

CASE No.  
179

SOUTHERN DISTRICT

---

CANADA DE LOS OSOS GRANT

---

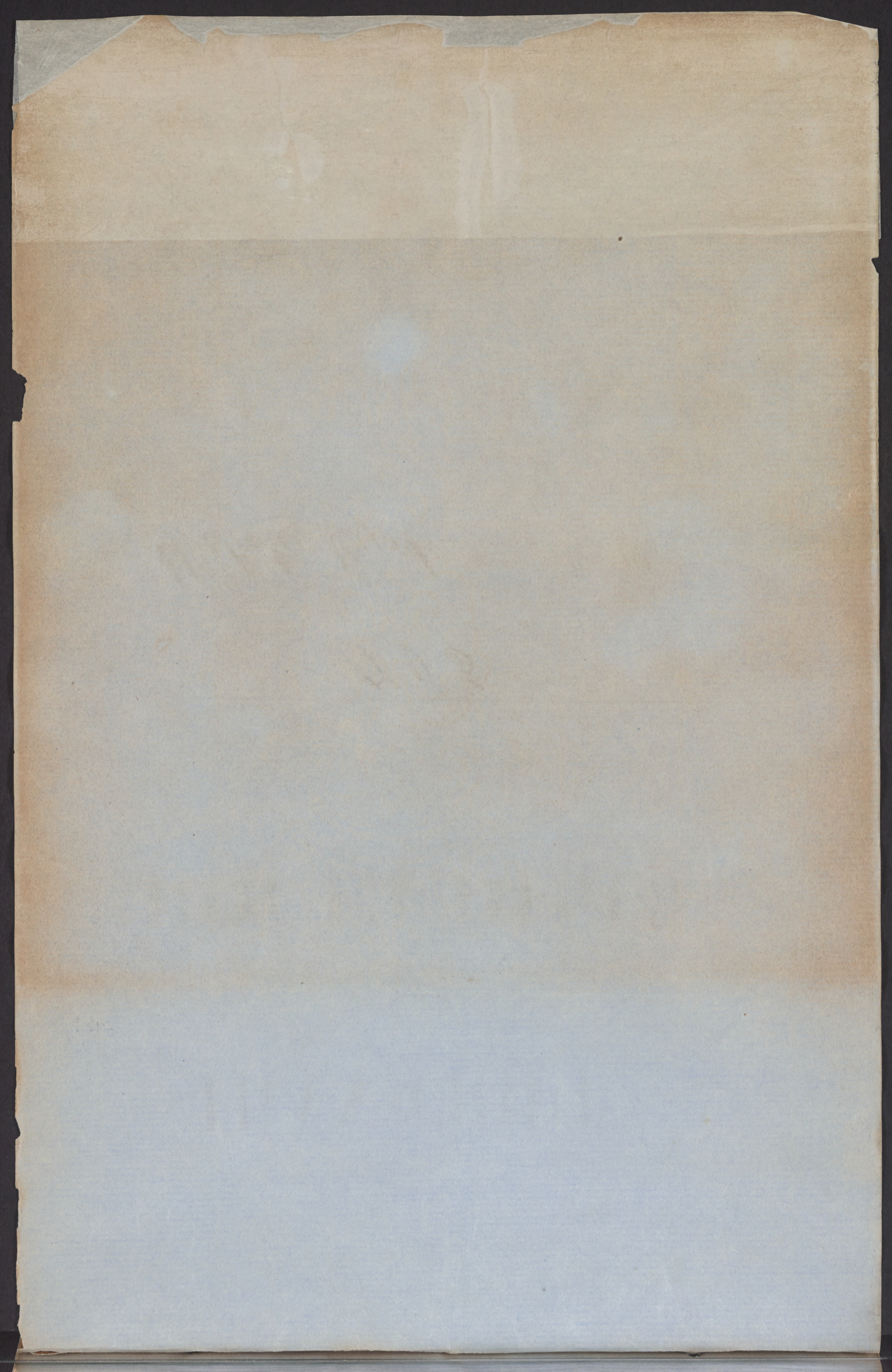
MODESTO CASTRO  
CLAIMANT

MAR 7 1963

125  
32nd COLLOID LIBER  
BROOKLYN BOND  
BROOKLYN BOND

703

779



# TRANSCRIPT

179 SD  
PAGE 1

OF THE

# PROCEEDINGS

IN CASE

NO. 703.

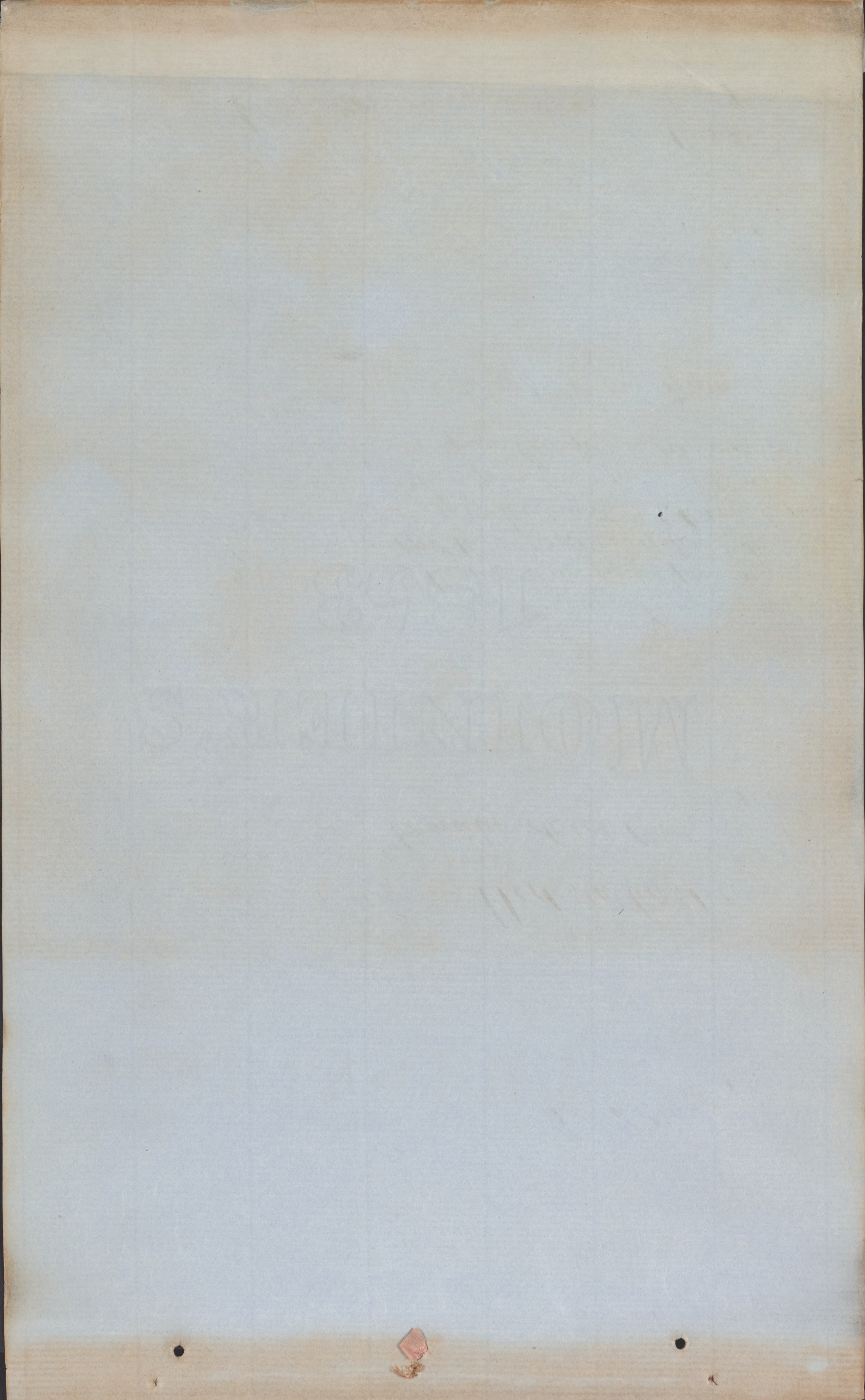
*Modesta Castro* CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

*"Cunada de los Osos"*



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 *Second day of March*, Anno Domini One Thousand Eight Hundred and *Fifty-three*, 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 *Modesta Castro* for the Place named "*Canãda de los Osos*," was presented, and ordered to be filed and docketed with No. *703* 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 Aug. 27' 1853.*  
In case no. *703* Modesta Castro for the place named "*Canãda de los Osos*," the deposition of *Jose G. Simantone*, a witness in behalf of the claimant, taken before Commissioner *Thompson Campbell* with document marked "*(A) Thompson Campbell*," annexed thereto was filed:

(Vide page *5* of this Transcript.)

*San Francisco June 4' 1854.*  
Case no. *703* was, on motion, ordered to be placed at the foot of the Calendar of the *1<sup>st</sup>* Class Cases on the Trial Docket.

*San Francisco Aug. 22' 1854.*  
Case no. *703* was submitted without argument.

San Francisco Aug. 29<sup>th</sup> 1854.

In the same case Commissioner R. Aug. Thompson delivered the opinion of the Board respecting the claim:

(Vide page 13 of this Transcript.)

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On motion of the U. S. Law Agent the following order was made, to wit:

(Vide page 15 of this Transcript.)



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Petition

To the U S Land Commission for the ascertaining and Settling of Private Land Claims in the State of California

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The Petition of Doña Mercedes Castro respectfully shows to your Honorable Board that upon Petition made by her to the Government of California in the year eighteen hundred and forty four she obtained of Manuel Micheltorena then Governor of the Territory of California a formal grant of a tract of land in the present County of Monterey containing Eleven Spanish Square leagues bounded as follows

On the North by the Place of Las Animas on the South by the road of San Luis Gonzaga on the East by the Limeria and on the West by the Ranchos of Don Carlos Castro Don Juan Gilman Don Jose Maria Sanchez and Don Francisco Pong Puchos.

And your Petition further says that said grant was duly recorded in the Archives of California and is herewith submitted to the inspection of your Honorable Board

That your Petitioner from the time of obtaining said grant has been and now is in the quiet and peaceable possession of said land and is not aware of the existence of any title conflicting with or Superior to her own

Wherefore she claims to be the lawful owner of the same and prays that your Honorable Board will confirm her claim and title thereto

Clarke Taylor & Beck  
Attorneys for Claimant

Filed in Office March 2nd 1853

Geo Fisher  
Secretary

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S-

Office of the Commissioners of Land Claims in California  
San Francisco

Deposition  
of  
J. V. Lemanton

This day before Commissioner Thompson Campbell  
came J. V. Lemanton a witness in behalf of  
- amount *Prodesta Castro Case No 703* who after being  
duly sworn deposed as follows

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What is your name age and place of residence

My name is Joseph V. Lemanton my age is  
forty years and at present I reside in the  
City of San Francisco

Will you look at the document now shown  
you marked A and purporting to be a grant  
from Micheltorena to the Claimant,

Please state whether you are  
acquainted with the signatures and whether the  
same are genuine

I am acquainted with the signatures of Manuel  
Micheltorena and Francisco Orce having  
frequently seen them write those names and believe  
the signatures on this paper to be true and genuine

Associate Land Agent present  
J. V. Lemanton

Sworn to and Subscribed  
before me this 27th day of  
August A.D. 1853

Thompson Campbell  
Commissioner

Filed in Office August 27 1853  
Geo Fisher  
Secretary

*[Faint, illegible handwriting throughout the page]*

20



7

Ocho primeros Ocho Pesos: Habilitado por ración  
alment. por la Aduana marítima del Puerto de  
Monterey, en el Departamento de las California  
para los años de mil ochocientos cuarenta y cua-  
tro y mil ochocientos cuarenta y cinco.  
Michelarena Pablo de la Guerra

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Señal El C. Manuel Michelena General de  
Brigada del Ejército Mexicano Ayudante  
General de la Plana Mayor del mismo Go-  
bernador y Comandante Jefe del Departamento  
de California. Por cuanto D<sup>a</sup> Modesta  
Castro con licencia de su Esposo Teniente Co-  
ronel de Caballería Permanente D<sup>n</sup> José Cas-  
tro, ha pretendido para su beneficio personal  
y el de su familia el terreno conocido con el  
Nombre de Cañada de Osos, situado con este  
Distrito colindante por el N. con el paraje de  
las Animas por el E. con el camino de San Luis  
Gonzaga por el E. con la Lomera y por el O. con  
los Ranchos de D<sup>n</sup> Carlos Castro, D<sup>n</sup> Juan  
Libro, D<sup>n</sup> José M<sup>a</sup> Sanchez y D<sup>n</sup> Francisco  
Perez Pacheco como explica la Solicitud y dise-  
ño que corre en el Expediente; practicadas  
previamente las diligencias y averiguaciones  
concernientes según lo dispuesto por las Leyes  
y reglamentos de la Materia y atendiendo a  
las justas razones manifestadas por dicha Señal  
D<sup>a</sup> Modesta Castro; usando de las amplias  
facultades con que me hallo investido a nom-  
bre de la Nación Mexicana he venido en conce-  
derle el mencionado terreno declarándole la  
propiedad legítima de él por las presentes le-  
tras y bajo las condiciones siguientes.  
1<sup>a</sup> Podrá cercar dicho terreno sin perjuicio de  
las travecias, caminos y servidumbres de esto-  
nándolo al uso o cultivo que mas le acomode  
2<sup>a</sup> El terreno de que se hace donación es de  
once sitios de ganado mayor. El juez que diere  
la posesión lo hará medir conforme a Ordenanza  
quedando el sobrante que resulte a la Nación  
para los usos convenientes. En consecuencia  
mando que teniéndose por firme y valedero el presente

8

titulo se tome rayon de el en el libro respectivo y  
se entregue a la interesada p<sup>a</sup> su resguardo.  
Dado en Monterey a Veinte de Octubre de mil  
ochocientos cuarenta y cuatro

Man<sup>t</sup>. Michel<sup>a</sup>

Por ausencia del Sr. D<sup>o</sup>: Franco. Arce  
Oficial Primero

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Queda tomada rayon en el Libro corre@pon-  
diente.

Arce

Filed in Office March 2<sup>nd</sup> 1853

Geo. Fisher Deery

Translation  
of  
Grant

The Citizen Manuel Michettorea General of Bri-  
gade of the Mexican Army Adjutant General of  
the Staff of the same Governor and Commander  
General of the Department of the Californias

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Thomas De Modesta Castro with  
the consent of his husbanda Lieutenant Colonel of the  
Permanent Cavalry Don Jose Castro has solicited  
for his personal benefit and that of his family the  
land known by the name of Cañada de los Osos sit-  
uated in this District bounded on the North by the  
place of las Animas, on the South by the road of  
San Luis Gonzaga on the East by the Loma de  
and on the West and East by the Rancho of Don  
Carlos Castro Don Juan Gilway Don Jose Maria Gam-  
chez and Don Francisco Puy Pacheco as the Petition  
and Deed accompanying the Expediente appears  
Having previously taken the steps and investigations  
concerning it according to the laws and regulations  
on the matter and mindful of the past seasons  
manifested by the said Don De Modesta Castro

Using the ample power with which  
I have been vested in the name of the Mexican Nation  
I have determined to grant her the present land  
claiming to be the legitimate ownership thereof  
of these presents and on the following conditions  
1st She may fence the said land without prejudice  
to the crossings roads and servitudes destining it  
to the use or cultivation which best suits her  
2nd The land of which donation is made is of  
Eleven sitios de Ganado Mayor.

The Magistrate who will  
give the possession will have it measured according  
to ordinance keeping the measures which may result  
for the Nation for the convenient uses

In consequence  
I order that holding the present title for firm and valid  
a registry thereof be taken in the respective book and  
be delivered to the interested party for her safety

Given at Monterey on the twentieth of  
October Eighteen hundred and forty four

Signed Manuel Michettorea

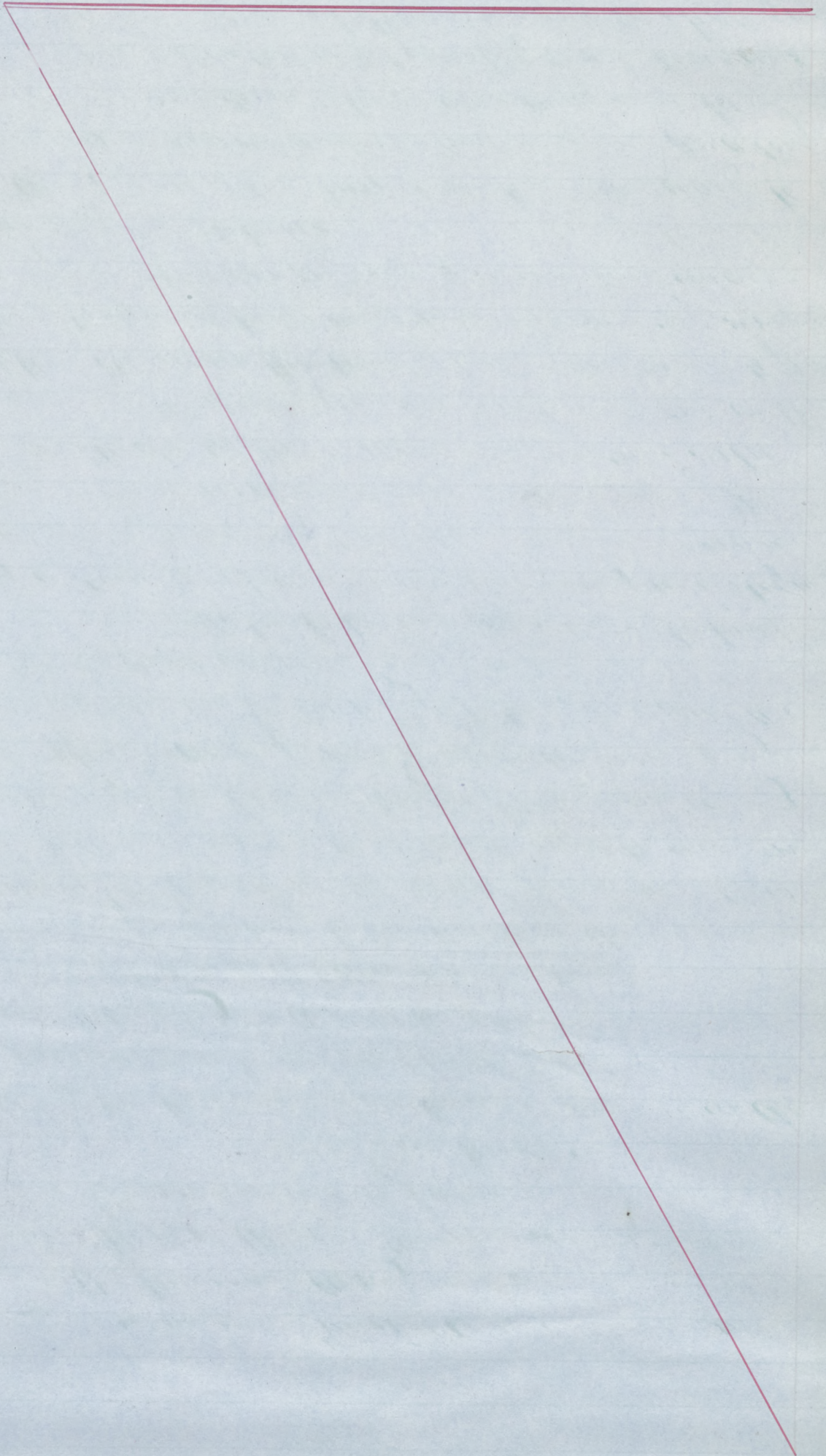
10

In the absence of the Secretary  
Signed Francis Allen  
Trust Clerk

Registry taken in the respective Book  
(Signed) Allen

Filed in Office March 2nd 1853  
Geo Fisher  
Secretary

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4/1/43

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Translation  
of  
Grant

The Citizen Manuel Micheltorena Brigadier  
General in the Mexican Army Adjutant General  
of the Plaza Major then of, Governor and Comandante  
General of the Department of California

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PAGE 10

Whom as Don Modesto Castro with  
permission of his husband Lieutenant Colonel in the  
Cavalry Permanent Don Jose Castro has solicited for  
his personal benefit and that of his family the land  
known by the name of Cañada de las Oros situate  
in this District bordering to the North on the location  
of las Animas to South on the road from San Luis  
Gonzaga to East on the highland and to West on  
the Rancho of Don Carlos Castro Don Juan Gilroy  
Don Jose Maria Sanchez and Don Francisco Perez  
Pacheco as explained in the Solicitation and plot att-  
ached to the Expediente,

After having previously taken the  
necessary action and made the necessary investiga-  
tions according to the requirements of laws and  
regulations on the subject and concerning the  
pretenses shown by said Mrs Modesto Castro  
in exercise of the full powers vested in me in the  
name of the Mexican Nation I have concluded to grant  
her the mentioned land declaring it her legitimate  
property by the present letters patent and under  
the following conditions

- 1<sup>a</sup> She may have said land without prejudice to  
the crossing roads and servitudes appropriating  
it to the use or customs that best may suit her
- 2<sup>a</sup> The land granted is eleven square leagues  
(sitios de ganado mayor) The Judge who shall give  
the possession will cause it to be measured conforma-  
ble to ordinance leaving the surplus that may result  
to the Nation for convenient purposes

Consequently  
I order that the present title being true and  
valid it be entered in the respective book and  
delivered to the interested party for his security  
Given at Monterey on the 20<sup>th</sup>  
October 1844

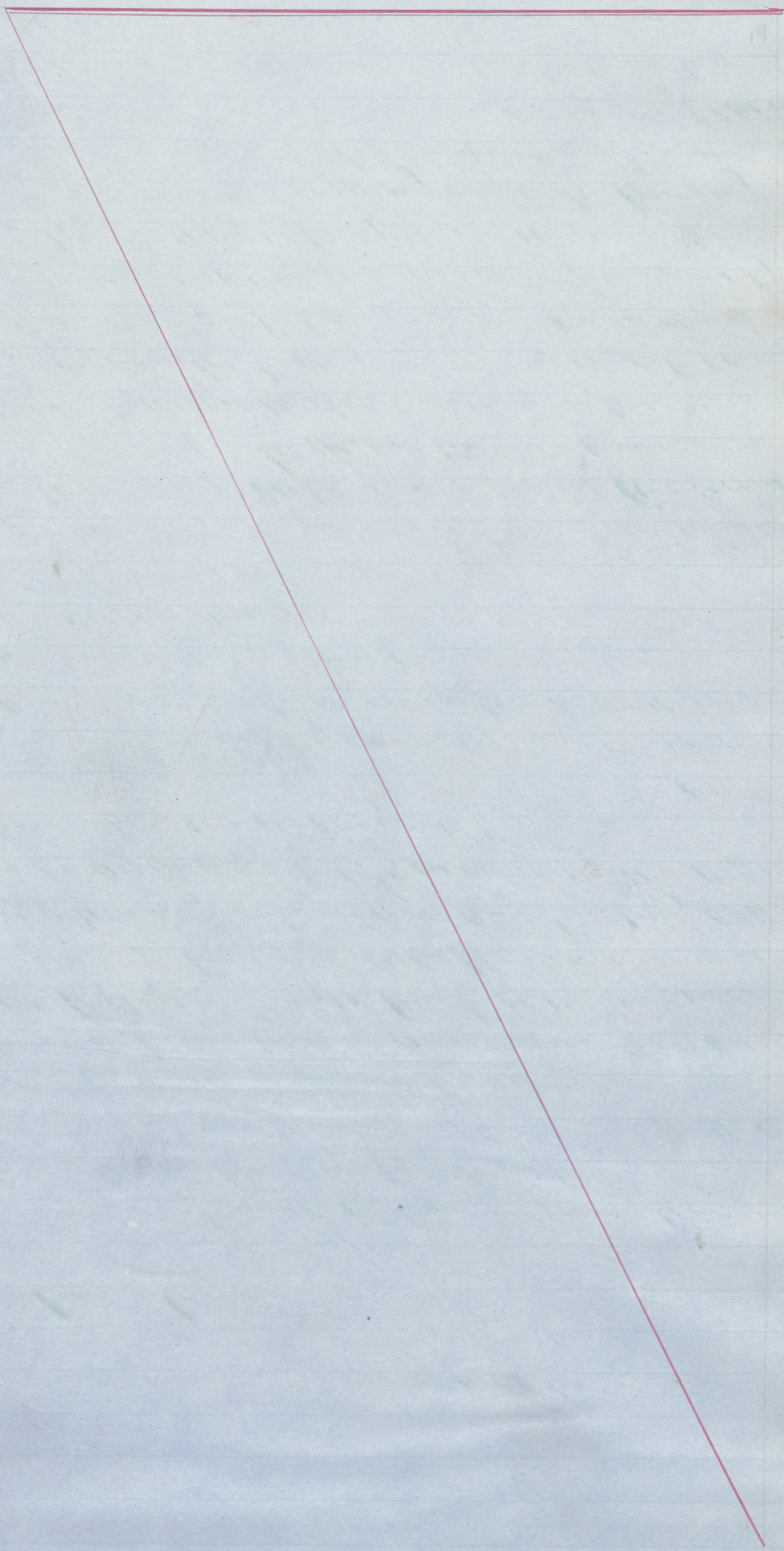
Manuel Micheltorena  
In the absence of the Lieutenant Fiscal Officer official

12.

Entered in the respective book  
Ar 10

Filed in Office October 18th 1853  
Geo Fisher  
Secretary

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Opinion  
of the  
Board

Case No 703

Provincia Castro

vs  
The United States

Cañada de los Osos

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This is a Claim for seven leagues  
of land situated in the County of Monterey

It purports  
to be founded on a grant made by Governor Manuel  
Micheltorrena to the Claimant dated October  
20th 1844. A paper purporting to be the original  
grant is filed in the case with the genuineness  
of the signatures of the Governor and Secretary app-  
earing on it are supposed to be genuine by the depo-  
sition of Jose Y. Lemaitre.

This constitutes the whole  
testimony in the case. The grant refers to the original  
partition and map contained in the Expediente  
in explanation of the boundaries. These documents  
are not produced and from the index to the records  
of the former Government now in the custody of  
the Surveyor General furnished to the Commission  
it appears that none such exist in the Archives.

Without these it would be  
impossible to describe the land granted with  
sufficient certainty to enable a Surveyor to iden-  
tify and locate it. There is moreover no evidence  
of any possession or occupation of the premises by  
the grantee or any other person in his behalf.

This deficiency in the testimony  
according to the former decisions of the Board  
would be fatal to a confirmation of the Claim.  
But independent of these circumstances there  
are a number of suspicious circumstances  
connected with the grant itself which we should  
not feel justified in passing over in silence.

The grant purports to be made  
on stamped paper for the years 1844 and 1845.  
Upon comparing it with a number of grants of  
undoubted genuineness made upon stamped  
paper for those years it is found to differ in many  
important particulars as to create strong doubts

of its authenticity. The paper is of a very different texture from the genuine and has a much fresher appearance than the grants made on paper of that date.

The watermark in the genuine paper is a lion rampant while in this it is a cross.

The words "los Anos" appearing in the printed certificate of habilitation on the genuine paper are printed in the S "Los Anos" the article being in the plural and the substantive in the singular as all the paper for those years was probably printed from the same form, it is extremely improbable that such an error would have occurred in a single sheet and not appear on any other.

The seal on the genuine paper is very indistinct and is much blurred having the appearance of being made with the stamp which was much worn, while in this it is exceedingly distinct with the outlines well defined.

The signatures of the Governor and Secretary although well executed yet taken in connection with the other circumstances differ sufficiently from those on the genuine grants to raise strong doubts of their genuineness.

The Rubrics annexed to the certificate of habilitation Particular by that of Don Pablo de la Gama are so different from those on the genuine paper as to leave but little doubt of their being simulated.

If the Claim was otherwise unexceptionable in other respects we should not feel justified in interposing a decree of confiscation on such a paper as this without very strong testimony in explanation of suspicious circumstances connected with it.

The Claim is accordingly Rejected

Filed in Office August 29th 1854

Geo Fisher

Secretary

Decree

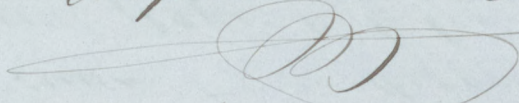
No 703

Modesta Castro

of  
The United States179 SD  
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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 not valid and it is therefore decreed that her application for a confirmation thereof be denied

Alphas Felch



R. Aug. Thompson

G. B. Farwell

Commissioners

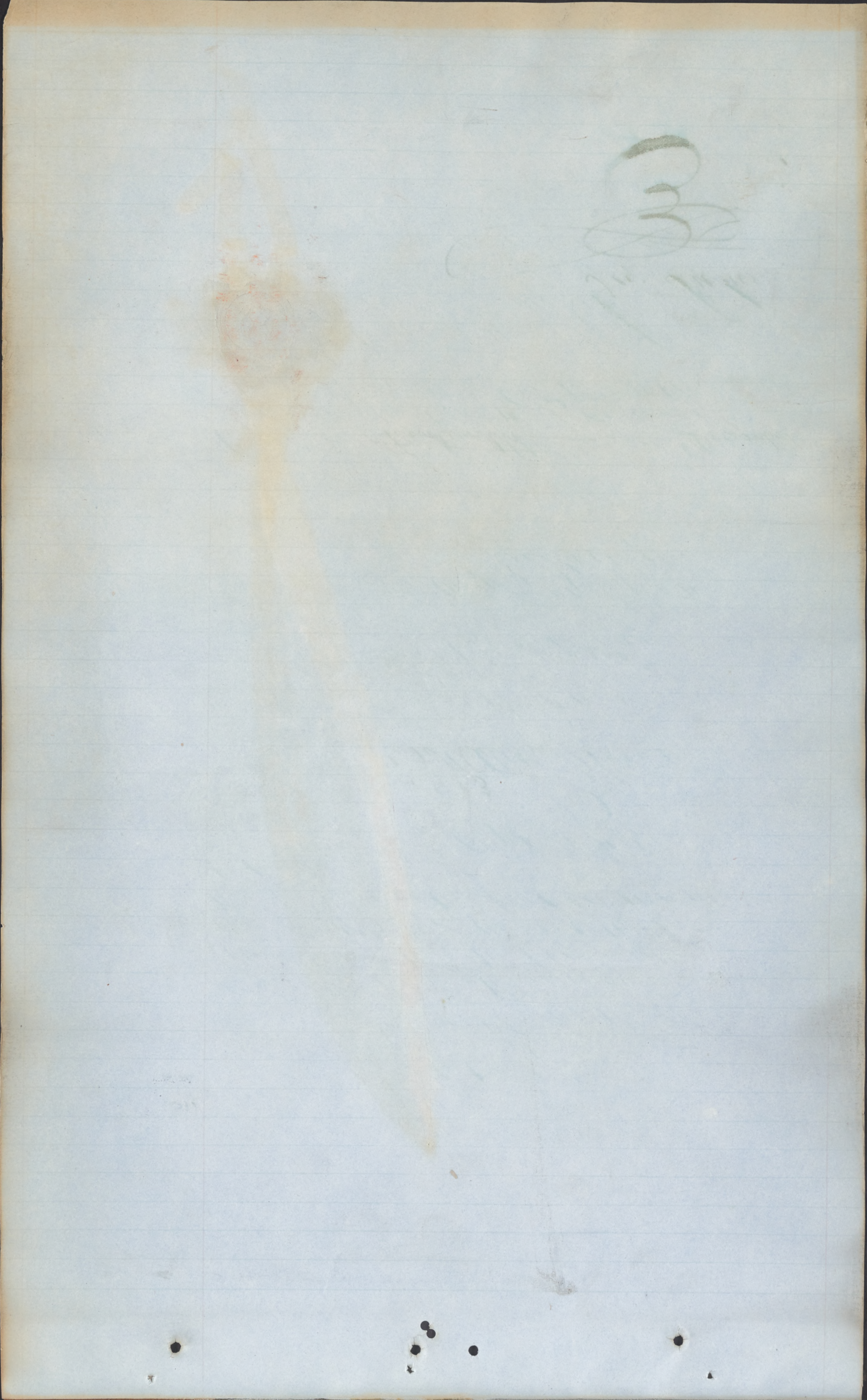
Tolia in Office August 29th 1854

Geo Fisher

Secretary

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

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 founded 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



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Office of the Board of Commissioners,

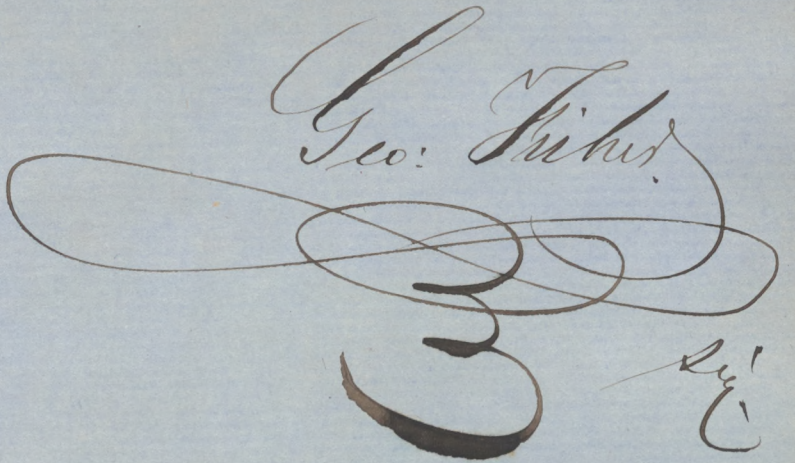
To ascertain and settle the Private Land Claims in the State of California.

I, *George Fisher* Secretary to  
the Board of Commissioners to ascertain and settle the Private  
Land Claims in the State of California, do hereby certify the  
foregoing *Fifteen* pages, numbered from  
1 to 15, 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. 703 on the Docket of the said Board,  
wherein *Modesta Castro* is

the Claimant against the United States, for the place known by  
the name of "Canada de los Osos."

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

*Geo. Fisher*



*Geo. Fisher*



U.S. District  
Court

No. 179. Doe

The United

vs.

Modesta Can

Canada de los Reso

Manuscript of the Record

from the

of U.S. Land Commission

in case No 403.

Filed

October 19 1880

J. S. [unclear]  
[unclear]

4

pink paper strip



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

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No 179

Modesta Castro

v

The United States

Con's docket

No 703

Notice is hereby given that  
the claimant in the above entitled  
cause intends to prosecute the appeal  
from the decision of Board of U. S.  
Land Commissioners to the said District  
Court.

Sept 17th 1855

J. Clarke Attorney  
for Claimant

179

Modesta Castro  
vs  
The United States

Notice of Appeal

Filed Sept<sup>r</sup> 18<sup>th</sup> 1853.  
O. C. Carr atty  
By John W. Ross dep<sup>y</sup>

John W. Ross

179.50

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

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Modesto Castro N<sup>o</sup> 179,  
vs. (Transcript N<sup>o</sup> 703)  
The United States vs. appeal from the  
Circuit Court?

On Motion of T. Ord Attorney of  
the United States for the Southern  
District of California, and on showing  
to the Court that no notice of intention  
to prosecute the appeal in the above  
entitled Cause, has been filed by  
the Claimant in the above entitled  
Cause according to Law. It is  
Ordered by the Court that the  
said Cause be dismissed.

T. Ord  
Att. Dist. Ct.,

No 179.

United States Dist Court  
Southern Dist of Cal<sup>a</sup>

Modesta Castro -

vs

The United States -

Mov: Dismissing Cause

1855

Filed Oct 24<sup>th</sup> 1856

C. E. Can Ckr  
By J. W. Rob Dep:

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

Modesto Castro

Case No 179

Appellant

"Ciénega de los Osos"

vs

The United States

Appellee

Trans No

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In the United States District Attorney

For the Southern District of California,

Do: Take notice that on the 4<sup>th</sup> day of January A.D. 1888, at 11 o'clock A.M. of said day, or as soon thereafter as the same can be heard the aforesaid claimant and appellant, will move the Court aforesaid for cause, to vacate the order heretofore made dismissing said cause for want of notice of intention to appeal, and to return said cause to the calendar of this Court for trial, Los Angeles, December 30, 1887.

Slam & Martinson

Attys for Appellant.

No 179

In U.S. District Court  
Southern District

Mudata Castro

vs

The United States

Notice of motion to  
reopen cause

Filed this 30th Dec.

1854

J. S. Clark  
J. M. Coleman  
Attorneys

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Blair v. Newman  
per Appellants

*Faint handwritten notes in the left margin, including "Motion to reopen cause" and "Dec 30 1854".*

*Faint handwritten notes in the right margin, including "Motion to reopen cause" and "Dec 30 1854".*

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

Modesto Castro

Case No 179

Appellant

179 SD

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Al

"Cerrada de las Ocas"

The United States

Appellee

Case No

In the United States District Attorney  
For the District of California.

Sir:

Take notice that on the 4<sup>th</sup> day of January  
A.D. 1858, at 11 o'clock A.M. of said day or as soon  
thereafter as the same can be heard, the claimant  
and appellant will submit said cause to the afore-  
said Court for decision. Los Angeles December 20, 1857

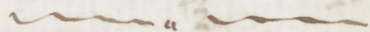
Edward Martin

Atty for Appellant

Case No 179

In U.S. District Court

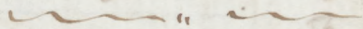
Southern District



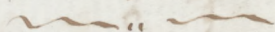
Madame Justice

At

New Orleans



Notion of Law



Filed this 30th December  
1857  
at New Orleans  
J. A. Coleman  
Clerk

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Wm. & Keenan

per Appellans



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

Modesto Castro

Case No 179

179 SD

Appellant

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vs

"Benicida de los Osos"

The United States

Appellee

Transcript No

Now comes the said Appellant by her Attorneys  
Sloan & Hartman and moves the Court to vacate  
the order heretofore made dismissing this cause on  
the ground that the notice of intention to appeal from  
the decision was not filed in time; and also to re-  
store the same to the calendar of this Court for trial,  
on the grounds,

- 1<sup>st</sup> Because said order dismissing the cause was  
improperly made.
- 2<sup>nd</sup> Because at the time of making said order notice  
of appeal had been filed in this Court by ap-  
-pellant, and
- 3<sup>rd</sup> Because no notice of motion to dismiss said  
cause was ever served upon said Appellant  
or her Attorneys.

Sloan & Hartman

Attys for Appellant

No 179

In U.S. United States  
Southern District

Modesto Circuit  
Appellans

At  
The United States  
Appellans

Motion to return under

Filed this 31<sup>st</sup> December  
1857  
L. Sims etc

J. A. Coleman  
179 SD  
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Dep

Slaves v. Martin  
See Appellans

*[Faint handwritten notes on the left margin, including "Motion to return" and "under"]*

*[Faint handwritten notes on the right margin, including "Motion to return" and "under"]*

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

Modesto Castro  
Appellant

No 179.

vs

"Canada de los Osos"

The United States

Appellee

Trans No

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J. A. Mowenhour being duly sworn upon his oath says that he is the agent and attorney in fact of the Claimant in the above entitled cause, and as such has had the management and direction with counsel of said cause.

Applicant further states that within less than the period of six months after the decision of this cause by the Board of Commissioners for ascertaining and settling private land claims in the State of California, <sup>said counsel</sup> he caused a notice of appeal, a certified copy of which is hereto attached, from the decision of said Board to be filed in the Northern District of California, under the impression that said land claimed in this case was situated in said Northern District, and that the Transcript in said cause had been filed in said Northern District. That <sup>counsel</sup> applicant was led into said error and mistake from the fact that the land claimed is situated near or about the dividing line of said Northern and Southern District, and ~~that a portion of it is probably situate in each District.~~

Applicant further states that as soon as <sup>counsel</sup> he was informed that the Transcript in this cause had been sent to the Southern District, he caused notice of intention to appeal by Claimant to be filed in the District



Case No. 703

On appeal from the Board  
of U. S. Land Commissioners

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Modesta Castro	} Claim for "Carriada de los Osos"
Appellant	
vs	
The United States	} app <sup>lee</sup>
appellee	

Sir

Please to take notice that  
the Claimant in the above Case, will prosecute  
the appeal therein.

San Francisco }  
May 9th 1855 }

Yours respectfully,  
Clark Taylor & Becker  
Atty. for Claimant

To the Clerk of the }  
U. S. District Court for }  
the Northern District of }  
California }

(Endorsed)

Filed May 9th 1855  
John A. Monroe

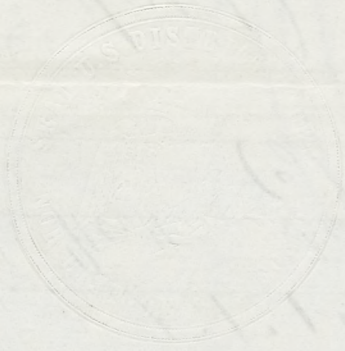
Clerk

J. John A. Monroe, Clerk of the

District Court of the United States for  
the Northern District of California do hereby  
Certify the foregoing to be a full true and  
Correct Copy of the original now on file and  
remaining of record in my office.

179 SD

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In testimony whereof I have  
hereunto set my hand and affixed  
the seal of the said Court the  
2nd day of December AD 1857.  
John A. Monroe Clerk  
By Hedgarhorne deputy

Case No 179

In Southern District

Modesta Castro

Appellant

vs

The United States

Appellee

~~~~~  
Affidavit or Certificate  
~~~~~

Filed this 31<sup>st</sup> Dec 1867

C. Lewis Clerk  
of the Court  
*[Signature]*

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Prodisto Castro.  
Pro <sup>an</sup> States.

N. 179.  
Brief of States.

~~That an order was signed, the terms of the law~~

179 SD  
PAGE 31

1. That the ~~the~~ act of 1852, defining a term within which the appeal ~~shall~~ in the US Dist Court, should be presented, by <sup>filing</sup> notice of intention, is a ~~statute~~ statute of limitation, which no oversight, mistake, or neglect of party ~~could~~ can be ~~plea~~ set up. ~~That, if no order~~ in avoidance.
2. ~~That~~ The fact that no notice of ~~intention~~ intention to present appeal, was filed within six months, appearing upon the record, ~~is~~ forever bars the claimant, when plead by the <sup>US</sup> States, even if no order of dismissal <sup>has been taken</sup> had been taken, because the act ~~says~~ says expressly that, if such a notice be not filed, "the appeal shall be regarded as dismissed". It is a self-operating statute of limitation. It is a plea in bar.
3. If this were a rule of Court, instead of a peremptory law of Congress, there might be error in which the rule would be obeyed. <sup>nealy</sup> all the authorities in applicant's brief, seem to refer to such rules of Court. It ~~is~~ <sup>does not</sup> therefore touch the law of this case.
4. If the Court ever had the power to re-open this case, ~~it~~ after the expiration of the six



which is denied  
 months, then the applicant fails to show  
 sufficient grounds for the exercise of such  
 a power by the court, the affidavit of  
 Morenham is wholly insufficient. It  
 shows gross ignorance or unexcusable  
 neglect in filing the notice in the  
 wrong Court. (In the case of Joaquin &  
 Coria & Carrillo, <sup>N. 15</sup> this Court decided  
 in Sept. 10. 1855, that the it had no  
 power, under the law, to re-instate  
 a case, when the ~~complaint~~ <sup>complaint</sup> was filed  
 in the W.S., failed to file a notice of  
 intention, as required by law. In this  
 case the notice ~~was filed~~ of appeal  
 was mailed by W. Atty Genl., but miscarried.

No 179.  
 Brief for W. Atty Genl.  
 upon motion to reopen

5. And even if the Court had the  
 power, & there were good grounds shown  
 by applicant; then he comes too late.  
 The application should have been  
 made at the October term '55. He  
 suffers more than two years to elapse  
 before after the case has been dismissed  
 by order of the Court, before he ~~comes~~  
 makes a move. It is too late now  
 for the Court to entertain it & grant it.

If Courts were to in cases where they had  
 the power, to grant such applications, <sup>even upon strong grounds</sup> then  
 could be had to litigation. <sup>But in such a case as this they have no power after the term</sup>  
 abal. vs Kramer et al. 2. Cal. 582. P. Ord. W. Atty Genl.

To set aside the  
 order, dismissing  
 the appeal in this  
 case made in Oct.  
 1855.

Loose items, not numbered

(2 items)

SD 179

Case No 713.

On appeal from the Board of  
M. C. Land Commissioners

Modesta Castro

app<sup>ty</sup>

vs

The United States

app<sup>tee</sup>

claim for "Canada de  
San Diego"

Sir!

Please to take notice that the  
claimant in the above case, will prosecute  
the appeal therein.

San Francisco

May 9<sup>th</sup> 1855

Yours respectfully

Charles Taylor & Beeth  
Atty. for Claimant.

To the Clerk of the M. C.  
District Court for the  
Northern District of California.

No. 191 -  
U. S. District Court  
the Southern District  
Dec 1795-D

Moderata Castro

app 66

vs

The United States  
app 66

Claim for "Cañada  
de las Oros."

Notice of appeal

Filed May 9<sup>th</sup> 55  
Linn A. Woodson  
clerk

Clacke Taylor & Beeth  
Attys. for claimant

Modesta Castro

vs.

United States

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

Personally appeared before the undersigned authority, William J. Lewis, who being duly sworn, deposes as follows: — I am, by profession a Surveyor, I now reside in San Francisco and I did reside in the County of Santa Clara in this State from December 1849 to June 1855. I have been actively engaged in surveying Ranchos in this State and am well acquainted with the localities and boundaries of most of them in Santa Clara County and the neighbouring Counties. I have examined the Grant in this case, on file in the Archives of the late Land Commission, and the Maps in the office of the Surveyor General of California, for the purpose of ascertaining if the Rancho "Cañada de los Osos" the property claimed by the petitioner is situated in the Northern or Southern District of California.

I cannot positively state that said Rancho is wholly within the Northern District, though I incline to the belief that it is; but I state positively that the greater part of it is in the Northern District.

Done to before me Wm. J. Lewis.

this 17<sup>th</sup> of July, 1857

Jno A Moore

U.S. Commissioner.

No. 191.

District Court of the  
United States

Modesto Castro

United States

Affidavit of Service,

Filed July 17, 1857.

W. H. Chevers,  
Deputy Clerk.