

CASE No.

47

SOUTHERN DISTRICT

NEAR GABRIEL GRANT

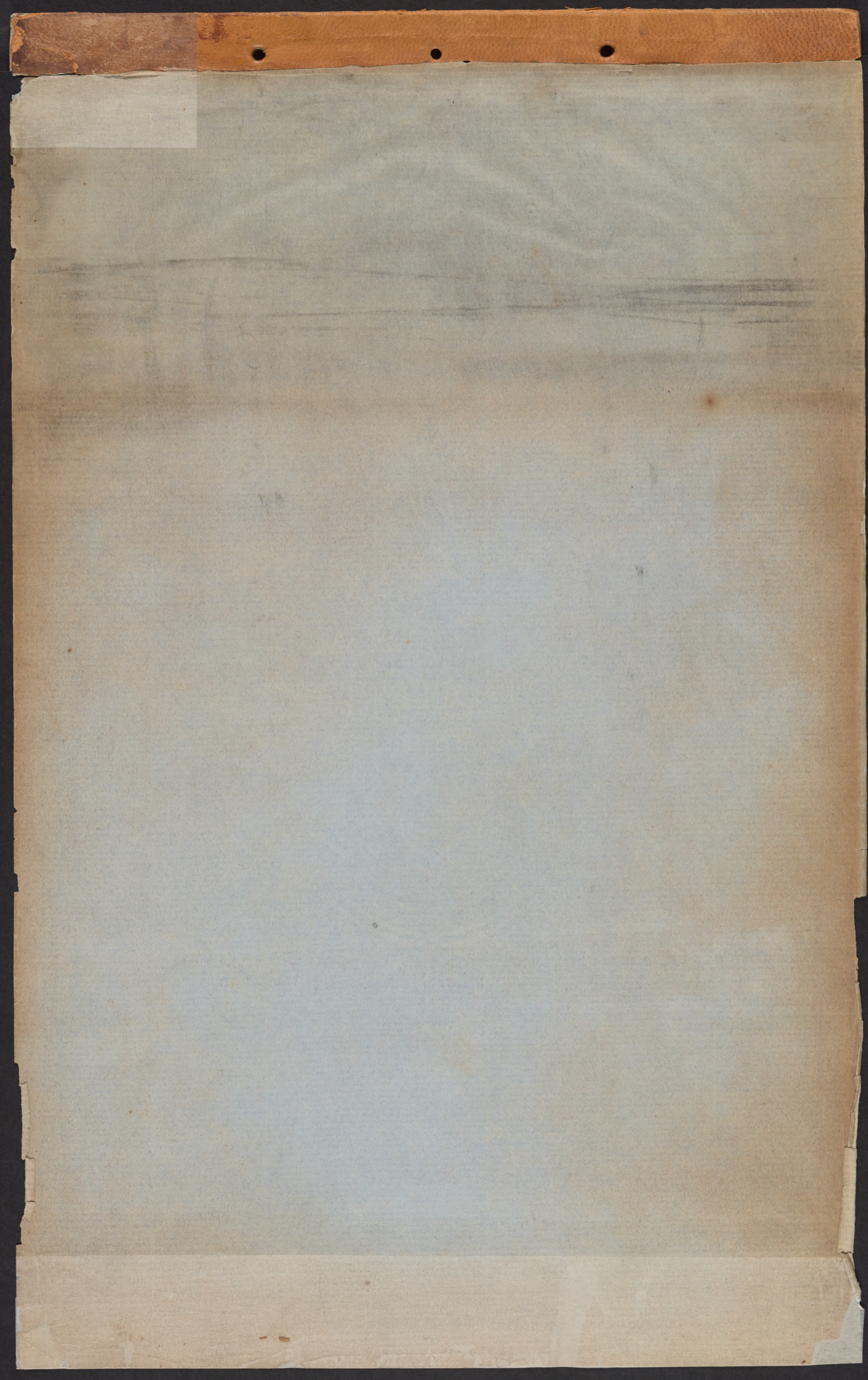
VICTORIA REID

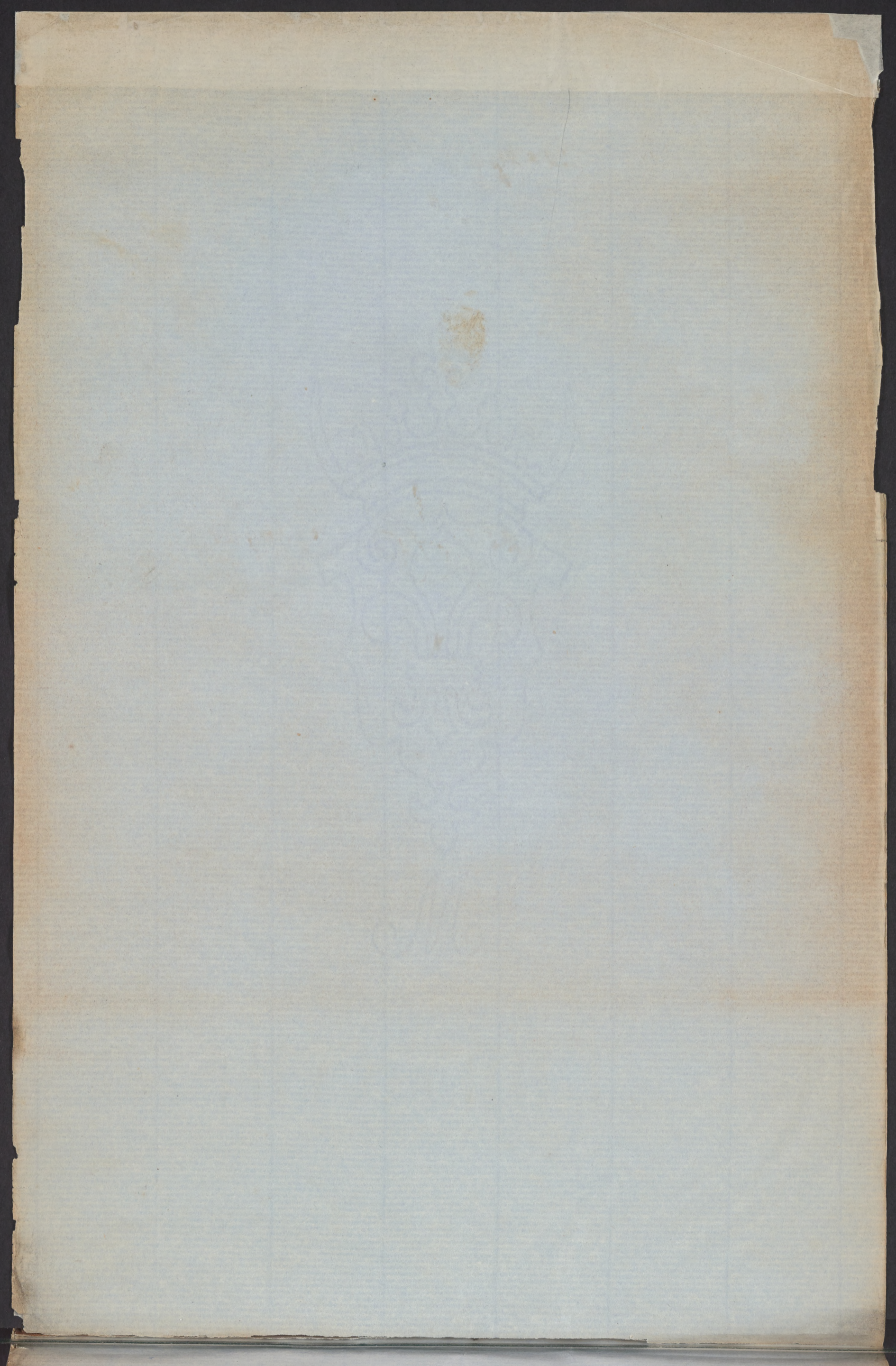
CLAIMANT

LAND CASE 47 SD PAGES 20

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PAGE 1

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 468

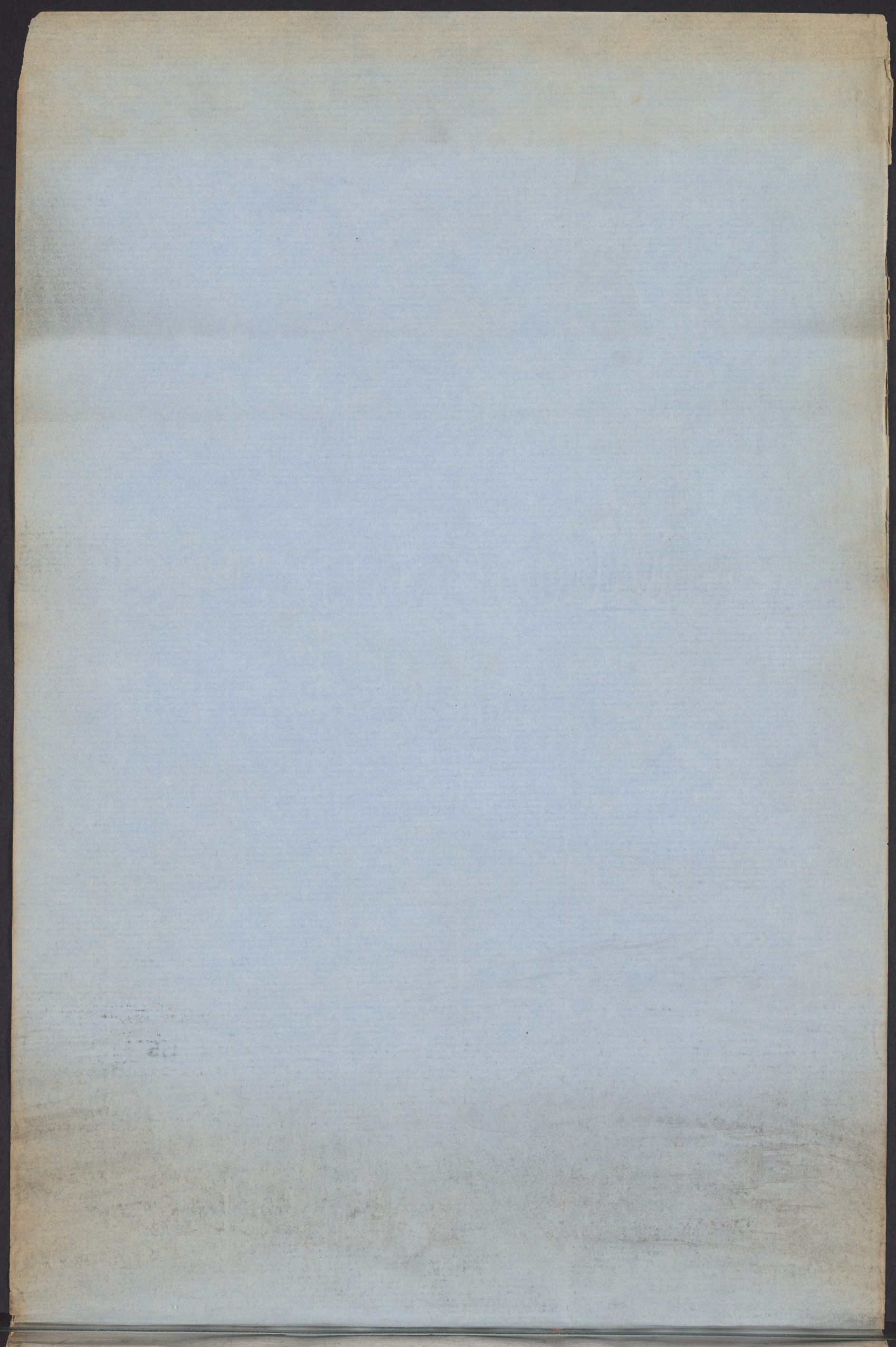
Victoria Reid CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

Near Gabriel



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, that on this *eighty day of November*, 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;

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The Petition of *Victoria Reid*
for the Place named
Two lots of ground near San Gabriel
was presented, and ordered to be filed and docketed with No. 468 and is as follows, to wit;

(Vide page 3 of this Transcript.)

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

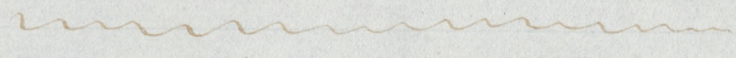
Los Angeles November 9th 1852.
In case no. 468 *Victoria Reid* for two lots of ground near San Gabriel, the deposition of *Michael White*, a witness in behalf of the Claimant, taken before Commissioner *Wiland Hall*, with documents marked N. H. nos 1 & 2 and translations thereof marked B + D, annexed thereto was filed.

(Vide page 3 of this Transcript.)

San Francisco Sept. 1st 1853.
Case No. 468 *Victoria Reid* for land near San Gabriel, called; The counsel for the Claimant read the evidence; argued, submitted and taken under advisement.

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San Francisco Nov. 29th 1853,
In the same case Commissioner Alpheus
Fitch delivered the opinion of the Board
respecting the claim;
(vide page 15 of this Transcript)



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At the ... Board of W. S. ...

To the Hon the Board of U. S. Land Commissioners
appointed to settle private land claims in California.

Petition

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The petition of Victoria Reid respectfully represents.
That hitherto & previously to the 15th of May 1843 Serafin
de Jesus an emancipated Indian formerly a Neophyte
of the Mission of San Gabriel presented to the Governor
of the Department of California a claim or petition
praying that a certain lot of land situate at San Gabriel
aforesaid in the present county of Los Angeles & containing
two hundred varas square might be granted & granted
unto him, said promises being founded by promises of one
Belarde another resident of said Mission. That such pro-
ceedings were had upon said petition or claim, that after-
wards & on or about said 15th of May 1843, Manuel
Micheltona in the name of the Mexican Nation & by
virtue of the powers in him vested & the laws then in force,
did, by letters patent dated that day, grant unto the
said Serafin de Jesus the ownership of the said lot of land.
That afterwards & on or about the 2^d day of June 1843
the judicial delivery of possession was made to the said
grantee by the officer having jurisdiction of such matters.
And your petitioner further shews that afterwards and
previously to the 3^d of December A. D. 1843, the said
Serafin de Jesus presented to the Governor of the Depart-
ment of California another claim or petition praying
that another lot of land situate at San Gabriel aforesaid,
contiguous to the Northernly side of the premises
so as aforesaid granted to him by said Manuel Mich-
eltona be granted to him as an addition to the
same, which said addition contained two hundred
varas square. And that such proceedings were had
upon said claim or petition that afterwards & on or
about the said third day of December A. D. 1843,
Pro Vico then Governor of the Department of Cal-
ifornia, in the name of the Mexican Nation &
in the exercise of the powers vested in him & by virtue
of the laws then in force, did, by letters patent dated
on the last mentioned day grant unto the said
Serafin de Jesus the ownership of the said additional

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lot of land. And that afterwards & on or about the 15th of the same month, due judicial delivery of possession of the said premises was made to said Serafin de Jesus by the competent officer having jurisdiction of such matters. And your petitioner further shows that at and about the date respectively of the said grants, the said Serafin de Jesus took & ever afterwards kept peaceable & undisturbed possession of the two said lots of land & premises. And your petitioner further shows that subsequently, about the year 1847 the said Serafin de Jesus being seized of the two said lots of land & premises, departed this life intestate, unmarried, without issue and without moving children, & that his next of kin surviving him then was & now is your petitioner. And your petitioner further shows that since the death of the said Serafin de Jesus, she has been in the quiet & undisputed possession of the two said lots of land & premises & now holds the same as surviving next of kin of the said Serafin de Jesus. That there is no adverse or conflicting claim to said premises known to your petitioner. That the said premises have never been surveyed by the U. S. Surveyor General. That the evidence on which she relies to establish this claim consists of original grants & papers relating to the judicial delivery of possession which are now in her possession & ready to be produced & proved; copies of the same being filed as part of this petition the records of said grants & proceedings & maps relating thereto in the Archives now in the custody of the U. S. Surveyor General for California, certified copies of which she prays leave to file as soon as the same can be procured & the testimony of witnesses to be produced before your Hon. Board.

Respectfully submitted for such actions as the nature & justice of this claim may require.
 E. O. Crosby
 Counsel for Claimants
 Filed in Office Nov 8th 1852.
 Geo. Fisher. Secy.

Los Angeles Nov 9th 1852.

On this day before Comr H. Hill came Michael White, a witness in behalf of the claimant Victoria Reid petition No 468 & was duly sworn, his evidence being given in English.

The U. S. Associate Survey Agent was present.

Deposition of
Michael White

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

My name is Michael White, my age is forty two years, I reside at San Gabriel in the County of Los Angeles & have lived in California over twenty years.

I am acquainted with the hand writing & signatures of Manuel Micheltorene, Francisco Arce & Hugo Reid. A paper is now shown me purporting to be a grant to Serafine an Indian dated May 15th 1843.

The signatures of the said several persons on said paper I believe to be genuine. It is hereto annexed & marked H. H. No 1. Said Reid June 2nd 1843 was an acting Justice of the Peace. I am also acquainted with the signatures of Pio Pio & Jose M. Covarrubias. The signatures of the said Pio, Covarrubias & Reid appearing on a paper now shown me purporting to be a grant to Serafine de Jesus dated Sept 3rd 1845, I believe to be genuine. Hugo Reid on the 15th of October 1843 was an acting Justice of the Peace. Said paper is hereto annexed and marked H. H. No 2.

I know Serafine an Indian woman, she is dead. I was acquainted with the family well. She left no children. Her nearest relative & next of kin I believe to be Victoria Reid now the wife of Hugo Reid. I think Serafine occupied the land before the first grant in 1843. She had an adobe house on it - had a vineyard & fruit trees - the two tracts form one place - She continued to occupy the place so long as she lived & died in the house some two or three years ago. Since her death it has

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been occupied by a family living in it & stating case of it for Mrs Reid.

Questions by Sine Agent.

I never knew or heard of her leaving a will & I have no knowledge that any Administration has been granted on the estate.

Michael White.

Sworn & Subscribed

Before me

Holland Hall. Cour.

Filed in Office Nov 9th 1832.

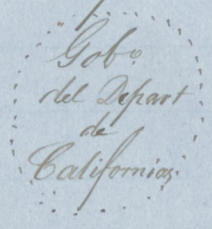
Geo: Fisher. Secy.

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H. H. n.º 101

Manuel Michelborona, Gobernador Comandante General e Inspector del Departamento de ambas Californias



Por cuanto el Indigena de la Mision de San Gabriel llamado Serafino de Jesus ha pretendido para su beneficio personal y el de su familia un terreno de docientas en Cuadro para establecer en el una Casa y Huerta Colindante con el beano de la misma Mision llamado Velarde: practicadas previamente las diligencias y averiguaciones Conservatorias 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 condicion de no poderlo vender ni enagenar. Si contraviniere a esta prevencion perdera su derecho al terreno y sera denunciabile por otro.

En consecuencia mando que sirviendo de titulo el presente y teniendose por firme y valido se tome razon de el en el Libro a que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en la Ciudad de los Angeles a quince de Mayo de mil ochocientos Cuarentay tres.

Man. Michelborona
Fran. Arce
Srio int.

Queda tomada razon de este titulo en el libro respectivo a fojas 5

Fran. Arce
Srio int.

Como Pura auxiliar de posesion al interesado en presencia de Felipe Reid, Prospero y Lomas

San Gabriel Junio 2 / 43
P. Hugo Reid

Document
H. H. n.º 1

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Filed in office Nov 9th 1852
Geo: Fisher
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1852
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Manuel Micheltorina, Governor, General Commandant
& Inspector of the Department of both Californias.
P.S.

Whereas the Indian of the Mission of San Gabriel called Serafin de Jesus has claimed for his personal benefit & that of his family a lot of land of two hundred (varas) square to establish there a house & garden, bounded by premises of the resident of the same Grant No 1843. Mission called Velarde, the proceedings & investigations in that behalf having previously been taken according to the provisions of laws & regulations, in the exercise of the powers conferred upon me in the name of the Mexican Nation. I have come to grant to him the aforesaid tract declaring unto him the ownership thereof by these present letters subject to the conditions that he shall have no power to sell nor alien the same. If he violate this condition he shall lose his right to the land and it may be denounced by another.

B. Translation of Grant No 1843. Mission called Velarde, the proceedings & investigations in that behalf having previously been taken according to the provisions of laws & regulations, in the exercise of the powers conferred upon me in the name of the Mexican Nation. I have come to grant to him the aforesaid tract declaring unto him the ownership thereof by these present letters subject to the conditions that he shall have no power to sell nor alien the same. If he violate this condition he shall lose his right to the land and it may be denounced by another.

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Consequently I order that these presents serving him as a title & being held as firm & valid be entered of record in the Book where it is customary & delivered to the party interested for his protection & further ends. Given at the city of Los Angeles on the fifteenth of May one thousand eight hundred & forty three.

Manuel Micheltorina
Francisco Arce, Secretary, at interim

This title is entered of record in the appropriate Book at page 5.

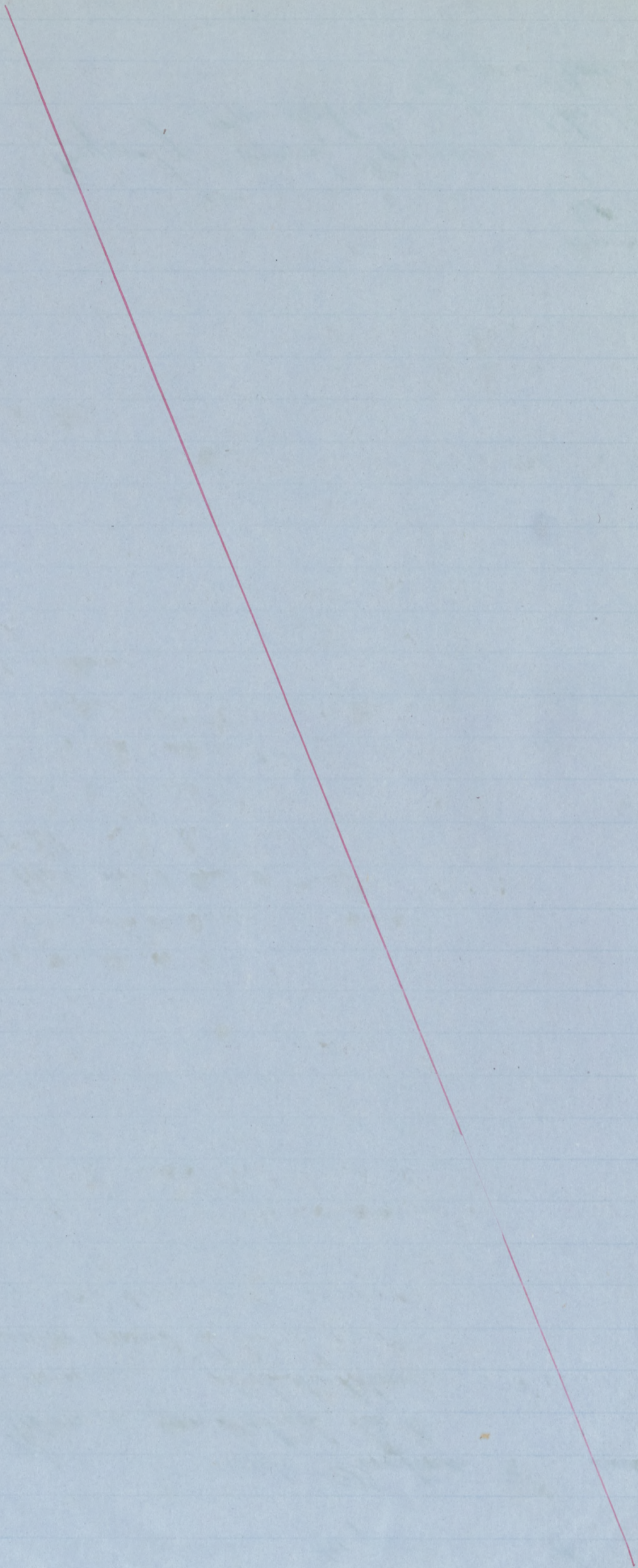
Francisco Arce.

As Auxiliary Judge I gave possession to the party interested in the presence of Felipe Ruiz, Prospero and Lomas.

San Gabriel June 2^d 1843.
P. Hugo Ruiz.

Filed in Office Nov 8th 1852.
Geo: Fisher. Secy.

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APR 1958

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 Pío Pico, Vocal decano de la Asamblea
 Departamental y Gobernador provisional de las
 Californias.

Por cuanto Serafín Pons, natural
 de la Misión de San Gabriel, ha pretendido para su
 beneficio personal y el de su familia, la ampliación
 de doscientas varas de tierra en cuadro, hacia el Norte
 del terreno que posee en la expresada Misión; practicadas
 previamente las averiguaciones convenientes, usando de las
 facultades que me son conferidas a nombre de la Nación
 Mexicana, he venido por decreto de este día en concederle
 las expresadas doscientas varas en cuadro de tierra
 declarándole la propiedad de ellas por las presentes
 letras, y bajo la condición que no podrá venderlas
 ni enagenarlas, y que quedaran en beneficio de los
 herederos que tenga.

En consecuencia mando que teniendo el
 presente título por firme y válido, se tome razón de
 él en el libro respectivo, y se entregue al interesado para
 su resguardo y demás fines. Dado en la Ciudad
 de Los Angeles, en papel común por no haber del
 Sellado, a tres de Diciembre de mil ochocientos
 Cuarenta y Cinco.

Pío Pico

José M.^a Covarrubias
 Srío

Queda tomada razón de este título en el
 libro respectivo

Los Angeles fecha ut supra

José M.^a Covarrubias

Dada la posesión conforme lo ordenado, y
 mandé fijar las mojeras en presencia de Felipe
 Reid, Prospero y Ramon Valencia.

San Gabriel 15 de Dho 1845
 P. Hugo Reid

San Gav. Lit. 6 de 1845

*Thus crossed
in the original*

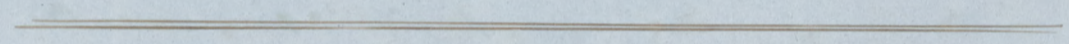
Por la presente nota, digo yo el abajo firmante que cedo y traspaso en favor de Flovati el derecho de posesion que a mi favor tenia, como lo demuestra el susodicho titulo que segun la escritura respectiva heppor cedido mi esposa y llo el terreno de nra propiedad en favor del ya referido

Amigo de Serafino Pesus
Mano N. Moldan

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Filed in office Nov. 9th 1852
Geo. Fisher
Sec

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Pio Pico, Senior Member of the Departmental Assembly
& Provisional Governor of the Californias.

Thomas Serafin de Jesus a native of the Mission of San Gabriel has claimed for his personal benefit & that of his family an additional grant of two hundred varas square of land towards the north of the tract which he possesses at the said Mission, the proper investigations having been made, in the exercise of the powers conferred upon me, in the name of the Mexican Nation, I do hereby decree of this day grant unto him the said two hundred varas square of land declaring unto him the ownership of the same by the present letters & under the conditions that he shall not have power to sell nor alien the same & that they shall remain for the benefit of his heirs.

D. Translation
Grant 1845.
Translation of No. 2.
No. 2. annexed to the deposition of Michael White.

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In consequence I ordered that the present title being held as firm & valid be entered of record in the appropriate book & delivered to the party interested for his protection & other ends. Given at the city of Los Angeles on common paper there being none stamped on the third of December one thousand eight hundred & forty five.

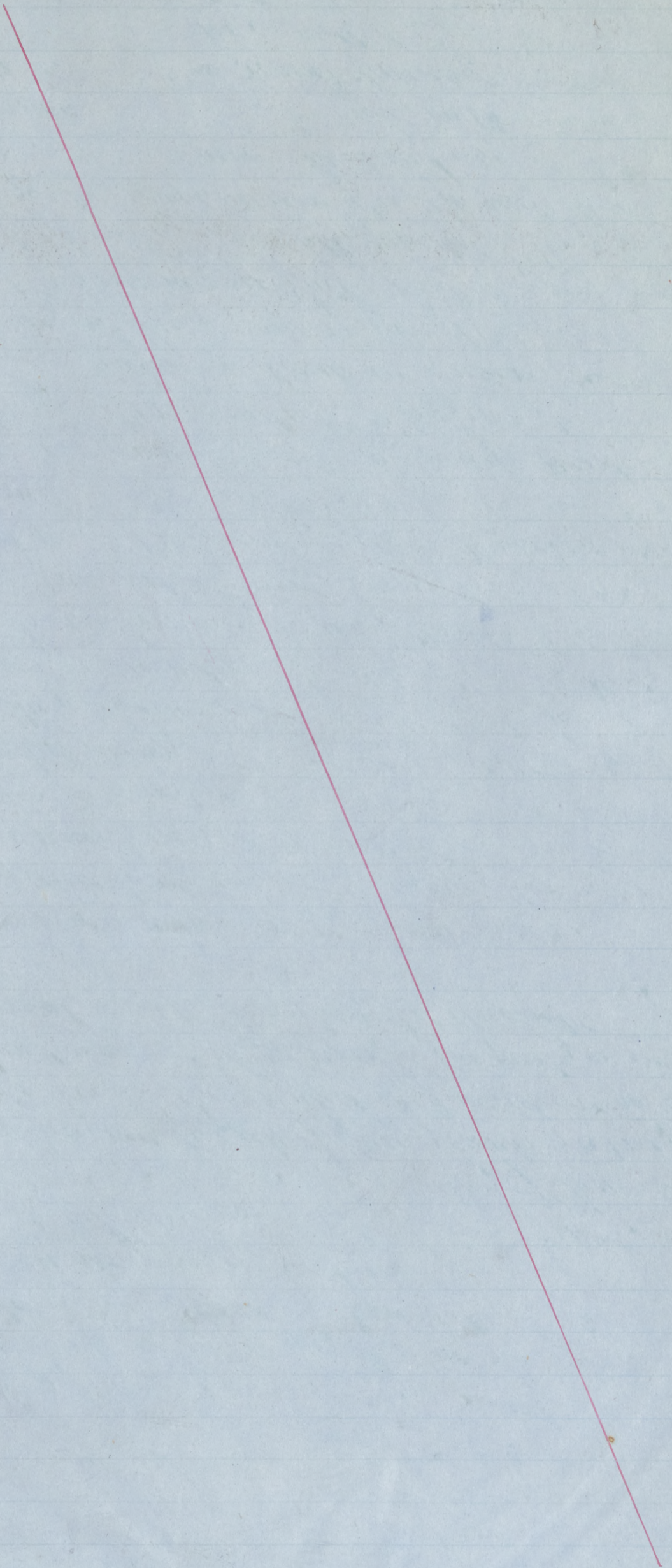
Pio Pico.
Jose M. Covarrubias. Secretary.
This title is entered of record in the appropriate book.

Angles same date as above
Covarrubias.

Possession was given conformably to order and I caused the land mark to be placed in presence of Felipe Reid, Prospero & Ramon Valencia.
San Gabriel 15th December 1845.
P. Hugo Reid.

Filed in Office Nov 8th 1832.
Geo: Fisher. Secy.

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1888
1889
1890

Handwritten text at the bottom edge of the page, partially obscured and difficult to read.

Victoria Reid.
 or
 The United States.
 Sixty parcels of land each
 containing two hundred varas
 square near the Mission of San
 Gabriel in Los Angeles County.

Opinion by Com.
 Alphas F. Cook.

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The claimant alleges that the land in ques-
 -tion was granted by the Mexican authorities to Sera-
 -fino de Serna an emancipated Indian, formerly a
 Neophyte of the Mission of San Gabriel. Two grants
 - were duly proved an given in evidence - one issued by Gov-
 - ernor Micheltourne on the 15th May 1843 & the
 other by Governor Pico on the 3rd day of December
 1845. Attached to each of these grants is a brief
 certificate by P. Hugo Reid that juridical possession
 of the land was given by him to the party in interest.
 No approval by the Departmental Assembly is proved.
 The petition alleges that the grantee died about the year
 1847 intestate, unmarried, without issue & without
 surviving ancestors, & that his next of kin surviving
 him there was & now is your petitioner. The petition
 -or claims the land as heir at law of the grantee.
 The only testimony introduced to establish the rela-
 -tion of the petitioner to the deceased & the heirship of
 the former is found in the deposition of Michael
 White. His testimony is as follows. "I know Sera-
 -fino an Indian woman; she is dead. I was ac-
 -quainted with the family well. She left no children.
 Her nearest relative & next of kin I believe to be
 Victoria Reid now the wife of Hugo Reid."
 One of the grants is made to Serafino de Serna &
 the other to Serafino de Serna an Indian Neophyte.
 Both of these are the names of men, & the terms of both
 the grants show unequivocally that they were made
 to a male & not to a female grantee. The petition
 filed before this Commission also represents the grantee
 through whom she claims the land as heir as a male.
 The testimony given in the case, on the contrary, traces
 the relationship of the present claimant back to an
 Indian woman who is called Serafino. We
 cannot presume that the Indian woman of whom

the witness speaks - naming only a portion of the name
 of the grantee, & identified by no other evidence, to be the
 person described in the grant. & without this recent
 presumption there is no evidence in the case to connect
 the claimant in any manner with the grantee nor
 with the title held by him. If any mistake had oc-
 curred in writing the documents on which the title
 depends, the claimant was bound to give proof of the
 person through whom he claims with the grantee
 named in the title. But no such explanation is given.
 If the Indian woman spoken of by the witness was
 admitted to be the person intended as the grantee,
 the testimony seems to be scarcely sufficient to estab-
 lish the heirship of the claimant. The time of the death
 of the woman is not stated & in the recent change of
 jurisdiction & of the laws in California, a material
 alteration in the right of inheritance has taken place.
 A person who before that change would have inherited
 the property of a deceased as heir, might be excluded
 from the inheritance if the death has occurred since.
 In the proof of heirship it is necessary not only to
 prove the relationship of the claimant affirmatively,
 but also to show negatively that no other issue existed
 who would take the preference to the claimant. 2
 Grd Ev. 339. The proof in this case is simply that
 the present claimant was the nearest relative & next
 of kin of the Indian woman Serafin, as the
 witness believes. The nearest relative & next of kin
 does not necessarily inherit the property of the deceased.
 Such inheritance is in this state, as in almost every other
 in the Union fixed by statute, which does not adopt this
 as the primary rule in all cases. And even where
 relationship is made the test & that is only where
 other specified heirs do not exist - a preference is given
 among those standing on the same degree of consanguin-
 ity, one class being excluded & another inheriting
 the whole property of the deceased. Under the rule of
 inheritance by representation, almost universally
 adopted in this country, the interest of some in the

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estate of the deceased is much greater than others even among those who are entitled to share the inheritance & who stand in the same degree of consanguinity. The nearest of kin may consequently when entitled to a portion, have but a very inconsiderable interest in the estate. The testimony ought to give the relationship of the party claiming as heir to the deceased & the number & names of other relatives standing in the same degree of consanguinity as well as of those who might by possibility be entitled to share in the inheritance. This is a matter of fact to be proved by testimony - to determine who among them is heir & in what proportions they are entitled to take the estate is a matter of law. Some testimony like that before me merely stating the belief of the witnesses that the claimant is the nearest relative & next of kin, without showing that there are wanting whom the law prefers as heirs is not the proof which the law contemplates to establish the right of an heir.

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In either aspect of the case I think the proof insufficient to show that the claimant is the heir of the grantee.

The claim cannot be confirmed.

Filed in Office Nov 29 1853.

Geo. Fisher. Secy.

Victoria Reid.

vs
The United States.

Deore

In this case on hearing the proofs and allegations, it is adjudged by the Commission that the said claim of the petitioner is not valid, & her application for a confirmation

thereof is therefore denied.

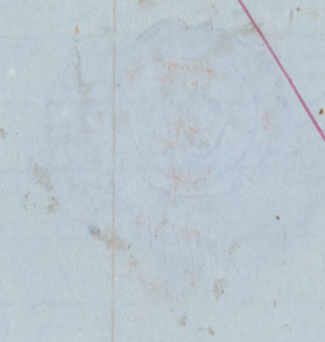
Alpheus Felch.
Thompson Campbell.
W. Aug. Thompson. } Commissioners.

Filed in Office Nov 29 1853.

Geo. Fisher Secy.

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Office of the Board of Commissioners,

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

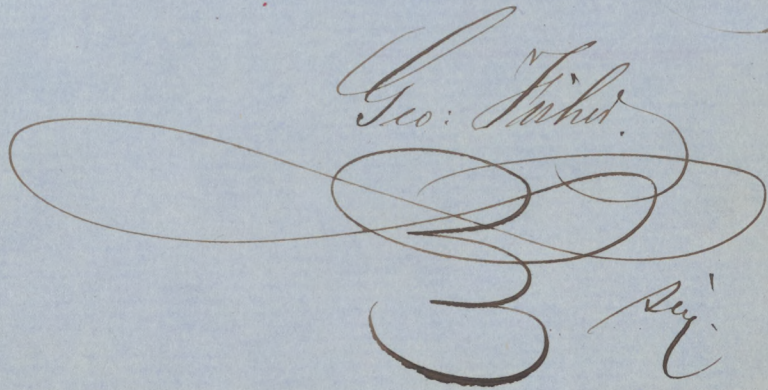
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I, *George Fisher* Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing *eighteen* pages, numbered from 1 to *18*, both inclusive, to contain a true, correct 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. *468* on the Docket of the said Board, wherein

Victoria Reid is the Claimant — against the United States, for the place known by the name of *Near, San Gabriel* —

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

Geo: Fisher



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

No. *47* Docket

THE UNITED STATES,

vs.

Victoria Road

Place near the Mission San Gabriel

47

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. *468*

Filed *August 30th* 185*4*

W. H. Carter
Clerk

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In Dist Court W.S. Southern Dist of
California.
Victoria Reid } N.º 47.
vs. } (Transcript N.º 468.)
The United States } An appeal from the
said Court.

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On Motion of T. Ord, U.S. Attorney
for the Southern District of California;
and on showing to the Court that
no notice of intention to present the
appeal in the above entitled cause,
has been filed according to law. It is
ordered by the Court, that this cause
be dismissed.

T. Ord.
At Dist Ct.

No 47

United States Dist. Court
Southern Dist. of California

Victoria Reid

vs

The United States.

Motion to dismiss Cause

Filed October 24th 1855

C. C. Can. clk

By J. W. Ross Dip