

CASE No.
168

SOUTHERN DISTRICT

OJAY GRANT

FERNANDO TICO
CLAIMANT

LAND CASE L 1

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

LAND CASE 168 SD pgs. 121

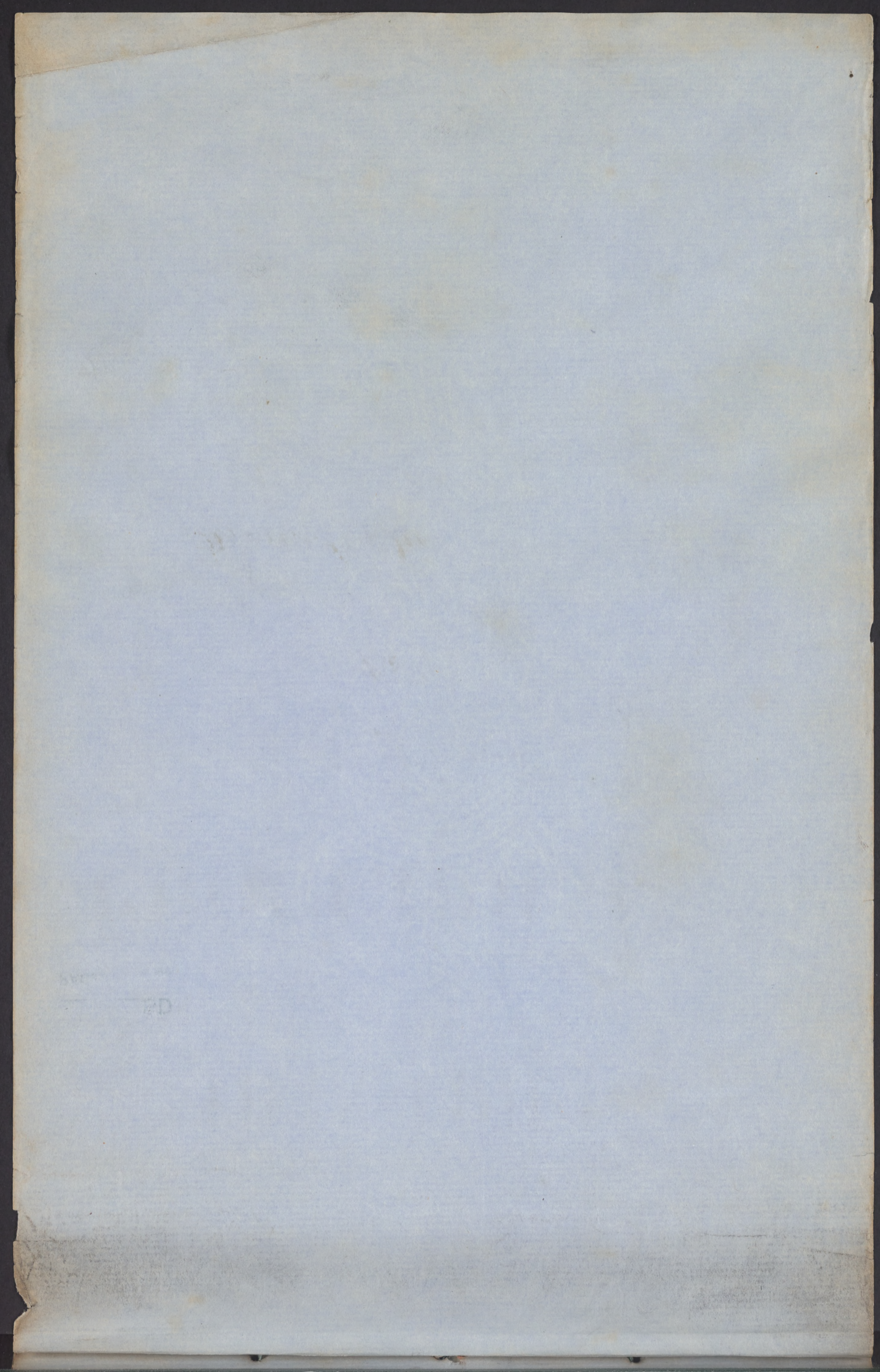
MAR 6 1963

Reorganized
Plover Bond
25% Cotton Fiber
U.S.A.

LAND CASE 168

139

168



TRANSCRIPT

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PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. 139

Fernando Sicú

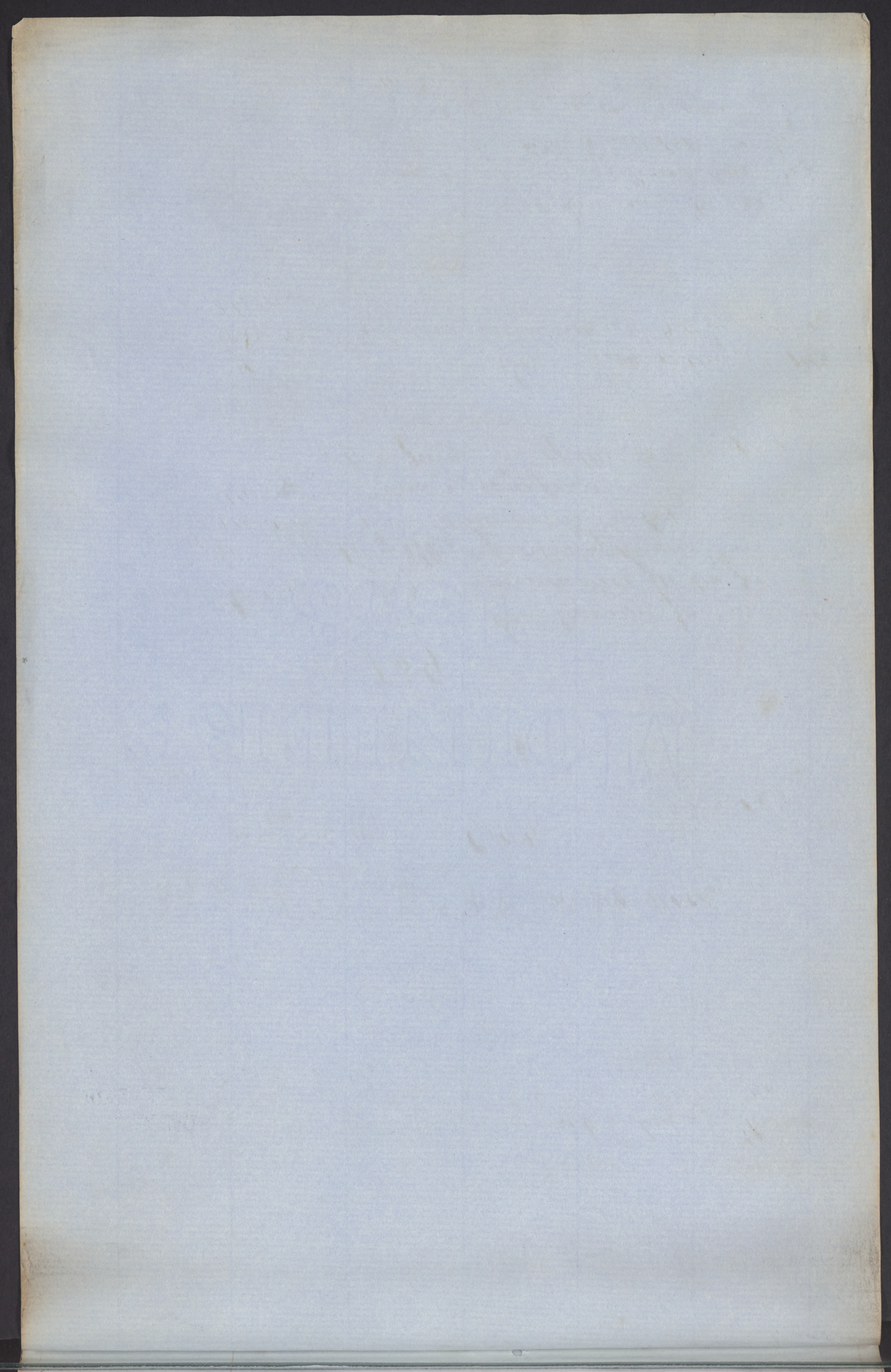
CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Ojuy"



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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Be it Remembered, that on this 30th day of March, 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 Fernando Tico, for the Place named "Ojay," was presented, and ordered to be filed and docketed with No. 139. 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;

San Francisco January 6' 1853.
In case no. 139, Fernando Tico, for the place named "Ojay," the deposition of Andres Tico, a witness in behalf of the claimant, taken before Commissioner Harry J. Thompson, was filed.

(Vide page 4 of this Transcript.)

San Francisco Aug. 24' 1853.
Case no. 139 called, and ordered to the foot of the docket.

San Francisco, Dec. 31' 1853.
In the same case the deposition of Pedro L. Carrillo, a witness in behalf of the claimant taken before Commissioner Thompson Campbell was filed.
(Vide pages 5 & 6 of this Transcript.)

2.

San Francisco, Jan. 13th 1854.

In the same case the affidavit of Fernando Pico, the claimant, made before Commissioner R. Aug. Thompson with document marked "P. D. no. 1," annexed, thereto, was filed;

(Vide pages 31 & 32 of this Transcript.)

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In the same case the depositions of Thomas E. Evershed and Jose Maria Covarrubias, witnesses in behalf of the claimant, taken before Commissioner R. Aug. Thompson, were filed;

(Vide pages 7 & 10 of this Transcript.)

San Francisco May 2^d 1854.

Case no. 139 was called, submitted on briefs and taken under advisement by the Board.

San Francisco May 16th 1854.

In the same case Commissioner R. Aug. Thompson delivered the opinion of the Board confirming the claim;

(Vide page 33 of this Transcript.)

San Francisco Aug. 15th 1854.

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

(Vide page 40 of this Transcript.)

3.
Petition

To the Honorable Commissioners to Settle Private
Land Claims in California

The Petitioner Fernando Tico respectfully shows
That on the sixth day of April A D one thousand
eight hundred and thirty seven Juan B Alvarado
Governor of California by virtue of the authority of
his Office granted to the Petitioner the tract of land
known by the name of El Jay within the boundaries
marked on the map which accompanied his Petition
for the said grant situate on the then jurisdiction of
Santa Barbara and in the now County of Santa
Barbara,

That on the nineteenth day of April A D
one thousand eight hundred and thirty seven the
Deputation of California approved the said grant
in due form of law copies of which grant approval
and map are hereto annexed marked (A) with
translations marked (B)

That the Petitioner has
done and performed all the requirements of the
said grant necessary to make the grant ap-
proval full perfect and absolute

That he knows of no interfering claim

That the land has not been Surveyed by the Surveyor
General of the United States but that the boundaries
are definite and well known

That previous to the date
of the said grant the Petitioner was and ever since
has been and now is in the possession and oc-
cupation of the aforesaid tract of land

The Petitioner relies for confirmation
of title upon the original papers copies of which are
hereto annexed upon the documents and minutes
concerning the same in the Archives in the possession
of the Surveyor General and such other proofs as she
may be advised are necessary

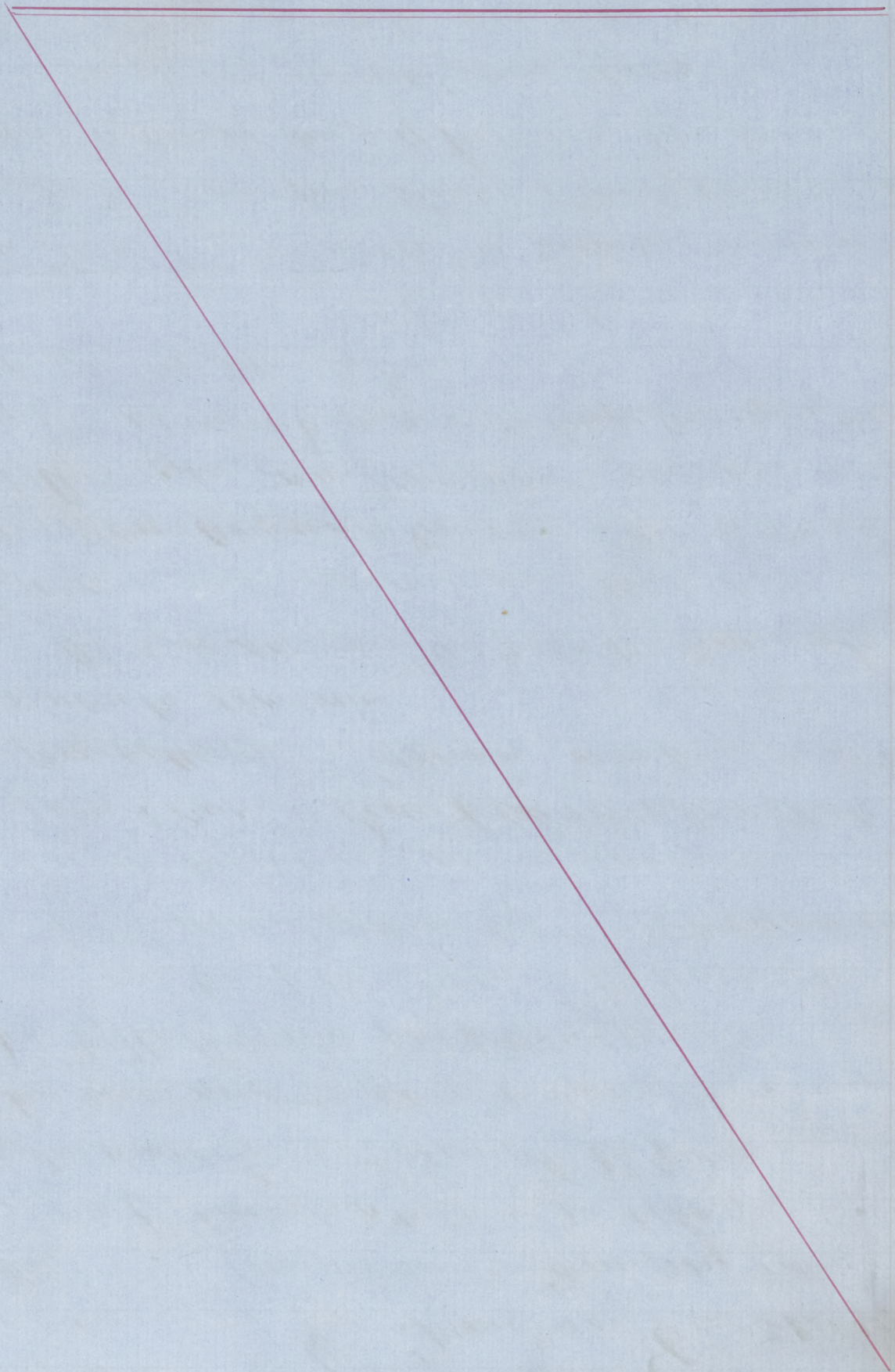
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wherefore he prays the Commission to decide upon
the validity of said grant to the Petitioner and to
confirm the same

By his Attorneys
Halleck Peckham & Billings

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Filed in Office March 30th 1852
Geo Fisher
Secretary



J.
Deposition
of Pedro C
Carillo

Office of the Board of U.S. Land Commissioners &c
San Francisco Dec 31st 1853

This day before Commissioner Thompson Campbell
came Pedro C. Carillo a witness in behalf of Cla-
-imant Fernando Diez Pettin No 139 and being
- sworn his evidence being given in Spanish was in-
- terpreted by the Secretaries as follows

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1st Quest What is your name age and place of residence

Answer My name is Pedro Carillo I am thirty
seven years of age next February and I reside in the
City of Santa Barbara

2nd Quest Are you acquainted with the Rancho Cal-
-led Ojay

Answer I am acquainted with said Rancho

3rd Quest Will you now state what you know con-
-cerning the occupation and inhabitants of this
- Rancho by Fernando Diez

Answer Said Diez established himself in the Rancho
Ojay by permission from Padre Blas in the year 1836
He built a corral and a house or hut built of
sticks in which he lived with his family

In the year 1837 he got the
grant from the Governor and built a fine adobe
house about three miles to the westward of the house
which he first occupied and I have known him to
live ever since that time on the Rancho with his
family cultivating having cattle horses and
sheep on the place

4th Quest Will you please describe the boundaries of
the tract of land known as Ojay

Answer On the East the boundary is the Bay of San
on the West by the Arroyo Militiza on the North

16.

by the high mountains and in the South the low hills, The mountains on the North are very distinct and the Southern boundary is also very distinct

The Rancho of Jay bounds on my Rancho called Texpe. The Arroyo de Lisa is called by that name part of the way only and at the Southern end of it - it is called Arroyo

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5 I must look on the map you show me and which is a part of the Expedition to file in this case and marked A. T. C. No 1. and state whether the said Rancho is correctly represented on said map

Answer I think it is

6 I must state if you know the quantity of land embraced within the boundaries you have described

Answer I think about four leagues

Associate Land Agent present

Pedro C. Canillo

Given to and subscribed

this 31st day of December

1853

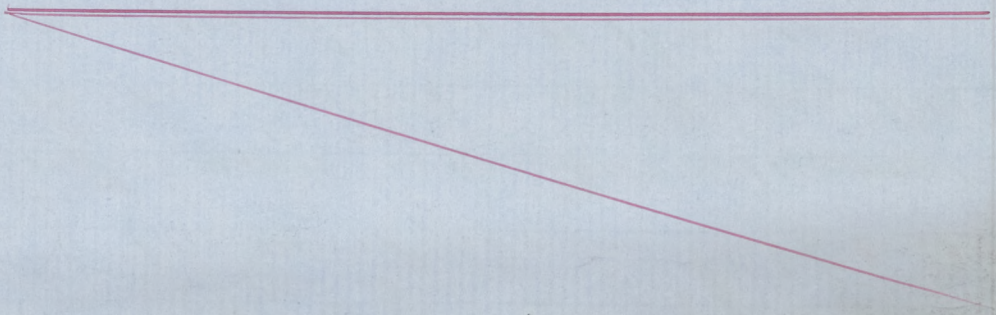
Thompson Campbell

Commissioner

Filed in Office December 31st 1853

Geo Fisher

Secretary



7.

Deposition
of Audus Pico

San Francisco Jan^y 6th 1853⁵

This day before Commissioner Henry J. Thompson
came Audus Pico a witness in behalf of Claimant
Fernando Tico Petition No 139, and was duly sworn
his evidence being interpreted by the Secretary

My name is Audus Pico my age is 42 years I was
born in California and live in Los Angeles upon
the Rancho called Ojays it is in Santa Barbara
County Fernando Tico first occupied it in 1837
and has continued to occupy it ever since with cattle
horses a house and Corral

Audus Pico

All G. Law Agent Present

Sworn to and Subscribed before me this
6th of January 1853.

Henry J. Thompson
Comm^r

Filed in Office January 6th 1853
Geo. Fisher
Secretary

Deposition
of Jose Maria
Covarrubias

United States Land Commission
San Francisco Jan^y 13th 1854

On this day before Commissioner Henry J. Thompson
came Jose Maria Covarrubias a witness in behalf
of the Claimant Fernando Tico Case No 139 who
after being duly sworn deposed as follows his
testimony being interpreted by the Secretary

Present Claimant's Atty and All G Associate Law Agent
Witness states his name is Jose Maria Covarrubias
his age forty five years and residence
Santa Barbara California

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8.

Question by Claimants Attorney
 Look at the documents now shown you pur-
 porting to be the original Expediente relative
 to the place called Ojay granted by the Gover-
 nment of the Department of California to citizen
 Fernando Tico of the parties of Santa Barbara
 and numbered No 142 in the files of the Archives
 of the former Mexican Government in California
 now in the Office of the Governor General of the
 United States for the State of California and this
 day sworn on before the Commissioner of Thomas
 E. Conshida the Clerk in charge of said Archives
 as appears by his deposition this day taken and
 filed in this case and state what you know of
 the genuineness and authenticity of said document
 and whether any or all of the papers therein conten-
 ted have ever to your knowledge been in the posses-
 sion of Fernando Tico

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Answer I have examined said original document
 I am on the signatures and Subscribes of Jose Z
 Fernandez Jimenez, Antonio Maria Oros, Juan
 B Alvarado, Victor Sanchez, Antonio Alvarado, Fer-
 nando Tico Aguillo, Francisco Botello Frias Blas
 Ordoz, Carlos Antonio Canillo, Santiago Lopez
 Nazarenudo Canillo, Jose Muraya, Anastasio
 Canillo (segunda Canillo), Sub Prefecto of Santa
 Barbara, Governor Pio Pico (Segunda Pico) and
 Anastasio Canillo;

I have seen them all over with
 the exception of Jose Muraya and I have no doubt
 that they are all genuine when they occur on said
 document. I have seen in the possession of Fernando
 Tico about the year 1843 the following original docu-
 ments now contained in said Expediente to wit The
 certified copy of the Mass or decree 2na The Title
 paper or grant dated 6th of April 1837 and signed

9.

Juan B. Alvarado and Victor Pruden Secretary
3ra Legacion to of the approval of said grant by
the Territorial Deputacion signed Juan B Alvarado
President and Victor Pruden Secretary dated 13th
of May 1837, 4th The Petition of Fernando Tico to the
Governor Pico dated February 9th 1846 with the
Mazmorra decree of the Governor then on dated February
11th 1846 which decree is in my hand writing having
been drawn up by me in my official capacity as
Secretary of the Department,

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Question by Same

State if you know how said papers came out of the
possession of Fernando Tico and got in to the Archives
Answer I do not know

Question by Same

State what you know in relation to the difficulty
between Fernando Tico and the Judicial Office
in relation to the judicial possession of the land
granted to the former

Answer In 1843 Fernando Tico had a dispute
about some acres with Manuel Cotta complaint
being made to Governor Micheltorena who appointed
a Commission to investigate the matter and I was
requested by the Commission to draw up the
report to the Governor and it was at that time I
saw in the possession of Fernando Tico the title
papers above referred to, The report of the commis-
sion was returned to the Governor but I do not know
what action was had afterwards, In 1846 I again
saw said papers when Fernando Tico presented
his Petition to Governor Pico to obtain judicial pos-
session of his lands, he accompanied it by the papers
in question as evidence of his title, I do not know
what became of them afterwards

Question by U.S. Associate Law Agent

Do you know what were the circumstances which led

to the refusal of the proper authorities to give the judicial possession of the land to Fernando Tin Anson, I do not,

Jose Van Covannias

Sworn to and Subscribed before me Jan'y 13, 1854

R. Aug Thompson Commissioner

Filed in Office Jan'y 13, 1854

Geo Fisher Secy

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Case No 139

Deposition
of
Thomas E.
Evershed

United States Land Commission
San Francisco Jan'y 13, 1854

On this day before Commissioner R. Aug. Thompson came Thomas E. Evershed a witness in behalf of Claimant Fernando Tin Case No 139 who after being duly sworn deposed as follows
Present Claimant's Atty and U S Asst Land Agent

Witness states his name is Thomas E. Evershed and he is now Clerk in charge of the Archives of the former Mexican Government in California now in the Office of the United States Surveyor General for the State of California

In obedience to the Subpoena Duas Tecum this day sworn upon me I bring a document filed among said Archives purporting to be the original Expediente relative to the lease named Cery granted by the Government of the Department of California to Citizen Fernando Tin of the partition of Santa Barbara and Munras on said files (142) I made the true copy of the Expediente now shown and marked with the initials N. J. Not. and annexed to the Affidavit of Fernando Tin filed in this case and from the same to be a true and correct copy of said original document Thos E. Evershed Sworn to & Subscribed before me Jan'y 13th 1854 R. Aug Thompson Comr

Filed in Office
Jan'y 13, 1854
Geo Fisher
Secy

1. N.º 1.º

Expediente

relativo al Paraje nombrado "Ojay" conse-
dido p. el Gobierno de este Departamento
en favor del C.º Sr. Fernando Pico del
Partido de Sta. Barbara
N.º 142.

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Año de 1841

12.

2 Ocelo Terceiro Dos Reales. Habilitado provi-
sionalmente por la Aduana maritima de
puerto de Monterey, en el departamento de
las Californias, para los años de mil ocho
cientos cuarenta y mil ochocientos cuarenta
y uno.

Ximeno

Antonio Maria Osio.

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Here follows
Map.

13.

3 Inpaciente Señor de la E. Junta del departamento de las Californias, encargado interinamente del Despacho del mismo. Certifico que el plano que consta en las dos planillas ante cedentes esta fielmente sacado de su Original que obra en el Expediente respectivo y se halla en el Archivo de la Oficina de mi Cargo: Y para que conste la presente en Monterey à 11 de Diciembre de 1820.

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Josè L. Fernandez

4 El Ciudadano Juan Bautista Alvarado Gobernador de Estado coronel de Militar Civico y Presidente de la Excelentísima Diputación del mismo. Por cuanto el Ciudadano Fernando Tico ha pretendido p^a su beneficio personal y el de su familia el terreno conocido con el nombre de Ojar dentro de los linderos del dicho que es compañero à su solicitud, practicadas previamente las diligencias y averiguaciones segun lo dispuesto por leyes y reglamentos de la materia usando de las facultades que me son conferidas à Nombre de la Nación Mexicana he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras entendiendose dicha concesion con entera conformidad à las leyes à reserva de la aprobacion ó desaprobaçion de la Excelentísima Diputacion y bajo las condiciones siguientes. 1.^a El agraciado ni sus herederos podrán dividir ni enagenar el que se les adjudica imponerle censo, vinculo fianza hipoteca ni otra gravamen aunque sea por causa piadosa ni pasarlo à mano muerta. 2.^a Podrá

Podrã cercarlo sin perjuicio de las travecias
camino y sero dumbres; lo disfrutará libre
y exclusivamente destinandolo al uso ò cul-
tivo que mas le acomode. 3.º Cuando se le
conceda la propiedad solicitará del juez
respectivo le de la posesion juridica en
virtud de este despacho por el cual se
demarcarán los linderos y pondrá su mo-
dionera. 4.º El terreno de que se le hace
donacion es puramente de que se expresa
en la solicitud del interesado y se demarca
en el diccionario y el Juez que lo poseiere pasa-
rá aviso à este Gobierno del numero de
sitio que comprende. En consecuencia
mando que sirviendole de titulo el presen-
te y teniendolo por firme y Validero se tome
razon en el libro que correspondá y se en-
dique al interesado para su resguardo
y demas fines convenientes. Dado en Ca-
b. Coe. Misión de Santa Barbara à 6. de Abril
de 1837. Juan B. Alvarado.

Victor Prudon Secretario.

En 19 de Abril, aprobó la Coe. Ma. Diputa-
cion la proposicion sigte. Se concede
al cuid.º Fernando Pico, el paraje nom-
brado Ojay p. de lo pesca en propiedad ò p.
tener los requisitos necesarios conforme à
la ley de 18 de Agosto de 1824 y el Art. 5.º
del Reglamento de 21 de Nov. 21 de 1828

S. Barbara Mayo 13/837

Juan B. Alvarado

Victor Prudon Secretario.

y El interesado agregará fargado un plejo
de à seis f.º V. Prudon

S. Sello tercero Dos Reales. Habilitado por
la Administracion de la Aduana Mari

estima del puerto de Monterey de la Alta California para los años de mil ochocientos treinta y seis y mil ochocientos treinta y siete
Gutierrez Angel Ramirez

Balga para los años de 1839 y 1840

Alvarado Antonio M^o. Osio.

Señor Juez de Paz de este partido.

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Sta Bar^a. 19 de Dto. Gerónimo Pico de esta de
del 840. Por las ocu } eudad ante el compareco
paciones de preferen } y dijo que habiendo obtenido
cia que tengo en esto } por justos títulos que a compa

judgado ocurrida } no la propiedad del terreno
interesada al Juez su } conocido con el nombre de
plente p^a que le del } Q^o J^o he de merecer de la

posicion jurídica } justicia de Q^o se sirva
segun el cu eno le de } pasar otro terreno para
marca, que acompaño } a carmel la posesion que es

con su respectivo título } de Ley. Sta Bar^a. Dto. 16
Ant^o. Olivera } de 1840. Gerónimo Pico

9 Dello terceros Dos Reales. Habilitado por la ad
ministracion de la Aduana maritima del
puerto de Monterey de la Alta California
para los años de mil ochocientos treinta y

seis y mil ochocientos treinta y siete.
Gutierrez Angel Ramirez

Balga para los años de 1839 y 1840

Alvarado Antonio M^o. Osio.

10 Señor Jefe de Corte Distrito

Ang^o. Febr^o. 27 de 1844, Gerónimo Pico vecino del
Cerro el interesado } Partido de Santa Barbara
al Sr Juez de Paz su } ante el J^o con el debi oves

plente del partido de } como mas haya
Sta Barbara para q^o } lugar en derecho compare
le de la posesion q^o } soy dijo: que habiendo

licita del parage ag^o } obtenido de Cas autorida
se referiré con arreglo } de sus respectivas del de par

16.

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al Título de consejero teniente el título de propiedad espedida por el Gobierno en fecha de los años conocidos por el nombre de Ojay para mi beneficio y el de mi familia. como lo acredita el documento de Marcos Botello. y diseño que debida también acompañar y falhan darme la posesión que es consiguiente y de estilo por que a los y cuando aquel lugar no se los han permitido sus ocupaciones a pesar de haber hecho mi solicitud en tiempo oportuno pidiendo V. D. se digna mandar que se me poseione del expresado terreno por la autoridad que estime conveniente en concepto que siendo yo el juez de paz de Sta. Barb^a estoy impedido para esto eido por ser Interes o causa propia. por estas razones y la de tener alguna perdida o perjuicio en los límites de dichos terrenos. V. D. suplico se sirva disponer como llevo pedido de cuya gracia he vivido reconocido Angles Febrero 2^o y de 1841

Yernando Pico.

12 Cello Tercero Dos Reales: Habilitado provisionalmt^{te} por la Aduana Maritima del puerto de Monterey en el departamento de la California para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

Dimeno Antonio M^o Osio

13 Certifico yo Fray Blas Oliva ministro de la misión de S. Fernando Rey ofayendo de Ministro en la de San Buena Ventura el año de mil ochocientos treinta y seis en compañía del S. C. P. Fray Ben tuo Frustino se reconoció el citiv la-

mado Ojay p.^a convenio de sus Naturales
 a D. Fernando Pico desde el Arrollo de San
 hasta Matilya comprendiéndose en el
 parage de San Antonio Abad como asi
 consta en el diseño y p.^a resguardo del Inte
 resado lo primo. S. Fernando Rey & Pac
 y.^c de 1841. Gen. Blas Ordoz

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14 Don Luez de Paz suplente de este municipio
 Sant: Barba Maria Fernando Pico Luez
 y de 1841. El Intendente de Paz y de 1.^a Instancia
 resado en esta instancia de esta poblacion y su
 cia se presentara p.^a jurisdiccion y ve como de
 el dia y del presente partido ante V. como me
 por si o por poderado por haya lugar en derecho
 a recibir la posesion y al cuyo convenio se
 que solicita. presentay dice. Lo en
 Santiago Digo. virtud del decreto mar
 Rey Carrillo. ginal del Sr. Refecto
 del Distrito pta 2 y de Febrero p. p. a. of corre
 a la foja 1.^a del adjunto expediente suplico
 a V. se sirva darle la posesion a q. se contra
 de lo cual se ira conocido.

Santa Barbara marzo 7 de 1841
 Fernando Pico.

15. Carlos Antonio Carrillo Vecino de Sta. Barba
 bara: Certifico que año treinta y seis siendo
 administrador de la Ca. mision de S.^a Bue
 naventura de me presento por el mes de Junio
 de dho año Don Fernando Pico con un Do
 cumento firmado por los R. R. P. P. Ministros
 de dho mision haciendole donacion del parage
 nombrado Ojay y habiendo consultado con
 dho Ministros el asunto me contestaron dici
 endome q. p. parte de ellos y neofitos de aquel
 Lugar cedian al Sr. Pico el mencionado para
 ge pudiendose estender hasta donde demareo

el diseño y yo como administrador en aquella
vez no le fuese inconviniendo ninguno; constan-
dome tambien que con el ya repetido Docu-
ment^o. se presento el solicitante a D.^o Maria-
no Chico Gob.^o en ese tiempo: de este depar-
tamento quien le contesto q^d. en el supues-
to q^d. tenia la donacion p.^a los R. B. P. P. y
sus naturales q^d. bien podia ocuparlo: desde
euy tiempo estoy cierto q^d. es poseedor del mer-
cionado para q^d. ya peticion del solicitante
y p.^a los fines q^d. le convenzan le doy la
presente en Sta. Bba^a 2^a de Abril de 1841
Carlo Ant.^o Barillo

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- 16 Juzgado de paz, No. 20)
de S. Buenab.^a El Ciudad^o Manuel Cota
se me ha presentado que fundose de q^d. U.
ha hecho un corte de Madera de S.^o Ant.^o
Abad rancho del Corrado Cota sin avisar ni
consentimiento de esta; con esta virtud sus-
pendera U. otro corte de Madera asi como la
caca de las cortadas del punto en q^d. se ha-
lan hasta q^d. resuelva la superioridad y
se presentara en este juzgado a deducir
su derecho. Admita U. Seguidades de un
consideracion y apreci. Dios y Libertad
- 17 O. Buenab.^a Enero 16 de 1846. José Monago
Jor. Dr. Gerónimo Pico.
- 18 Jor. sub Prefecto de este Puerto.
Sta Barb.^a Enero, Gerónimo Pico vecino del
26 de 1846. Esta } Puerto de Sta. Barbara ante
sub. Pref.^o se ha un } U. respetuosamente con-
puesto de tenidamte } parese y digo: Que creyendo-
de la presente inst.^a } que con esclusivo derecho
como tambien de los } de propiedad en el paraje
document^o. que a com } que ocupo por pertenec^o me
paño el interesado } por la concesion que de el

por los cuales a = me hizo solemnemente el su
 eredita ser due = } perior Gobierno Departamental
 ñadel parage } cuyos documentos devídammr.
 of. posea y por lo } acompaño procedi a efectuar
 mismo haga sele } un corte de madera dentro
 saber al cuíd = } de los limites del espresado
 Manuel Cota } parage y el vecino Manuel
 por el juez de Paz } Cota me ha estorbado ò re
 de S. Buenab = } llamado tal disposicion
 que se queda } esponiendo que yo no tengo
 en entera libertad } propiedad en hacer el
 p.º emprender cual } referido corte de Madera
 quiera obra en el } por pertenecer à el, el men
 terreno mencion } onado parage por lo que
 do p.º subrepre } ocuro à la autoridad
 19 Carrillo } de U. para que si fuere de
 justicia se orbe } advertirlo al For Cota
 que tal provicion } no tiene el derecho de aser
 melo por ser yo } el unico dueño del referido
 parage Por tanto } à U. rendidamente su
 plio se orbe } acceder à esta mi solicitud
 p.º ser de justicia } sobrendose admitir esta
 en papel comun } por no haber estada lugar
 el sellado à que } corresponde. Dios lo nece
 rio V.º Sta Barbara Enero 25 de 1846
 Gerónimo Pico.

20 Excmo Sr. Gobernador.

Angeles Febrero Gerónimo Pico vecino del
 11 de 1846. Pase } Partido de Sta. Barbara ante
 al sub Prefecto de } U. C. con el debido respeto: y
 Sta. Barbara para } bajo los terminos mas confor
 que informe y di } gnes à derecho. comparece
 euales son los } motivos y causas q. siendo frecuentes
 vos que han } tenido los tratornos q.º estoy sufriendo
 los juces de } dicho p.º falta de la posesion
 Sta Barbara } para q.º juziciao q.º hago entender

no haber puesto, à mis colindantes los límites
 en posesion del { demi Rancho nombrado Ojaya
 terreno de Ojaya { q. poseo en propiedad con gusto
 à la parte que { y legal título hace como diez
 representa. { años suplico à V. E. se sirva
 P. E. { librarse la Orden respectiva
 pa q. se verifique esta posesion pues cumpla
 desde el año de mil ochocientos cuarenta
 estoy solicitando la y este embargo de ha
 berse asi mandado p. las autoridades
 superiores como lo acredita el expediente
 N.º 1.º 100 à faltado modo de enterarse
 y queda ilusoria las referidas ordenes
 Por el expediente N.º 2.º q. igualmente
 acompaño que clava V. E. impuesto de Ca
 ultima cuestion q. me promovio el C.º
 M.º Cota sin derecho alguno para ello p. q.
 la madera fue cortada en terrenos de mi
 propiedad y la para equibocacion o bien de
 C.º en un plim.º del malicia, trato de entorpecer
 decreto superior q. { me anisaba como lo
 antecede esto sub { conseguí obligarme
 prefectura sea impues { à emprender viaje a Sta.
 to de los documentos Barbe. de lo que no he
 que deviera m.º a con ello necesidad y suspender
 pero bajo las numas { los hasta concluir este ne
 unos y do le a parecido { gocio. Por lo espuesto y
 convenientemente incluí documentos adjuntos ve
 los à esta representacion V. E. la justicia q. me
 cion p.º el que el Go.º asiste y no dudo de su a
 breño se imponga a = creditada a justificacion
 de los casos q. entor me sera impartida p.º po
 sieron la legitima y dev continuar mis que
 posesion de S.º Fernandeseo sin las molestias
 de Pico en el parage q. me comidadades q. hasta
 en cuestion su pro = y ahora se me estan hore.

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21

miedo cualesqui, evocando quisa por la fal-
 era otra clace de } fa de aquel requisito. Ha
 informe por consi } cia q. implora. Duro lo nece-
 derar sapiente } cario V. Dignados admita
 los documentos in } pt. en este papel comun por
 dicadas. Otra Pau } falta del sellado correspo-
 bara Marzo y de } niente. O. Buena V. J. B.
 1846. } y de 1846.
 Ana M. Carrillo } Fernando Pico.

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22

○ N. S. C. Habindose hecho nuevo re-
 clamó a esta Prefectura sobre el
 parage nombrado O. Antonio Abad
 suspendase V. la posesion solicitada a p.
 el Sr. Tico, Grez propietario de ese punto
 a quien hara V. vuelva a presentar sus
 documento del citro Q. Jay a esta prefec-
 ra p. medio de apoderado, asi como a los
 Sres. Valentin y Manuel Cota con curran
 con los que tengan p. si o por personas que
 los representen legitimamente p. terminar
 las dudas o diferencias. Dios y Libertad
 Angeles Mayo 10 de 1841.
 O. Arzuello

23

Sr. Grez de Jay suplente del partido de St.
 Bart. N. 2.

24

○ Quedo enterado de la contestacion
 de V. fha 16 del corriente relativa
 a haber suspendido la conclusion
 del Expedt. de posesion q. ya habia dado
 al Sr. Pico del parage nombrado Q. Jay en
 antes llego la Orden de esta prefectura so-
 bre el particular y habiendo cumplido con
 su obligacion debe permanecer el asunto
 en ese estado hasta nueva resolucion y pa-
 ra su pronta conclusion hara q. presente
 sus docum. el Sr. Pico a esta prefectura

22

25 W. si o p. apoderado conforme antes se lo he
previnido: y me informará V. si en las me-
didas practicadas en Cajay comprendo a
Sr. Antonio Abad. Dios y Libertad Angeles
Marzo 30 de 1841.

D. Oruello.

C. Inez de Paz suplente del Partido
de Sta. Barbara.

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Office of Surveyor General of the United
States for California. I. John C. Hays
Surveyor General of the United States for
the State of California, and as such having
in my Office and in my charge and cus-
tody a portion of the Archives of the former
Spanish and Mexican Territory or depart-
ment of Upper California by virtue of the
power vested in me by law, Do hereby
certify that the 2 foregoing and here-
unto annexed pages of tracing paper,
numbered from one to twenty five inclu-
sive, exhibit a true and accurate copy
of a certain document now on file and
forming a part of the said Archives in this
Office.

In testimony whereof I have
hereunto signed my Name Officially
and caused my seal of Office to be affixed
at the City of San Francisco this Eighth
day of October 1853.

John C. Hays

U. S. Surveyor General
for California.

Filed in Office Jan. 13. 1854

Geo. Fisher Deery

23.

B

Translation
of
Title Papers

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Citizen Juan Bautista Alvarado Governor of the State
Colonel of the Militia and President of the Most
Excellent Deputation of the same
Whereas Citizen Fernando Tico has for his own personal
benefit and that of his family petitioned for the land
known by the name of Gay within the boundaries
marked on the map which accompany his Petition
the proper measures being previously taken as required
by Laws and Regulations on the matter using the
faculties which are conferred on me in the name of
the Mexican Nation, I have granted him the aforesaid
land declaring to him the ownership of it by
these presents said grant being understood to be in
entire conformity with the laws subject to the app-
-roval or disapproval of the Most Excellent Deputa-
-tion under the following conditions viz
1. That the grantee nor his heirs can alienate or de-
-vote that which is granted to him subject it to any tax
-duty pledge mortgage or other encumbrance even
for religious purposes nor convey it in mortmain
2. He may enclose it without prejudice to the roads
cross roads and servitudes and enjoy it fully and
-exclusively making such cultivation and uses of it
as he may see fit
3. When the property is granted to him he shall request
the proper Magistrate to give him judicial possession
in virtue of this order by whom the boundaries shall be
marked out and the bounds placed,
4. The land granted in demerit is solely that marked
on the map and the Magistrate who may give the posses-
-sion, will report to this Government the number of sitios
it contains

In consequence of an order that serving for a
title these presents and being held as firm and valid
note be taken of them in the concession and book and
they be delivered to the party interested for his security
and other convenient purposes

Given in the Ex Mission of Santa Barbara on the
6th of April 1837

Señor Juan B. Alvarado
Señor Victor Prudon Secretary ad interim

On the 19th of April the Most Excellent Deputation
approved the following proposition: The plan called
Cajon is granted to Citizen Fernando Tico that he may
possess it in fee as he has all the qualities required by
the law of August 18th 1824 and Article 5th of the Regulation
of November 21st 1828

Santa Barbara May 25th 1837

Señor Juan B. Alvarado
President

Señor Victor Prudon
Secretary

The interested party will attach a sheet of the stamps
of six dollars

(Señor) Prudon

To the Justice of the Peace of this Partido
I Fernando Tico of this vicinity before you appear and
represent that having obtained by legal titles which
I transmit herewith the ownership in fee of the land
known by the name of Cajon I have to request your
Honor that you will be pleased to give said land
to give me the juridical possession required by law

Santa Barbara December 16th 1840

Señor Fernando Tico

Santa Barbara December 17th 1840

By reason of previous engagements to which I have in this
court the person interested will apply to the judicial
Magistrate to that he may give him the juridical possession
as shown by the map which accompanies his title

Señor Antonio Olvera

To the Peace of this district

I Fernando Tico resident of the Partido of Santa Barbara

before your Honor with due respect and in the most proper form appear and represent that having obtained from the proper authorities of the Department the title of grant of the lands known by the name of Ojai for my benefit and that of my family as shown by the document and map which I duly accompany herewith and wanting the possession which right to follow and is customary because the engagements of the Magistrates of that place have not allowed them although I made the request at a fit time, I pray your Honor to be pleased to order that I be put in possession of said land by the authority you may think proper seeing that the Justice of the Peace cannot do it being an interested person and the cause urgent for these reasons that I fear some loss or prejudice in the limits of said lands I pray your Honor be pleased to grant as I have requested for which favor I will be acknowledged

Angels February 27th 1841

Señor Fernando Diez

Angels February 27th 1841

Let the interested party apply to the Provisional Justice of the Peace of the Partido of Santa Barbara that he may give him the possession which he requests of the place referred to in conformity with the title of grant executed by the Government on the sixth of April 1837 and the map which accompanies it

Señor Aguillo

Señor Narciso Botella

Secretary

I Frac Blas Gray Minister of the Mission of San Fernando hereby certify that being Minister of that of San Buenaventura in the year one thousand and eight hundred and thirty six in company with the Rev Father Frac Antonio Fortuni the place called Ojai was ceded by agreement of both the Fathers with the consent of the natives to Don Fernando Diez from the survey

of Jesus to Matiteja the place of San Antonio Wood
being included in it as appears by the map and for
the security of the party I sign it

San Fernando Aug 28th 1841

Señor Fray Blas Ordaz

To the Provisional Justice of the Peace of this Municipality
Fernando Tico Justice of the Peace and Judge of first
Instance of this Town and Jurisdiction and resident of
the Parties before you in the manner most legal and
favorable for him appears and says, That in virtue
of the marginal decree of his Honor the Prefect of the
2na District dated February 27th 1841 to which is on
folio 1 of the annex Expedient to be promulgated you will
be pleased to give him the possession to which he claims
himself which he will acknowledge

Santa Barbara March 7th 1841

Señor Fernando Tico

Santa Barbara March 7th 1841

The Party interested in this Instance will present
himself on the 9th instant either personally or by
attorney to receive the possession which he solicits

Señor Santiago Lezo

Señor Raymond Canillo

I Carlos Antonio Canillo resident of
Santa Barbara Certify that in the year thirty six
being administrator of the Ex Mission of San
Benamtera in the month of June of that year
Don Fernando Tico presented himself with a document
signed by the Reverend Fathers Ministers of said
Mission granting to him the place named Ceyra and
having referred the matter to said Ministers they re-
plied that on their part and that of the neophytes of
that place they ceded to the Señor Tico the said place
in extent that which is marked on the maps and I as
administrator at that time offered no objection
and I am also aware that the Petition was presented himself

27.

with the said document to Don Mariano Chico
at that time the Governor of this Department who
replied to him that with the understanding that he
had the grant from the Runic and Factors and the
Natives he might safely occupy it and I am certain
that since that time he has possessed said place
and at his request and for the purposes which may
serve I give these presents in Santa Barbara on the
27th of April 1841

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B

Señora Carlos Antonio Camillo
Officer of Justice of the Peace of San Buenaventura
Citizen Manuel Cota has appeared before me
complaining that you have placed a Saw Pit on
the Urugs belonging to San Antonio in the
Rancho of said Cota without his knowledge
or consent. in this case you will suspend the
operations of said Saw Pit as soon as you have re-
moved that already cut from the place while it is not
the authorities shall decide the matter and you will
pursue yourself in this Court to show your right

Recive the assurances of my consideration & esteem
God and Liberty San Buenaventura
January 16th 1846

Señora Jose Moraga

To / Don Fernando Tico

In the Last Paper of this Partido

Fernando Tico resident of the Port of Santa Barbara
before you respectfully appear and say

That believing that I have the exclusive right in the
place which I occupy it having been solemnly granted
to me by the Superior Department in the Government
the document of which I duly transmit herewith
I proceeded to establish a Saw Pit within the limits
of said place and the resident Manuel Cota has in-
truded with or claimed that right asserting that I have
no right to establish said Saw Pit as the afore mentioned

28.

place belongs to him for which reason I apply to you that if you think it just you would be pleased to inform Genl Cota that he has no right to prohibit me this as I am the only owner of said place

Therefore I earnestly beseech you to grant this my request as it is a just one and that you do so in this on common paper as there is no this place none of the corresponding stamps

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I swear as required by Law Santa Barbara January 25th 1846

Señor Fernando Diez

Santa Barbara January 26th 1846

This Sr. Pufectura has can put her name in this instance and the documents which the party interested transmitted which prove him to be the owner of the place which he possesses, thus for let the Justice of the Peace of San Benaventura make it known to Citizen Manuel Cota that Diez is at liberty to undertake any operation in the said place for his benefit

Señor Canello

Not Civil Pufecture of Los Angeles

A new claim having been made before this Pufecture of the Place called San Antonio Abad you will suspend the possession solicited by Genl Diez regular Magistrate of that place who you will cause to present again his documents of the place Cota to this Pufecture by his Attorneys as that the Señores Belautin and Manuel Cota appear with those which they may have either personally or by persons who may legally represent them to terminate these doubts and differences

God and Liberty Angeles March 10. 1841

Señor J. S. Canello

To the Provisional Justice of the Peace of Santa Barbara

No 2 Civil Proceedings of Los Angeles

I have received your answer dated the 16th instant relative to having suspended the conclusion of the Expediente of possession which you had already given to Gen or Dn of the Place named Ojaya when the order of this Proceedings on the matter to which you have acted rightly and the matter ought to remain in this state until a new decision is made and in order that it may soon be terminated you will cause Gen or Dn to present his documents to this proceeding personally or by attorney as before directed and you will report to me whether the measurements made in Ojaya include San Antonio Man.

God and Liberty Angeles March 30th 1841

Signed S. Aguillo

To the Justice of the Peace
(Provisinal) of Santa Barbara
To His Excellency the Governor

I Fernando de Trias Resident of the Partido of Santa Barbara Before your Excellency with the proper respect and in the manner most conformable to Law appear saying that there is being frequent which I am suffering for want of the judicial possession which may give my neighbors to understand the command of my Rancho named Ojaya which I have possessed in fact with a just and legal title for about ten years I pray you Excellency be pleased to issue the paper order that said possession may be given to me for although I have been requesting it since the year One thousand eight hundred and forty and although the Superior Authorities have ordered it as shown by Expediente No 1. there has not been wanting some way of rendering it null and that said order should remain unaccomplished with.

30.

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By Expediente No 2 which I am to send you I will see what was the last question started against me by Citizen Manuel Cota without any right to do so for the wood was cut on my own lands and either through mistake or malice he succeeded to prevent my operations which he succeeded in doing obliging me to undertake a journey to Santa Barbara which there was no other occasion for and suspended the matter this matter is finished by that which I have explained and the annexed documents you excellency will see the justice which is on my favor and I don't not from you well known justice it will be granted to me that I may be able to continue my occupations without the molestations and inconveniences which they have occasioned me but for the sake of that requisite to a form which I suppose I see as required by Law etc etc Please admit this on common paper there being none of the Stamp corresponding Santa Barbara July 9th 1846
 August 11th 1846

Señor Fernando Lico

Pass this to the Sub Prefect of Santa Barbara to report upon and say what are the motives which the Magistrates of Santa Barbara have been governed by that they have not put the party in possession of Cajal
 Señor Pico

In compliance with the foregoing Superior decree this Sub Prefecture having informed itself of the documents which accompanied it numbered one and two it has thought proper to include them with this representation that the Government may be informed of the causes which hindered the legal possession of Don Fernando Lico in the place in question,

Every other kind of

information as the said documents accompanied
 sufficient Santa Barbara March 7th 1846
 Señor Anastasio Canillo
 Fiscal in Office March 30th 1852 Lu Fresher Long

Affidavit
of Fernando
Tico

No 139

In the Claim of Fernando Tico to O'Jay

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Fernando Tico deposes and swears that he is the claimant in this case, that about the month of July 1846 he left the original title papers or concession made to him by Governor Alvarado in 1837 in the hands of Governor Pio Pico to whom he applied for an order for judicial possession, that Governor Pio Pico gave the order accordingly, that Dependant neglected to apply immediately after for his title papers and left them in the hands of said Pico

That the war between the United States and Mexico followed in a few months and said Pico left California for Mexico that Dependant then sent for his title and found that it had been deposited by said Governor Pico in the archives of the Government,

That Dependant afterwards applied to the Keeper of the Archives Mr W. C. P. Hartwell for said original title but that said Hartwell having no authority to deliver any original papers from the Archives gave to Dependant a certified copy,

That Dependant has seen said original title in the Archives under the charge of the Surveyor General, it is filed in the Expediente No 142 of which a duly certified copy is filed here with number N. T. No 1, said Paper Title in said Expediente No 142, is the original concession given to Dependant by Governor Alvarado in the year 1837 and by Dependant left in the hands of Governor Pico in 1846 for the reasons above given and accidentally deposited in the Archives,

That Dependant never seen in an

32.

Said title nor renounced his claim to said Rancho
of Gray but has continually occupied and claimed
it as the legal owner

Fernando Tico

Sworn and Subscribed

Before me January 13th 1854

R. Aug. Thompson

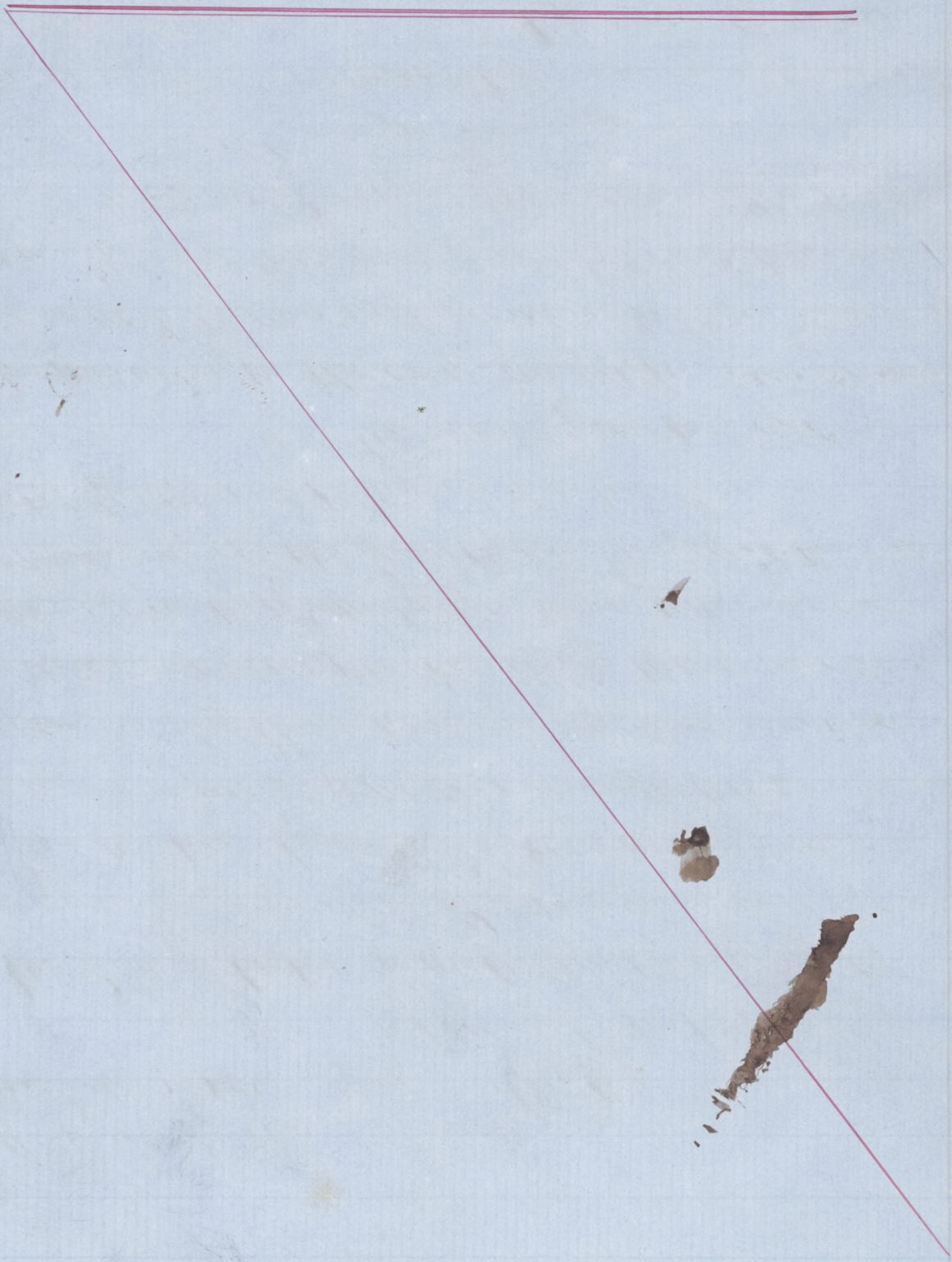
Commissioner

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Filed in Office January 13th 1854

Geo Fisher

Deputy



33.

Opinion
of the
Board

Case No 139
Fernando Tico

Ojai

vs
The United States } Claim by notes and bounds
Santa Barbara County

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The Petitioner in this Claims to derive his title by virtue of a grant made to him by Governor Juan B Alvarado on the 6th day of April 1837 of the tract of land known by the name of Ojai within the boundaries marked on the map situated in the present County of Santa Barbara which grant was duly approved by the Territorial Deputacion on the 19th of April 1837.

The only question of any difficulty presented in the case arises from the fact that the original title and certificate of the approval of the Deputacion are not filed by the Petitioner but in lieu thereof he offers copies from the Archives in the Office of the Governor General which is well as the originals are deposited.

Upon this point the Claimant has filed his affidavit setting out that about the month of February 1846 he left the original title papers made to him by Governor Alvarado in 1837 in the hands of Governor Pio Pico to whom he applied for an order for judicial possession that he requested to apply afterwards for his title papers and left them in the hands of the said Pico.

That the war between the United States and Mexico followed in a few months and said Pico left California for Mexico, that he then sent for his title and found that it had been deposited by said Pico in the Archives of the Government. That he (the Claimant) afterwards applied to the keeper of the Archives Mr. E. P. Hartwell for said originals.

Titte but said that he has no authority to deliver any original papers from the Archives to Dependant a certified copy.

That Dependant has seen said original title in the Archives under the charge of the Surveyor General. It is filed in Expediente No 142 of which a certified copy is filed with his affidavits marked R. T. No 1.

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He also avers that said paper title in said Expediente No 142 is the original concession given to Dependant by Governor Alvarado in 1837 and by Dependant left in the hands of Governor Pico in 1846 for the reasons above given and accidentally deposited in the Archives.

That Dependant never surrendered said title nor renounced his claim to said Rancho of Gray but has continually occupied and claimed it as the legal owner. Thomas E. Cross has deposed that he is now a Clerk in charge of the Archives of the former Mexican Government in California and in the Office of the United States Surveyor General that in obedience to a Superiora Decretum issued by the Commission he brought a document filed among said Archives purporting to be an original Expediente relative to the Rancho named Gray granted by the Government of the Department of California to Citizen Fernando Lico of the Partido of Santa Barbara and named in said file (142) that he made the traced copy of the said Expediente then before him marked with the initials R. T. No 1 under the affidavits of Fernando Lico and filed in this case and that he knows the same to be a true and correct copy of said original document.

Jose Manuel Garcia whose deposition was taken on the same day with said original document before him as per ver-

and certified by the preceding witnesses prove the genuineness of the signatures of Juan B. Alvarado Governor and Victor Prudon Secretary to the original grant and certificate of the approval of the Diputación contained in it as also the genuineness of the other signatures contained in said Expediente except that of Jose Moraga with which he is unacquainted.

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He also testifies that in the years 1843, and 1846 he saw the following original papers now contained in said Expediente in the possession of the Claimant Fernando Tico

- 1st The certified copy of the map or division
- 2nd The title paper or grant dated April 6th 1837 and signed Juan B. Alvarado and Victor Prudon Secretary
- 3rd The Certificate of the approval of said Grant by the Territorial Diputación signed by the same persons and dated 13th of May 1837,
- 4th The Petition of Fernando Tico to Governor Pico dated February 9th 1846 with the marginal decree of the Governor thereon dated February 11th 1846 which decree is in his hand writing having been drawn up by him in his official capacity as Secretary of the Government

That in 1843 a dispute arose between the Claimant and Manuel Castro in relation to the boundaries and the Governor appointed a Commission to investigate the matter and the witness was requested by them to draw up their report to the Governor and it was at that time that he saw the title papers above referred to in the possession of the Claimant Tico

That he again saw said papers when Tico presented his Petition to Governor Pico in 1846 for the purpose of obtaining judicial possession in his Petition being accompanied by said original

telle papers. This evidence is already sufficient to establish the facts that a grant of the land was issued by the Government in favor of the present Claimant and duly approved by the Territorial Deputation.

That the telle so issued was delivered to the grantee and that the documents contained in the Expediente in the Archives purporting to be said original grant and certificate of approval are the same telle papers which were originally delivered to the Claimant.

The fact that evidence of his telle have been placed beyond his reach and could not be produced on the trial by circumstances over which he had no control can not affect its validity or the rights which he acquired under it, even if the grant had been lost and its execution and contents had been proved by legal and competent testimony it would have been sufficient to establish its validity a fortiori.

The proof of its existence in the Archives accompanied by a copy duly certified by the proper Officer ought to be sufficient for the same purpose. The existence and genuineness of the telle being established, the only remaining questions for consideration are the sufficiency of the description contained in the grant and the due performance of the conditions imposed by it.

These points present no obstacle to the confirmation of the Claim. The grant describes the land as that known by the name of Cajon within the bounds as marked on the map which accompanies the Petition and in those conditions as solely that marked on the map and the Magistrate who may give the judicial Possession will report to the Government the number of sitios it contains

No judicial possession appears to have been given though the Expediente shows repeated attempts on the part of the grantee to obtain it in conformity with his application to the Governor in 1846

This description of the land is however amply supplied by the other evidence in the case Pedro Canillo whose deposition is given in the case proves the boundaries to be on the East the Arroyo of Sisa on the West by the Arroyo of Montejun on the North by the high Mountains or Sierra and on the South by the two hills and that it contains about four square leagues

This description corresponds with that delineated on the maps which reference is made in the grant

The latter represents the land as a valley lying between the Sierra and two hills on the North and South and the two creeks on the East and West being about four leagues in length and about one league in width at the western boundary diminishing to about a half a league on the Eastern

This description is sufficient to segregate the land and enable a Surveyor to identify and establish its boundaries

It is in proof that the grantee occupied the land in 1836 before he obtained the grant with a small house or hut in which he lived with his family

That in the year 1837 after he obtained the grant he built a fine adobe house on it in which he has lived ever since cultivating the land and having on it Stocks of Cattle Horses and Sheep

Filed in Office May 16th 1854

Geo Fisher

Clery

38

Handwritten notes in the left margin, including the number 20 and some illegible text.

39

Decree
of
Confirmation

Case No 139
Fernando Tico
vs
The United States

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In this case on hearing the proofs and allegations
it is adjudged by the Commission that the Claim
of the said Petitioner is valid and it is therefore
decreed that the same be confirmed

The land of which confirmation
is made is situated in the County of Santa Barbara
and is known by the name of Cajay being the same
which has been held and occupied by the Claim-
ant since the date of the grant and is bounded as
follows

On the West by the Arroyo de Matizian
on the North by the Sierra on the East by the
Arroyo de Girsar and on the South by the low
hills and containing four square leagues
more or less as shown by the map filed with the
Expediente to which reference is made in the
Original Grant for the description a copy of which
together with the said grant are filed with the
papers in the case

Alphus Felch

Thompson Campbell
R. Aug Thompson
Commissioners

Filed in Office May 16th 1854

Geo Fisher Secy

And it appearing to the satisfaction of this Board that the land hereby adjudicated is situated in the Southern District of California as is hereby

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Ordered That two Transcripts of the proceedings and of the decision in this case and of the papers and evidence upon which the same are found due be made out and duly certified by the Secretary one of which Transcripts shall be filed with the Clerk of the United States District Court for the Southern District of California and the other be transmitted to the Attorney General of the United States

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 *Forty* pages, numbered from
1 to *40*, both inclusive, to contain a true, correct and full Tran-
script of the Record of the Proceedings and of the Decision of the
said Board, of the Documentary Evidence and of the Testimony
of the Witnesses, upon which the same is founded, on file in this
Office, in Case No. *139* on the Docket of the said Board,
wherein *Fernando Tico* is

the Claimant against the United States, for the place known by
the name of *Ojay* —

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



G. Fisher.
G. Fisher.

U. S. **168** District Court.
Southern District of California.

No 168. Docket

The United States

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Fernando Lico.

" Ojay

Transcript of the Record
from the
Board of U.S. Land Commissioners
In Case No. 139.

Filed December 19th 1854.

J. S. Farr
clk.

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No 139.

Office of the Attorney General of the United States,

Washington, 10th February 1855.

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Fernando Tico

vs.

The United States.

{ 139 }

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 25th day of November 1854, the appeal in the district court of the United States for the Southern Judicial district of California will be prosecuted by the United States.

Oliver

Attorney General.

^{No 168}
U. S. District Court for
Southern District, Cal.

The United States

vs

Fernando Vico

.. appeal notice
..

Made April 10th 1855.

J. E. San.
C.A.

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Office of the Attorney General of the United States,

Washington, 10th February 1855.

Fernando Fico

vs.

The United States.

} 139.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 25th day of November 1854, the appeal in the district court of the United States for the ~~Southern~~ district of California will be prosecuted by the United States.

Cushing

Attorney General.

No 168

U. S. D. Court S. Dist.

The United States

vs.

Fernando Tico.

Appeal Notice.

Filed May 11th 1855.

J. S. Jan.
clerk

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In the District Court of the United States
for the Southern District of California
Hon Isaac S. T. Ogier Judge

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Fernando Pico

N^o 168.

vs

(Manuscript N^o 139.)

The United States

The petition of Pacificus Ord, Attorney of
The United States, for the Southern District
of California, for and in behalf of the United
States, respectfully represents, that on ^{or about} the
30th day of March A.D. 1852, Fernando
Pico petitioned the Board of United States
Land Commissioners for the State of California,
claiming the place called Ojai in the
County of Santa Barbara, State of California.
That on ^{or about} the 16th day of May A.D. 1854,
the said Commissioners confirmed the said
claim. That on ^{or about} the 19th day of December
A.D. 1854, the said Commissioners + +
caused a Certified Transcript of their
proceedings, with the evidence, and decision
in said cause, to be filed in the Office
of the Clerk of this Hon^{ble} Court. That
~~thereafter~~, ~~transit~~, on or about the 25th
day of November A.D. 1854, the Hon^{ble} Caleb
Cushing Attorney General of the United
States received a Certified Transcript of

The proceedings, evidence and decision
of said Board of Commissioners in
said Cause. That thereafter to wit:

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On or about the 10th day of April
A.D. 1855, the said Attorney General
filed or caused to be filed in said
Clerks Office, a notice of intention of
The said United States to prosecute the
appeal in said Cause. That the
land claimed lies in the Southern
District of California, and within the
said United States, ^{and in} ~~and~~ ^{the} ~~jurisdiction~~ ^{jurisdiction} ~~of this Court~~ ^{of this Court}, ~~and the~~ ^{validity of claimant's right or title to said land,}

Wherefore the petitioner prays that
the said Fernando Diez, or his Attorney
may be served with a copy of this
petition; and that after due proceedings
had, ~~that~~ the said decision of the
said Commissioners in said Cause,
may be reviewed, reversed, and set aside;
and that the said claim or title may
be decreed to be invalid. And general
relief.

F. N. D.

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

N^o 168.

Fernando Pico,

adv.

The United States

Petition of N. States for
Review &

Filed Sept 28th 1858

C. E. Can. clerk

By W. P. [Signature]

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P. O. [Signature]

No 168.

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

The United States, appellants }
vs. } Answer of appellee
Fernando Fico, appellee }

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Fernando Fico, appellee, appears by
his attorneys, and for answer to the petition
of the United States, filed herein, says:

That his title to the land called "Cajon",
as set forth and described in his petition to the
Board of Commissioners and in the documentary
and other evidence in this case is a
good and valid title; and he prays this
Honorable Court to affirm the decision
of the Board of Commissioners and to decree
his title to be valid.

Stallck Beachy & Billings
Atty for appellee

No 168.

The United States
appellants

vs.

Fernando Lico
appellee

Answer of appellee

Filed Sept 28th 1855.

C. E. Carrick

By J. W. Ross Dep

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Hallen Peachy & Pillsbury
Attys for appellee

In the U States District Court for
the Southern District of California,
Special Term Sept 1855
Los Angeles,

Fernando Tico. app^t. } N. 168.
vs. }
The United States. App^t. (Manuscript N. 139.)

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On motion of P Ord Attorney of the
United States for the Southern District
of California, it is, Ordered by the Court,
that an appeal be granted the United
States, to the Supreme Court of the
United States, from the judgment
of this Court against the United States,
in the above entitled cause, rendered
on or about the 3rd day of October
A D 1855,

P. Ord
Csdist Atty.

No. 168.

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

The United States Appels.

vs.

Fernando Sico Appella

Order of appeal to the
Supreme Court on motion
of P. Ore U. S. Dist. Atty.

Filed October 18th 1855.

C. C. Van Allen
By J. H. Rindge

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The United States

Appellant

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PAGE 53

Fernando Lico

The documentary evidence in this case
ascertains, that a grant was issued by Gov.
Alvarado to appellee on 6th April 1837, for
the tract of land claimed by him - that
said Grant received the approval of the
Legislative Assembly on the 19th of April
in said year. There was no ^{Judicial} approved
possession obtained. The parties testify
in many instances, the occupation
of the land in 1836 before the issuing
of the grant, with a ^{grantee} success here upon
it in which the said family lived,
and the construction in 1837 of a fine
adobe house in which they have lived
ever since cultivating the land
and having on it stock, horses, cat-
tle & sheep. As under the circum-
stances of this case the failure
to obtain judicial possession
in compliance of the grant the right
of appellee there can be no difficulty,
in the case unless it arise out
of the character of the testimony in-
voked to sustain the documen-
tary title of the grantee. The peculiar
feature in that testimony is, that the
original Grant, and certificate of the
approval of the Legislative As-
sembly,

sembly were not produced in evidence
 before the Commission by the appellee.
 These he alleged to be in the archives & in
 the office of the Surveyor General. Those
 that ^{were} ~~are~~ offered in evidence, are cer-
 tified copies of the originals. We
 do not consider that this circum-
 stance can injuriously affect
 the rights of the appellee in a trial
 as he ^{has} satisfactorily accounted for the
 fact that the originals were not
 his property, proved those origi-
 nals, and explained the circum-
 stance of their being in the archives
 and thus rebutted all idea that the
 documents ~~were~~ ^{never} had been deliv-
 ered to him.

By ^{his} deposition the appellee ^{deposes,} explains
 that in July 1846 he applied to Gov
 Pico for an order to obtain Inducida
 possession, that he sent with his
 application the original documents
 and left them in the hands of the
 Governor. That the war breaking out
 soon after in the country, Governor
 Pico left for Mexico, no delivery of
 Inducida papers, or of his papers
 having been previously made to
 him the appellee. That he ap-
 pears to W. & P. Starnes the
 Custodian of the archives after
 the creation of the Mexican ^{in this country} office
 for the originals, who declares

to deliver the original & gave of better
 copies to me. The document
 concludes by meaning that the orig-
 inal Grant & certificate of Survey were
 the approved & filed in Expediente No
 142 in the Archives of the Surveyor General
 office, of which a certified copy is filed, &
 that the said original, are the same
 which were delivered to him, and that
 he by him left in the hands of Gov. Pico
 for years, afterwards and which
 came accidentally into the said
 Archives.

After laying the foundation for the in-
 -struction of secondary testimony
 as to the existence of the original
 document, various witnesses were
 sworn - Thomas E. Evered a Clerk
 in the Office of the Surveyor U.S. presented
 the Exhibits on file to be a true copy
 of the original and the relative
 to the Grant by Gov. Pico to appellee
 for the piece known as Ojay and num-
 -bered 142. Jose Maria Carrasquer,
 former the Signatar to the said origi-
 -nals to be genuine, and swore that in
 1843 he saw these original documents in the
 possession of appellee, that in that year
 a dispute occurred between appellee
 and one Manuel Cotta about bounda-
 -ries complaint where being made
 to Gov. McClurens, a Commis-
 -sion of Inquiry was appointed and
 returned

was requested to draw up the report, and it was in that occasion ^{he} saw the original documents in possession of appellee.

This witness further testifies that in 1846 he again saw the original paper, in possession of appellee, at which time latter appeared to Gov. Pio Pico for an order for judicial possession of that grant accompanied his application with the copies of evidence of his title.

foregoing testimony establishes the genuineness of the original documents, the correctness of the copy of them on file, ~~the~~ delivery of ^{originals} ~~them~~ to the appellee, and the circumstances which disabled him from producing the original, simultaneously with his petition to the Commission. If the original title had been lost after a laying a proper foundation the party might give secondary evidence of its previous existence and contents. He can see no reason why he may not show, and when the non production of the original documents was occasioned by circumstances out of his control, and not only the existence and contents of the original proved, but their possession by the authorities of the county established, having been

deposited with them by the grantee
under the circumstances detailed.
The decision of the Court in fa-
vor of the validity of this claim
must therefore be affirmed.

The United States,

Appellee, vs. United Canal Co

vs.

Fernando Fies

Appellee

for the Southern
Coast of Cal.

This cause coming on to be heard
at a stated term of said Court on
appeal from the final decision of
the Court to ascertain whether the
state land claim in the State
of California, under an act of Con-
gress approved 3 March 1851
on the transmission of the proceed-
ings & decision, and the papers &
evidence on which said decision
was founded, and it appearing
that the said transcript has been
duly filed according to law &
course for the respective parties
having been heard, it is ordered
adjudged and decreed that the
said decision be affirmed and
it is further ordered, adjudged
and decreed that the claim of
the said Fernando Fies is a good
and valid claim, and that the
said Co., and the ~~same~~ is hereby

comprised to the land situated in the
County of Santa Barbara known by
the name of Ofay being the same
which has been held & occupied
by him since the date of his grant.
bounded on the West by the Arroyo
Moteligan, on the North by the Sierra
on the East by the Arroyo de Lusa
and on the South by the true lines &
containing four square leagues ~~more~~
~~less~~ as shown by the map filed
with the Expediente to which a refer-
-ence is made in the original copies
of which part and map are pre-
sented to the Tribunal in this case.

No 168.

United States

vs

Fernando Tico

Opinion & Decree
by

Judge M. Alvarado

Filed Sept 2 1855

A. E. Canan

By J. M. Ross

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

Hon. Isaac S. Quinn Judge.

December Term 1856

The United States
vs
Bernardo Tico
Appellants
Appellee
No. 168

Transcript from the Board of Land Commissioners No. 139

The Attorney General of the United States having
given Notice that the Appeal to the Supreme Court
from the decision of this Court in the above entitled
Cause will not be prosecuted by the United States
And a stipulation having been entered into by the
United States District Attorney and the Attorneys for
the Claimant that the Order granting an appeal
to the Supreme Court herebefore made in this Cause
be vacated, and that the decree of this Court
herebefore rendered in this Cause may by order
of the Court be made final, it is
Ordered, adjudged and decreed, that the

Order granting an appeal to the Supreme Court,
therefore made in this Cause be and the same is
hereby vacated. And that the Claimant have
leave to proceed under the decree of this Court
therefore rendered in this Cause as under a
Final Decree ————— *James M. Ogden*
R S Dist Judge

U. S. Dist Court
South Dist. Cal.
No 168

The United States
Appellants
vs
Fernando Lico
Appellee

Order
Vacating Appeal

Filed Feb 3rd 1837
James
Ogden
clerk

California Land Claims.

Attorney General's Office

11 September 1856.

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Sir,

In the case of the claim of Fernando
Tico, confirmed to the claimant by the Commission-
ers, Case no. one hundred and thirty-nine (139) and
also confirmed on appeal by the District Court, ap-
peal in the Supreme Court will not be prosecuted
by the United States.

I am

Respectfully

Yours

Pacificus Ord Esq.

U.S. Atty for the

Sacramento Dist. of California.

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Fernando Lico

139

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Oct 21 1836

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

Hon Isaac S. Wiggin Judge

November Term 1855

The United States

Appellant

Fernando Tico

Appellee

Roll No 168

Transcript from the Record of said Term number No 168

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

I. D. Dist atty.

Roller Beach & Billing
attys of Appellee.

U. S. Dist Court
South Dist Cal

No 158

The United States

Appellant

vs

Fernando Tico

Appellee

Stipulation

to vacate order of

Appeal in Supreme Court

Filed this 5th February

1857

C. S. S. Clerk

J. M. Coleman

Dep

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that the said survey is not in conformity with the final decree in this cause, and that your petitioner will be greatly injured thereby; in this: That the lines and courses as laid down by the said Terrell, deputy surveyor, on the map and survey returned to the office of the Surveyor General of the United States for California, include lands of heirs of Jose Vicente Moraga, deceased, called and known as "La Llanada Larga, and that a large part of the lands which of right belong to this petitioner, being a part of the said tract called Gig, and included within the boundaries said trances, as set out and described in the original grant by the Government of Mexico to the said Fernandez Yico, and also in the decree of confirmation of the title made by this honorable court, to which reference is hereby made, are excluded and left out of the said survey by the said Terrell, U.S. deputy surveyor: and that the survey of the said Terrell of the said tract, is in many material points, defective, erroneous and void.

This petitioner further says that the time fixed by law for filing exceptions to surveys after approval by the U.S. General, had not, in his case, expired at the time of the decree

of Hon. J. S. K. Ogden, late judge of this Honorable
Court.

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Your petitioner prays that it may
please this honorable court to direct an
order to be issued for the return of the
survey aforesaid, ^{into this court} for further proceedings.

Charles Tomblin
Atty for Juan Carrizosa

United States of America.

State of California, County of Santa Barbara.

I, Juan Carrizosa, being first duly sworn, depose
and say that I have heard the foregoing petition
read and translated, and that I know the contents
thereof, and that the same is true.

Juan Carrizosa

Sworn Subscribed
to before me on this
the 22^d day of November
A. D. 1861

G. L. Meix
Clerk

139 - Gray
No. 168.

U. S. Dist. Court Southern Dist

The United States

v.

Fernando Lued

Petition for return
of
Survey

Filed Dec 2^d 1861

G. L. Wix
Clerk

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

The United States
Appellant

No. 168

vs

"Jay"

Fernando Tico

Transcript No. 139.

Appellee

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It being suggested to the Court that the survey
of the land claimed in this case, made under final
decree, and approved by the U. S. Surveyor General
for California, does not conform to said decree
and is erroneous & that said survey will be to the
injury of the Intervenor, Juan Carrillo; on applica-
-tion of said Juan Carrillo, it is ordered that the
said Surveyor General return to this Court forth-
-with the plat of said survey, and that the said
Juan Carrillo, intervenor, be allowed twenty days,
from and after the return thereof, to file exceptions
thereto; and it is further ordered that a certified
copy of this order be served upon the said Surveyor
General for his information

Thus done & signed at Chambers in the City
of Los Angeles Cal^a on the 2 day of December 861.

Fletcher M. Haight
U. S. District Judge for the
Southern District of California

No. 168

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

The United States

vs Appellants

vs

Fernando Tico

Appellee

Order for Return of Security

Filed Dec 2^d 1861

G. L. Mix

clerk

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

The United States
vs
Fernando Tico

No. 168,

"Ojay"
Transcript No. 139.

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vs
Fernando Tico

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

Juan Camarillo
on application of said Juan Camarillo
it is ordered that the said Surveyor General return to this Court forthwith
the plat of said survey, and that the said Juan Camarillo

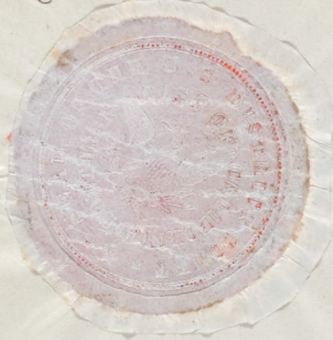
be allowed twenty days, from and after the return thereof, to file exceptions thereto; and it is further ordered that a certified copy of this order be served upon the said Surveyor General for his information. F. M. Haight ~~Isaac S. R. Ogier~~ U. S. District Judge.

UNITED STATES OF AMERICA, SOUTHERN DISTRICT OF CALIFORNIA. }
COUNTY OF LOS ANGELES. }

G. L. Mix
I, ~~G. Sims~~, Clerk of the United States District Court for the Southern District of California, do hereby certify that the above and foregoing is a full true and correct copy of the original order, made and entered on the second day of December 1861, in said case, No. 168 on the docket of said Court, wherein The United States is Appellant and Fernando Tico is Appellee claimant against the United States, as appears of record in my office.

In witness whereof I herewith set my hand and affix the seal of said Court this the second day of December 1861.

G. L. Mix, Clerk.



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

To. E. F. Beale

To. ~~W. MANDAVILLE~~, U. S. Surveyor General, for California—Greeting:

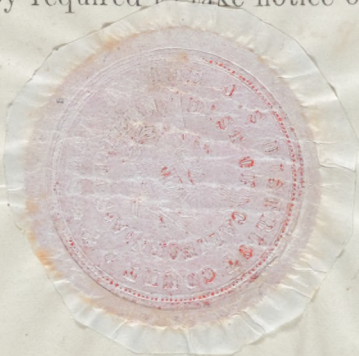
You are hereby notified that the United States District Court, for the Southern District of California, at the Chambers Regular Term of said Court, 1861, in case No. 168 on the

docket of said Court, wherein Fernando Tico is claimant against the United States, made and caused to be entered an order, of which the above and foregoing is a certified copy herewith transmitted to you for your information, and you are hereby required to take notice of the same.

F. M. Haight
Witness the Hon. ~~ISAAC S. R. OGIER~~, Judge of the United States District Court, for the Southern District of

California, this the 2^d day of December 1861.

Attest my hand and the seal of said Court the day and year
last above written G. L. Mix, Clerk.



No 168

U. S. Dist Court S. Dist Cal

Fernando Sico

United States

San Francisco Dec 6 1861
I hereby certify that I have this day made personal service of the within order on E F Beale Surveyor General of California by leaving at his office a certified copy of the same

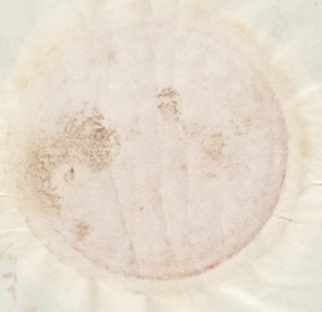
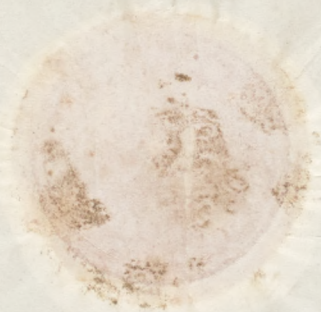
A. D. Barrows
U S Marshal
per A W Buchanan
Repty

Dated Dec 12th 1861

John O White clerk

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Faint, mostly illegible text and markings on the reverse side of the document, including what appears to be a stamp or official record.

^{"Jay"}
Docket No. 168
L. C. No.

In District Court of United
States - Southern Dist.
for California

The United States

vs

Fernando Soto

"Jay"

Filed June 13/62

John Wheeler
clerk

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United States District Court South Dist. Cal.

Fernando Sico,

appellé

No 168

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vs
The United States

appels

Be it remembered that on the 13th day of June A.D. 1862, came before me John Wheeler Clerk of the United States District Court for the South Dist. Cal. and J. Sprague U.S. Commissioner duly authorized to take depositions to be used in civil cases pending in the United States Courts, Tho Sprague a witness on behalf of Juan Camarillo Successor in interest to Fernando Sico Claimant and appellee in case mentioned upon the Docket of said U.S. Dist. Court South Dist. Cal. #168, whose deposition is to be used in said Court therein And the said Thomas Sprague, being duly sworn testified as follows to wit

Present, J. S. Remond Esq in behalf of Claimants and J. C. Whitney Esq attorney on part of the United States

Questions by Counsel for Claimant

4
Ques. What is your name age & place of residence

Ans Thomas Sprague, 45 years of age
And I reside in Santa Barbara, and am a
Surveyor and Engineer

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Ques Do you hold any office in Santa Barbara County, if so what

Ans I am County Surveyor of that County

Ques Are you acquainted with the tracts of land called Gay, & if so where is it situated

Ans I am. It is situated about eight, miles directly north of the old mission of San Buenaventura, East of San Buenaventura and west of a stream called Muppa and bounded on the north by a high range of mountains, and on the south by a detached and lower range of mountains

Ques Have you examined the plat of the Survey of said tracts of Gay returned

to this Court from the Surveyor Generals Office
and now on file - and which plat of Jarvey
is now here shown you

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Ans. I have examined it

Ques. Does said plat said forth Correctly
the boundaries of said Rauchs as set forth
in the Decree of the U. S. Dist Court for the South
Dist Court now here shown you

Ans. According to this survey the westerly
line ~~of the survey~~ is about 2 1/2 miles ^{East} of the
Arroyo de Matelijar. and also the southerly
line of the Rauch by this map is represented
as running on the Northern Slope of a Range
of mountains. Whereas in fact it is on the
Southern side of the mountain; and a portion
of the Northerly line of said Rauch as rep-
resented by this survey is near the foot of
the Sierra. When in fact it is from 1 mile
to a mile and a half from the foot of the
mountain in the plain

The Western line as represented on the maps
I have run out and measured. and have
taken the bearings of Course No. 1. - The Country
is entirely open. & no difficulty exists in taking
the accurate bearings -

Ques. Look at plat of survey marked Exhibit A, & compare it to this deposition, & now here shown you. And state whether the water course marked thereon as San Buenaventura River, is not the same as is designated on the other map shown you by the name of Arroyo de Matilejar

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Ans. It is the same. —

Ques. When did you run the line marked Course 8, shown in said Exhibit A. —

Ans. About the 7th of June A.D. 1861. —

Ques. Please to state whether the course & distance as marked on the said plat of Course 8, ~~is correct~~, corresponds with the line actually run and chained by you

Ans. I could not tell as there were no posts or land marks by which I could tell whether it was correct or not. When I made the survey, I commenced at the North Easterly corner of the survey of the Rancho of Santa Ana and run thence South $66^{\circ} 20' E$. 194 ch & 40 links, and not finding any post, mound of rocks or any thing to indicate that any survey had ever been made there, I ran from there South

14th N. 395 chs 60 links at which point I failed to find any evidence that a Surveyor had been ever there - neither stake post or mound of rocks. And on this map where San Antonio Creek is represented there is no stream of any kind. On the contrary it is the top of a high mountain.

On running south on line D at 124 chains I crossed San Antonio Creek, at 184 chs & 50 links I crossed the Cañada del Leon & from thence I commenced rising the mountain at once and was from that point on the high range of mountains. The point marked "Mound of rocks" is about 40 chains from the summit and south of it, which brings it over on to the claim of the Cañada large. And the southerly line continued easterly comes on to the lands known as Saticoy of Santa Paula belonging to Moore & others.

Ques Does the plat show the true locality of the arroyo of Sisau. the Eastern boundary of said Ranch?

Ans I have never made any survey of that portion, All I know of it is from frequently passing there. From my observation

it is not truly represented, there is no such attempt to crook in the stream at that point, as the map shows

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Ans ~~Are not these boundaries~~
Ques Have you been along the course of the Sisaw Creek

Ans I have very frequently, perhaps a dozen times

Ques Can you state whether it be correctly described or shown on this map

Ans ~~The stream of the name Sisaw is applied to both branches is correct.~~
The stream marked on the plat as Arroyo de Sisaw is the same stream called Arroyo de Mupu. and the stream called Creek on this map is known by the Country people as the Sisaw, and instead of running up the valley as it is represented by the map. it runs more into the mountain as represented on the map and near the northerly line of the survey, coming out of the mountain near point marked "live oak tree" on the map. just as shown by pencil mark on Exhibit "A"

There is no such continuous range of mountains running across the land as is represented by the Maps - but there is a chain of low hills or broken mountains, The mountain range represented in the Southern portion of the Survey, slopes down to the Northward to the Canada de Leon, then there rises up a range of low hills which run across to the Sierra in a northerly direction

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Ques Have you traced along the Southern line

Ans The pole marked No 8. is on the point of a high ridge. When there I turned my instrument on Course 7, and I could see nearly the whole length of the line $\frac{2}{3}$ or $\frac{3}{4}$ probably of the entire length, all of which distance was on the Southern slope of the mountains

Ques What is the distance from the line Course 7, to the Valley below northward,

Ans I never measured it, but estimate it about two miles on an average from the said line down into the Canada de

Q. I did not find any on the line

Q. How then did you know that you commenced running on the line of the Official Survey

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A. I commenced at the N. E. corner of the Rancho of Santa Ana and run South $66^{\circ} 20' E$, 197.40 lks which according to the official survey is the starting point of the Ojai

Q. Did you find any mound of rocks at the south west corner of said tract of Ojai

A. Yes, nor any in that vicinity

Q. Did you find any land marks, mound of rocks or stakes around this tract, and if so where

A. I did not examine for posts or corners except at corners Nos. 1 & 8, and did not find any at either of those points. Fifteen chains back on the connection line towards the North East corner of Santa

9
And I found a small mound of rocks
25 Chaus' southerly, at right angles with
the Connection line, but there was no evi-
dence of its ever having been made by a
Surveyor, it was a small pile of rocks, I
have examined the Country for half a mile
about there closely for mounds or evidences
of them, but could not find any.

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The one I mention is the only land
mark that I found

Ques How long have you known this Ranch
& how long have you lived in Santa Bar-
bara

Ans I have known it about 1 year & half
& lived in Santa Barbara a little more
than a year and a half

Ques How do you know that the arroyo
de Visan is the same as that called
the Arroyo de Mapa

Ans By common report and by being
so called by the people of the Country
generally

Ans Do you know whether it is the stream below or the one above that is called the Mupa.

Ans. The main stream is called the Mupa and the long branch having its source in the mountains is called the Sisaan. I know it also from the record in the Case of Sateery

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Quer Did you ever trace the Arroyo de Sisaan to its source in the mountains

Ans Very nearly so - I have been within a quarter of a mile of its extreme source,

Quer Have you any positive knowledge of the distance from where you did go, to the source

Ans. I can only say that looking from where I stood, I could see the source of the stream very plainly - I never saw the line vak referred or mentioned on the map - it is the probable locality of the source, there are some extensive oil springs just opposite where the stream comes out of the mountains, -



11

Ques Have you any positive means of knowledge as to the quantity of land enclosed in the lines set out on the map

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Ans I have never made any calculation of the quantity

Ques At whose request did you make this partial survey which you made

Ans Don Juan Camarillo paid me for it, it was made about the 7th of June 1861

Ques Who was with you at the time

Ans Don Juan Camarillo and the neighboring people, interested in the surrounding lands

Re Examination resumed

Ques What part if any of the land included within the survey of O'Jay as shown by the plat now on file are claimed as being within the boundaries of the Rancho Cuadacarya. and

San Paula y Satecay
(Quintero objected to by U.S. Dist. Atty)
on the ground that it is not shown that
Witness had seen the map of said Rancho)

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Ans. I should think as a rough estimate
something like 3/4 of a league probably

Quest. Are not the lands lying between
the Arroyo de Matilijan and the line
marked on the plat as course S. Plam's
lands and the most valuable portion of
the tract

Ans. This Plams and low rolling hills
The quality of the land is about as good
as the best of any other portion

Cross Examination resumed

Quest. How do you know that the San Buenaventura
river is the same place called Arroyo de
Matilijan

Ans. There is a little Indian Rancharia at
the place where the North Eastern corner of
the Rancho of Santa Ana is marked on

the map, the Rancharia is called Matelijan
 Some people ^{generally} call the river San Buenaventura
 and others the name of Matelijan. The Arroyo
 where it enters the Cañon is known as the
 Arroyo of Matelijan

Ques Mark on your Exhibit "A" as near as
 you can the place where you found the
 mound of rocks of which you have
 spoken

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Ans It was at a place marked now, S. No. 1
 If it were a mound established by the Surveyor
 which it was not, it would make the Sur-
 vey still more objectionable

Thomas Sprague

Given to & subscribed before me
 this 13th day of June 1862

John Whelan
 Clerk
 U.S. Office Court

No. 168
U. S. Dist Court
South Dist Cal

Remand Tied

The United States

Att & Rep of
Thomas Sprague
Witness for Claimant

Filed June 13/62
John Wheeler
Clerk

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

Fernando Tico } Land Com. No. 139

ad:

} District Court No. 168.

The United States } "Ojay"

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Now comes Juan
Lamarrillo, by his attorney Charles Fer-
nald, and shows to this Hon. Court
that he is the owner in fee simple
of all that tract of land in Santa
Barbara County, State of California,
known and described in the "Expedient"
on file in this cause in this Hon. Court,
as "Ojay", and finally confirmed by the
United States Board of Land Commission-
ers, appointed to "ascertain and settle
private land claims in the State of
California," to said Fernando Tico; ~~And~~
That the said Fernando Tico, and wife con-
veyed by deed all of the said tract
of land to one Henry S. Larner, on
the day of A. D. 185
That said Henry S. Larner and wife
conveyed by deed all of the said
tract to your petitioner, on the
 day of A. D.
185, as will more fully appear

by the said deeds, duly acknowledged
and recorded with Santa Barbara Deeds
in recorder's office of said County, which
said deeds your petitioner now
brings into Court.

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And now your
petitioner excepts to the entire survey
made and approved by the United
States Surveyor General, (J. W. Mendenhall)
for the State of California, of the lands
or tract called "Cajon", claimed in this
case, and the plat whereof was filed
by said Surveyor General, with the
Clerk of this Hon. Court on the

day of _____ A. D. 1862,
and particularly filing his exceptions
thereto, says

That he objects and excepts
to the entire survey of said tract as
represented in said plat; because, first,

The survey was not made
in conformity to the boundaries
mentioned in the grant or title from
the Government of Mexico to said Dies, as
shown by the "Expediente", and the
records evidence in this cause.

Second: Your petitioner excepts es-
pecially to the entire Southern

line of said lands as represented in said plat being the line between station numbered D.6. and station 7 and marked course 7 on said plat. And this petitioner alleges that no line was run, surveyed or chained or in fact established as a southern boundary of this tract as shown by the plat; that no mound of rocks was ever made or erected nor any station established at any point along course marked "7" as shown by said plat; that the southern line as laid down on the plat in this case, includes lands belonging to and a part of the tract known as "Sagrada Larga" granted by the Government of Mexico and confirmed by the United States to one Moraga.

Petitioner excepts to the entire south western line of said lands as represented by said plat being the line between station 7, or "mound of rocks" and the "mound of rocks" at "Beginning" and marked as course "8" N. 17° West; and instead of said line, petitioner claims the following to be the true ^{western} line or

boundary of said lands, as called
for by the title, decree and other records
in this case, To wit: the water course
or boundary of tract called "Santa Ana"
marked on the plan as San Buenaven-
tura River, otherwise called Arroyo
de Matilijar.

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And claimant says that
the records and documentary evidence
on file in this case in this court, and
the records and documentary evidence
on file in this court in case No. 97,
wherein Gregorio Ayala was claimant
for lands called "Santa Ana", to all
which papers and record evidence
petitioner refers and prays to use
the same on the hearing of these
exceptions, it appears that the said
water course called Arroyo de Matil-
ijar, was and is the western bound-
ary of the tract called "Gay" and
the Eastern boundary of the tract called
"Santa Ana". And further that the water course
marked on the plan as "San Buenaventura
River" is the same stream called "Arroyo
de Matilijar".

Wherefore petitioner prays the
decree of this court to reject the said

And petitioner prays the

Survey returned into this Court
by the Surveyor General of the Uni-
-ted States for California, and to adjudge
the same erroneous, and that the said
tract be surveyed anew, or that
the southern and western lines thereof
marked on said plat as courses "7"
and "8" respectively, be modified
by decree of this Court so as to con-
form to the true and natural
boundaries set forth in the orig-
inal grant, and to the decree
of this Court confirming the tract,
and order that a survey be made ac-
-cordingly for the issue of patent
in the name of petitioner as successor
in interest of said Deco, to the said tract,
& as in duty &c.

Charles Fernald
for grantee, petitioner
& claimant.

State of California }
County of Santa Barbara } ss.

Juan Carrillo
being duly sworn, says that he has
heard the foregoing reception, from page
1 to 5 and including page 5, inclusive
read, & to be filed on his behalf in this

cont, and that he knows the contents
thereof, and that matters and things
therein stated and contained are true
of his own knowledge.

Sworn and subscribed *Juan Carrillo*
to before me on this 21st
day of Feb. A. D. 1862.

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J. Carrillo
Jury

de Distrito del D.º Distrito Judicial

Attest:

S. H. Thompson
County Clerk.



To
U.S. District Attorney for Southern
District of Cal.

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Sir:
Please to take notice that
the above exceptions will be brought
to hearing before the court in thirty
days after service thereof on you inclu-
sive of day of service, or as soon
thereafter as counsel can be heard

Charles Fernald
Atty for claimant, Juan
Fernald, successor in
interest of Fernando Gier

I accept service of the foregoing ^{exceptions} ~~affidavits~~, agreeing
that certain blanks therein may be filled up on
or before the hearing of the same
Monterey April 9, 1862

R. L. Whiting
U.S. District Attorney
for the Southern District
of California

Spec. Service \$2.00
Writ .12
Copy 20 f. 10 2.00
\$4.12

Orig. Docket
No. 168.

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

Fernando Tico

vs.

The United States

Exceptions of
Fernando Tico
Claimant.

Filed March 11th 1862

John A. Wheeler

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PAGE 97

NOTICE is hereby given that the final survey of the parties of the record in this case, has been returned in to Court and objected to. All parties in interest in said lands are therefore hereby admonished to appear and intervene, for the protection of their interests, under the rules of the Court.

JOHN O. WHEELER, Clerk.
Monterey, April 9, 1862-3w.

United States of America }
Southern District of Calia }
}

John McElroy being
Sworn deposes and says that he is
one of the Editors of the Pacific
Sentinel, a newspaper published
in Santa Cruz Southern District of
California and that the annex notice
was published in said newspaper for
three weeks successively, commencing
on the 18th day of April A.D. 1862,
and ending on the 2^d day of May
A.D. 1862

John McElroy

Sworn to & Subscribed
before me this 5th day of
May 1862

J. H. Hayden
Clerk
Santa Cruz County

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THE UNITED STATES vs. FERN...
"OJAY" No. 168.
NOTICE is hereby given that the parties of the record in this case, to Court and objected to. All in said lands are therefore hereby and intervene, for the protection under the rules of the Court.
JOHN
Monterey, April 9, 1862-3w.

United States of America }
Southern District of California }

John McElroy being
Sworn deposes and says that he is
one of the Editors of the Pacific
Sentinel, a newspaper published
in Santa Cruz Southern District of
California and that the annex notice
was published in said newspaper for
three weeks successively, commencing
on the 18th day of April A.D. 1862,
and ending on the 2^d day of May
A.D. 1862

John McElroy

Sworn to & Subscribed
before me this 5th day of
May 1862

J. H. ...
C. ...
Santa Cruz County

168 SD
PAGE 98



No 168

U. S. Dist Court
South Dist Cal

The United States

^{vs}
Remond & Co

aff^{ts} of publication
of
notice of return of survey

Filed May 8th 1862
J. M. Wheeler
clerk

168 SD

PAGE 99

Know all men by these presents, that Fernando Rio
and Maria Jesus Ortega his wife, both of the County
of Santa Barbara, in the State of California, Parties of
the first part, in consideration of Seven thousand five
hundred Dollars to them paid, the Receipt whereof is
hereby Acknowledged, have granted, bargained, sold,
Conveyed and forever Quit Claimed, and do by these
presents, grant, bargain, sell, Convey and forever
Quit Claim unto Alvaro Sorrow Carnes of the afore-
said County and State, party of the second part
and to his heirs and assigns forever; All those
lands situate in said County and State, at the
distance of about twenty miles in a North Easterly
direction from the Mission Church of San Buena-
ventura, containing four Spanish leagues more
or less, and commonly known as the Rancho of
Farm of Ojay, together with the tenements, heredi-
taments and appurtenances thereunto belonging and
the reversions, remainders, rents, issues and profits
thereof, and all the estate, right, title and interest
of the parties of the first part in and to the same
whether in law or equity, to have and to hold the
above granted and described premises with the
appurtenances unto the party of the second part
his heirs and assigns to his and their own proper
use benefit and behoof forever

In Witness whereof the Parties of the first
part have hereunto set their hands and seals on

this the 25th day of May AD One thousand
Eight Hundred and fifty three

Fernando Tico Esq.

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In presence of
Jose de Anaya
Marciano Rodriguez

Maria Jesus Ortega Esq.

State of California
County of Santa Barbara Esq.

Be it remembered
that on this 25th day of May AD One thousand eight
hundred and fifty three, before me J. H. Burrough
County Clerk in and for said County, personally appear-
ed Fernando Tico known to me to be one of the persons
described in and who executed the foregoing instrument
and he acknowledged to me, that he had executed the
same freely and voluntarily and for the uses and pur-
poses therein mentioned, and Maria Jesus Ortega
having by me been made acquainted with the con-
tents of the foregoing conveyance acknowledged
in examination apart from and without the hear-
ing of her husband, that she had executed the
same freely and voluntarily without fear or compul-
sion or undue influence of her husband and that
she did not wish to retract the execution of the
same

Witness my hand and the Seal of the County
Court the day and year above written
Anna W. Burrough
County Clerk



Filed for Record in this office on this 24th day of
June A.D. One thousand Eight hundred and fifty three
at 11 o'clock A.M. and Recorded in "Record of Needs"
Lib. A. Page 127 & 128

Witness my hand and official seal this 9th day
of July A.D. 1853

A. Burrough
County Recorder

United States of America
South West California

I John Whelan Clerk of said Court of said County
do hereby certify the above and foregoing to be a full true and correct copy of
Original Document, filed in Case No. 168 on Docket of said Court, wherein
Hernando's is Claimant against the United States, and subsequently
withdrawn from the files per leave of said Court, the aforesaid Copy
being substituted therefor.



Witness my hand and the Seal of said Court
at Monterey this the 14th day January
A.D. 1852

John Whelan
Clerk of said Court

21
No 168
U. S. Dist Court
South^h Dist. Cala

Fernando Tico
in
The United States

Copy of Deed, ~~Larnes et al~~
to
Fernando Tico ~~J. Camarillo~~
to
H. S. Carnes

Substituted and filed in
place of original. June 13, 1862

John Doherty
Clerk

Know all men by these presents, That we Henry S. Carnes and Dometila Rodriguez de Carnes his wife Parties of the first part, of the State of California and County of Santa Barbara, for and in Consideration of the Sum of Ten Thousand Six Hundred Dollars lawful money of the United States of America to them in hand paid the receipt whereof is hereby acknowledged, have granted, bargained, sold, conveyed and forever quit-claimed, and do by these presents grant, bargain, sell, convey and forever quit claim, unto Juan Camarillo of the County and State aforesaid, party of the second part and to his heirs and assigns forever All those lands situate in said County and State, at the distance of about twenty miles in a North Easterly direction from the Mission Church of San Buenaventura containing four Spanish leagues more or less, and commonly known as the Rancho or farm of "Ojay" said Rancho or farm being the same that was conveyed to Henry Storrow Carnes by Fernando Tico and Maria de Jesus Ortega his wife on the 25th day of May A.D. One thousand eight hundred and fifty three by virtue of a deed of conveyance, which said deed is duly acknowledged and recorded in the Records Office of the County of Santa Barbara in Liber A of Deeds on page 124. Together with the Accretions hereditaments and appurtenances therunto belonging or in any wise appertaining, and the reversions, remainders, rents, issues, and profits thereof, and

all the estate, right, title and interest of the parties
of the first part in and to the same, whether in law
or in equity, To have and to hold the above granted
and described premises, with the appurtenances un-
to the said party of the second part and to his heirs
and assigns, to his and their own proper use benefit
and behoof forever,

Witness whereof the said parties
of the first part have hereunto set their hands and
seals at the City of Santa Barbara on this 24th day
of June A.D. One thousand eight hundred and
fifty six

In presence of - the words "in witness whereof" intended before signing
Autonio de la Palma y Mesa
George D Fisher
Mary S. Carnes and
Domitila de Carnes and

State of California
County of Santa Barbara

On this twenty fourth day
of June A.D. One thousand eight hundred and fifty six
before me George D Fisher County Clerk in and for the said
County, personally appeared Mary S. Carnes and Domitila
his wife known to me to be the persons described in and
who executed the foregoing instrument, who acknowledged
to me that they executed the same freely and voluntarily
and for the uses and purposes therein mentioned; and

The said Donatita having been by me first made ac-
-quainted with the Contents of such Conveyance ack-
-nowledged on an Examination by me had apart from
- and without the hearing of her husband that she executed
- the same freely and voluntarily without fear or Com-
- pulsion or undue influence of her husband and that
- she does not wish to retract the Execution of the
- same

In testimony whereof I have hereunto
set my hand and the Seal of the
County Court on the day and year
last above written
George D Fisher
County Clerk

State of California
County of Santa Barbara

I hereby certify that the
 foregoing instrument is recorded in Liber B. of Records
 of the Records of my Office on pages 336 & 337,
 George D Fisher
County Recorder

Filed for record on the 24th day of June A.D. 1856
 at 10. 0. Clock and 45 Minutes A.M. by Juan Lavarria
 George D Fisher
County Recorder

United States of America
South Dist California
John D. Whelan Clerk of

the United States District Court for the Southern District of California do hereby Certify, the above and foregoing to be a full true and correct copy of the original Deed filed in Case No 168 in the District of said Court. Wherein Fernando Rio is Claimant against the United States and subsequently withdrawn from the files pursuant to said Court, the aforesaid Copy being substituted therefor



In testimony whereof I hereunto set my hand and affix the Seal of said Court at Monterey this the 11th day of January A.D. 1863
J. M. Wheeler
Clerk of said Court

No 168
U. S. Dist Ct
South Dist Cal

Fernando Rio
vs
United States

Copy of Deed
H. V. Carver et al
to
Juan Lamorelle

Filed & returned in place
of original this June 13, 1862
John Wheeler
Clerk

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

The United States } "Gay" Deed No. 168
vs } Land Com. " 139
Fernando Ties }

168 SD
PAGE 108

Now comes Juan Cam-
arillo, successor in interest in the tract
called and known as "Gay" in Santa Barbara
County, to Fernando Ties, the original grantee
named in the record in this cause, and
moves the Court, that the claimant have
leave, to withdraw, two deeds or instruments
of conveyance heretofore filed by said Cam-
arillo, successor in interest to said Ties, in
this Hon. Court, in cause No. 97, wherein
Bisognon Ayala and Carme Venágar are claim-
ants for tract, in Santa Barbara County, known
as "Santa Ana", & adjoining the said tract of "Gay"
whereby, the said Fernando Ties, the original
grantee of tract called "Gay" conveyed in
fee simple, all his right, title & interest of, in and
to all of the said tract to one Henry S. Carnes,
which said deed, bears date the
day of A. D. 1854, and duly acknowl-
edged, and recorded with Santa Barbara
Deeds, in recorder's office of said County of
Santa Barbara; said Deed of Henry S. Carnes

to wit: 1st Dec

dated on the _____ day of
A. D. 1857, whereby the said Carnes con-
veyed, ^{in fee simple,} all his right, title and interest
of, in and to the said tract of "Gay" to
Juan Carnanillo. The petitioner herein, and
which deed is duly acknowledged and recorded with Santa
Barbara Deeds in recorder's office of said
County; - and to file the same in this cause,
and that this Hon Court will, on inspection
of said deeds, adjudge and decree that
the name of Juan Carnanillo, peti-
tioner herein, be substituted of record
in this cause, for, and instead of that of
Fernando Ties, the said original claimant.
And that therefore, petitioner have leave
to withdraw the said deeds from the
files of this court, on filing attested copies
of the same

Monterey 13th June, 1862. Charles Fernald
Atty for Juan Carnanillo.
Successor in interest to Fernando
Ties.

"Gay."
no 168

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

The United States
vs.

Fernando Tio.

Docket No.

Land Com. N.º 139

Filed June 27, 1862
John S. Whelan
Clerk

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In the District Court of the United States
Southern District of California
Term Term 1864

The United States

168 SD

vs

"O'Jay"

PAGE 111

Fernando Lico

Docket No 168

Land Commission

No 139 -

Now on this day the Exceptions
heretofore filed herein by Juan Carrillo
(Successor in interest to Fernando Lico
the original grantee of the tract
mentioned and described in the record)
to the survey of said tract, made, approved
and returned into this court by J. M.
Mandeville, Surveyor General of the
United States for the State of California
coming on regularly to be heard;
And the court having heard and
considered the evidence filed herein
in support of the exceptions to the
survey, together with the plot and
survey of said tract, and the record
therein on file in this cause; and
P. C. Whiting Esq U.S. District Attorney
for the Southern District of
California having been heard
on behalf of the United States

And Charles Pennell on behalf of the claimants; And it appearing to this Court that the survey of the tract called "Ojay" described in the record in this cause, as returned into this Court, at the suggestion of the claimant, is not in accordance with the grant, nor in conformity to the decree of this Court confirming the same, and that it is otherwise erroneous, inaccurate and defective; And all and singular the premises being seen and fully understood, and the Court being fully advised, it is hereby ordered adjudged and decreed by the Court now here, that the the survey, made, approved and returned into this Court by J. W. Woodville U.S. Surveyor General for the State of California, of the tract of land in Santa Barbara County State aforesaid called and described in the record in this cause as "Ojay" be and the same is hereby annulled and set aside - And it is hereby further ordered adjudged and decreed that the line laid down and established

as the eastern boundary line of a tract of land called "Santana" adjoining "Cajon" by the survey heretofore made of said tract called "Santana"

168 S

PAGE 113

Made and approved by the Surveyor General of the United States for the State of California, and as shown by the Plat of the same on file in the office of said Surveyor General of the United States he, and the same is hereby adjudged the western boundary line of "Cajon" as described in the record in this cause, and that a new survey be made of the tract called "Cajon" ~~(at the expense of the claimant)~~ in conformity to the decree of this Court confirming the title of said claim to the claimant and in conformity to this decree making a certified copy of this decree together with the plat of said survey is ordered to be transmitted to the Surveyor General of the State of California this done in open Court at the

16th day of June 1864 -

Hetcher M. Haight
U.S. Dist Judge Sout Dist Cal

no. 168
U. S. Dist Court
South & Dist Cal

Fernando Pico
in
United States

Decree

Filed June 16, 1862

John Wheeler

Clark

168 SD

PAGE 114

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

The United States

The Rancho called *Agua Caliente* of
San Juan

John Lloyd & John
B Church being duly sworn in a law entitd cause
do hereby say that they have become & now are proprietors
of the above entitd Rancho & claim it as their
own property & that they have appointed Lewis
Powers as their sole attorney to represent them
in above entitd cause in all proceedings in said cause
Subscribed & sworn to this

26th day of September 1866

W. M. Haigh
Judge of U. S. for Southern
District of California

John Lloyd
John B Church

John Powers
Sep 26th 1866

I have of above appointed
and request the Clerk of said Court to enter me
as attorney of record in said cause

United States

vs

Rancho Ojai

Applicant of
Clement

Wright &
Shurt

Notes of Return of
of Luis Parsons
as a Whig in said
Cause

Filed Sept 29. 1864

John Wheeler
Att

168 SD

PAGE 116

United States District Court, San Francisco
Regular October Term 1864

168 SD

PAGE 117

Fernando Mico, appellee
vs
The United States, appellant } N.H.S. "Ojay"

In this case the application of Levi Parsons Esq. to be entered as attorney of record in behalf of claimants, together with affidavits of John Nyeth and John B Church, claiming to be the successors in interest of the appellee and present owners of the Rancho of "Ojay" having been filed,

It is ordered by the Court that the said application be heard ten days after service of notice of such application has been ^{made} served upon the attorney hitherto representing the appellee herein, to wit, Charles Fernald Esq.

United States of America }
San Francisco California } I John Wheeler Clerk
of said Court for said District, hereby certify the above and foregoing to be a true copy of its original as the same appears of record in my office

Witness my hand & the seal of said Court at Monterey this 13th October 1864
John O. Wheeler Clerk



No 168 ("Ojay")

Levi Parsons substituted
as atty -

Filed Oct 30th 1864

John Wheeler Clk

By Robt Haight

Spty

Janet Barbara

October 24th, 1864.

I hereby accept due
service of the within
notice and order, and
consent that Levi Parsons,
Esq., be substituted as
Attorney of record in the
within named cause.

C. Ferrald
atty for claimant

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now here that the name of Juan
^{The real party in interest}
Lamarrillo, be, and the same is hereby
substituted on the record in this cause
in this court, for, and in lieu of that
of Fernando Tis.

This done in open court
on this day of June, A. D. 1862.

168 SD

PAGE 120

"Cjay"
Docket No. 168

In U.S. Dist. Court
Southern District of
California.

The United States
vs

Fernando Tio.

Decree substituting
name of real party
in interest, ~~of the~~
record.