proposition as to the power of the grantee to sell, I may be met by the objection that in the case referred to, as stated in the decree of Governor, the grant contained no prohibition against alienation, and therefore the decision would not apply to a case where that condition was inserted; but, I do not consider that the argument is in any degree affected by it. I understand the position of the majority to be, that the condition prohibiting the alienation of the land granted, until the conditions of occupation have been performed is required by the regulations of the 21<sup>st</sup> of November, 1928, and that it is to be derived from the 11<sup>th</sup> and 12<sup>th</sup> sections of that Ordinance. They have also repeatedly held, that where a condition

was imposed by the Law, it was equally binding, whether inserted in the grant or not.

If, then, this condition was required by the law, it was the duty of the Governor to insert it in all the grants which he issued; there is nothing, that I have been able to discover, which give him the arbitrary discretion to insert it or not at his pleasure. If it is not imposed by the law, then its insertion by the Governor was a violation of the law, and therefore void. In either aspect of the case, the objection can have no bearing on the point under discussion. If the views of the majority are right, then the decision would apply, as well to grants which contain the condition, as those which do not; if they are wrong, then the condition is void and entitled to no weight or consideration.

The 11<sup>th</sup> and 12<sup>th</sup> articles of the Ordinance refer, in my opinion, exclusively to grants to Compusarios or contractors, who, in consideration of the grant, undertake to introduce a certain number of families, and colonize them upon the lands. The 10<sup>th</sup> Section which immediately precedes them, the language of those articles, and the whole context,

prove clearly to my mind, that their operation was strictly limited to that class of grants. In those cases the conditions are precedent, and the right of property does not vest in the contract or until he has complied with the terms of his contract, the grant itself being null and void until he has performed them, though a power is reserved to the Governor "to revalidate it" in proportion to the part which he may have fulfilled; that is to say, in proportion to the number of families he may have introduced.

Cases of this description come clearly within the principle decided in the case of *Glen et al. vs The United States* hereinbefore cited. But grants to individuals and families, where the title has been perfected by every sanction required by the law, so as to vest the Estate in the grantee prior to the period fixed for the performance of the conditions, are manifestly grants with conditions subsequent, resting upon totally different grounds and subject to entirely different rules of law in their consideration. Those rules are plainly indicated in the authorities cited in the preceding portion of this opinion.

The grant in the case now under consideration is clearly of the latter

description; it was regularly issued to the grantee by the Governor, after the proper inquiries and investigations had been made; it was signed by the Governor, and countersigned by the Secretary, and recorded in the proper book; it was presented to the Departmental Assembly for its approval, duly approved by that body, and the certificate of the same, or final document in confirmation of the grant delivered to the agent or Attorney of the grantee. Judicial possession of the land was given in due form of law by the proper officer, and the boundaries marked out and established: Thus, every requisite, which the law required on the part of the Government or any of its functionaries, was fully complied with; and this, according to every authority which I have been able to find on the question, was all that was necessary to constitute a perfect title and invest the grantee with the legal Estate in the premises. I have already shown that the title so vested could not be divested without a subsequent legal proceeding, authorized by competent authority for that purpose. No such proceeding was ever had in this case prior to the transfer of the country to the United States, and ac-

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According to the terms of the treaty, the relative rights of the parties could not be changed by any act occurring after that event took place. They must, therefore, stand and be adjudicated with reference to their condition at the date of the treaty, or whatever period may be fixed as the time when the jurisdiction of Mexico in the ceded territory ceased, and that of the United States commenced.

But, admitting, for the sake of argument, that the United States had the right to prescribe a mode, by which the forfeiture incurred by the grantee by reason of his failure to fulfill the conditions of his grant, could be inferred, I have been unable to find any law which confers the authority to do it; it is certainly not to be found in any act of Congress by which the duties and powers of this Board are defined.

Upon this hypothesis, then, until Congress has created or conferred the power upon some tribunal to enforce the forfeiture, the rights of the grantee under the grant must remain unimpaired.

I am, therefore, of the opinion that at the time the Treaty of Guadalupe

pe Hidalgo took effect, the claimant in this case had a valid, subsisting, right of property in the land which he claims, which right by the terms of the treaty and the law of Nations, the United States are bound to respect, and which, under the provisions of the law of the 3<sup>d</sup> of March, 1851, it is the duty of this Commission to confirm.

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Filed in Office March 14th, 1854.

(Signed) Geo. Fisher,
Secy.

[Large decorative flourish]

Decree

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Luis Vignes
vs
The United States

In this case on hearing
the proofs and allegations it is adjudged
by the Commission that the claim of the
said petitioner is not valid, and his
application for a confirmation of the
same is therefore denied.

Alphus Seeh

Thompson Campbell

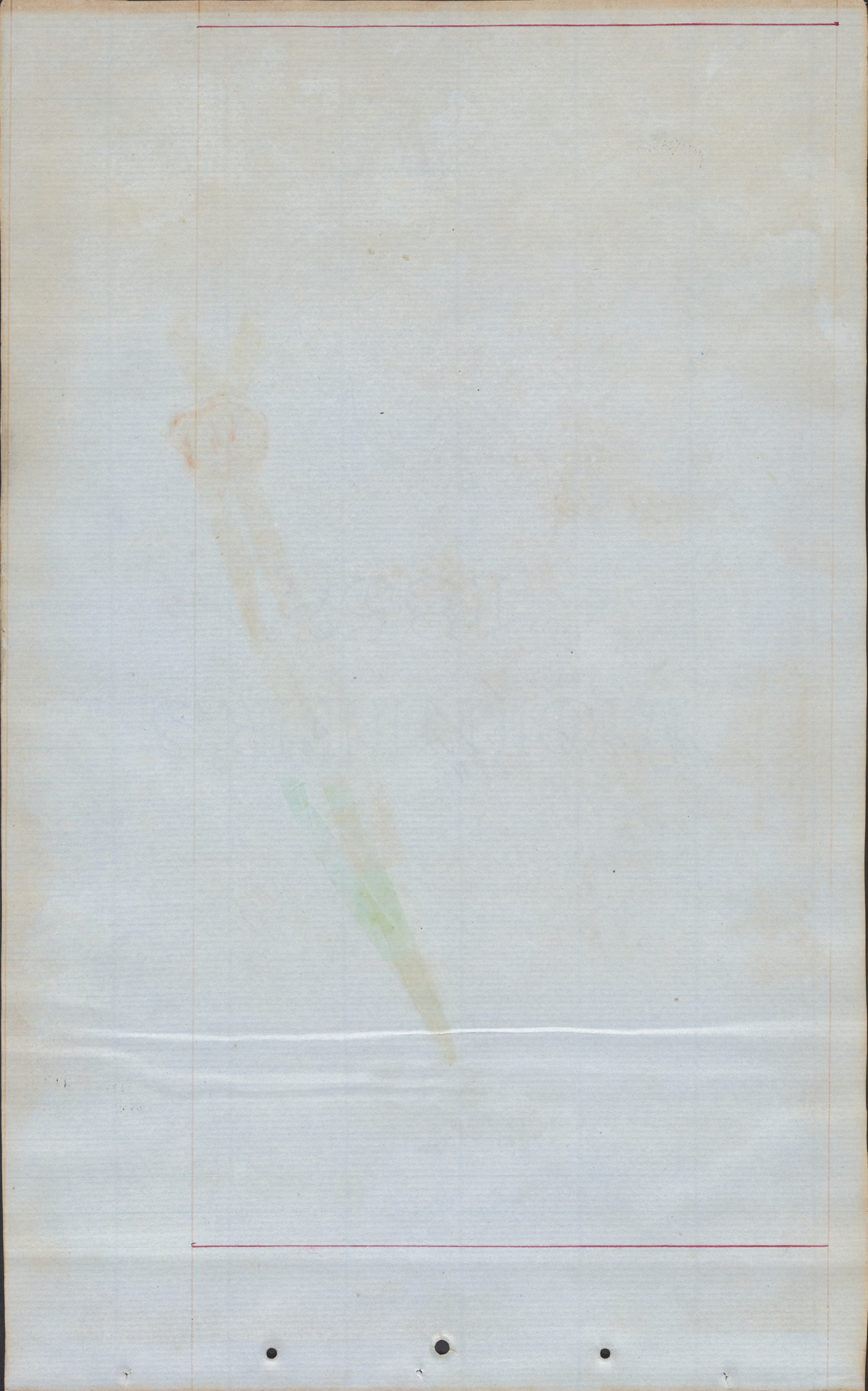
R. Aug. Thompson

Commissioners

Filed in office March 14. 1854.
(Signed)

Geo. Fisher

(Secy)



Office of the Board of Commissioners,

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

I, *George Fisher*, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing *Ninety-nine* pages, numbered from 1 to *99*, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. *342* on the Docket of the said Board, wherein *Luis Vignes* is

the Claimant, against the United States, for the place known by the name of *"Temecula."*

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



Geo. Fisher
Secy
U.S. Land Commission

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Luis Chiquero

N. 312

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