

CASE No.

261

SOUTHERN DISTRICT

HUERTA DE ROMALDO GRANT

JOHN WILSON

CLAIMANT

MAR 16 1963

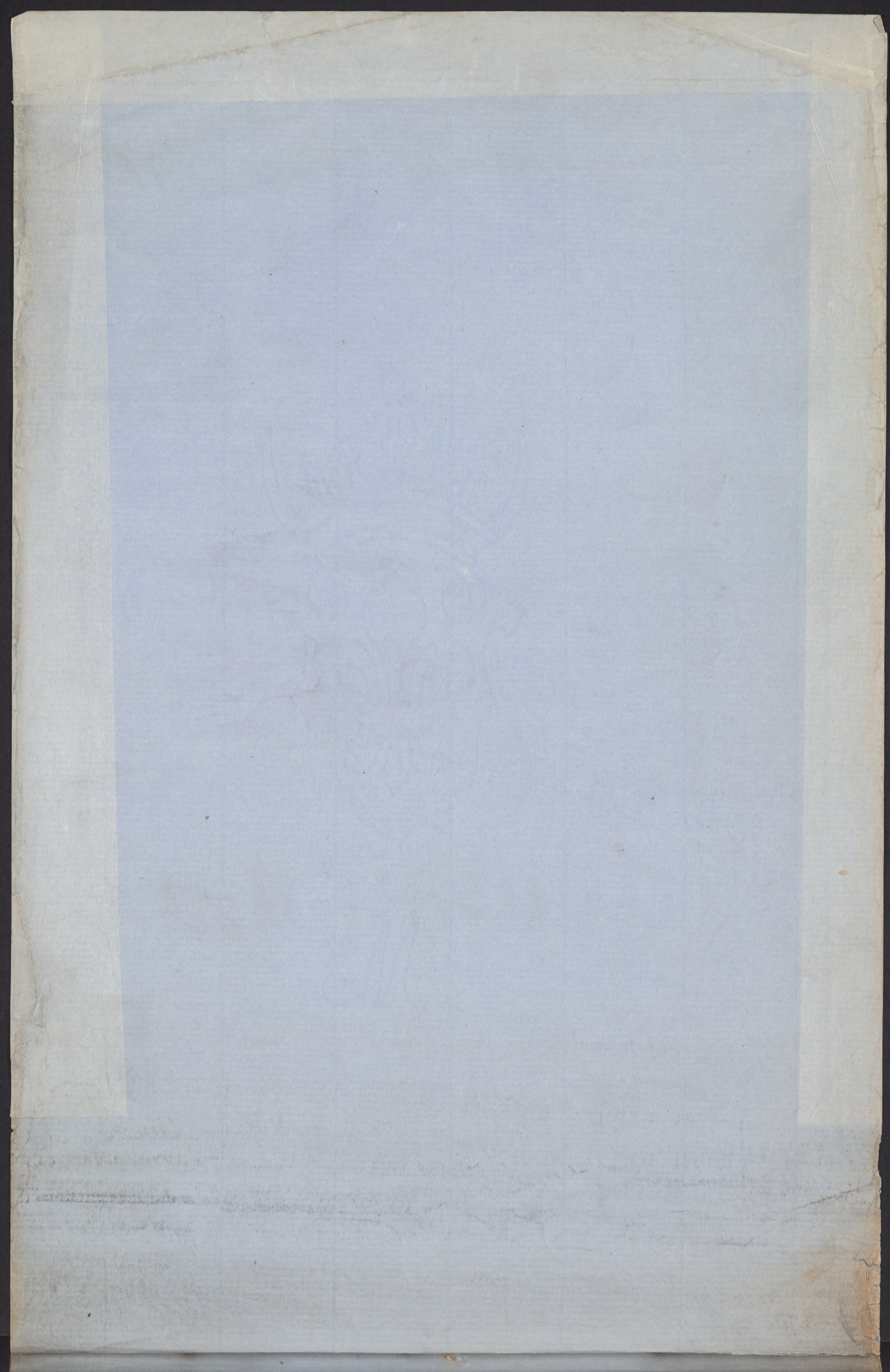
LAND CASE 261 SD

92 pgs.

Guaranteed
Plover Bond
50% Cotton Fiber
U.S.A.

50

2



TRANSCRIPT

261 SD
PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. 57.

John Wilson

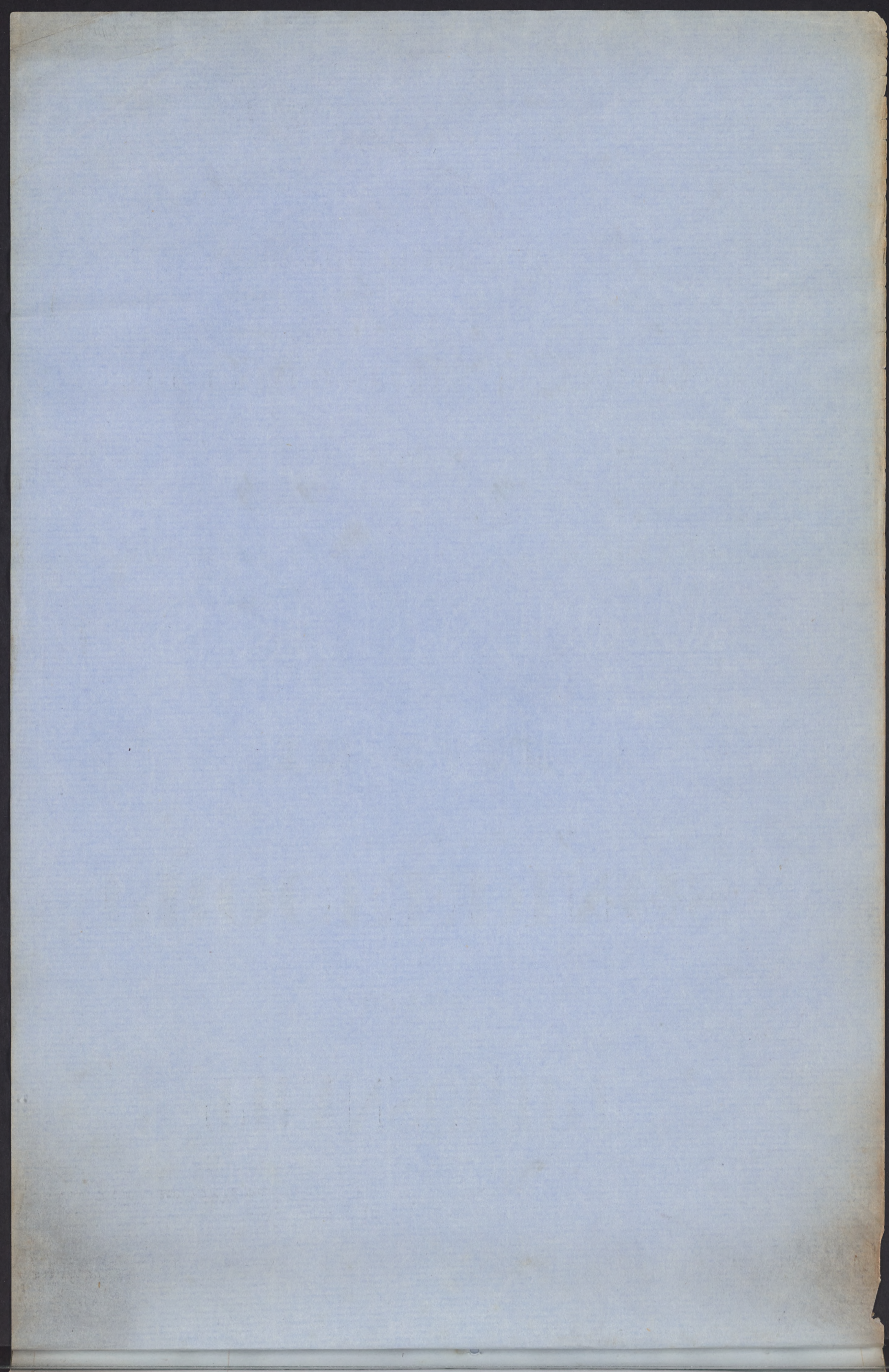
CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Puerto de Romualdo."



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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

261 SD
PAGE 2

The Petition of *John Wilson*,
for the Place named
"Huerta de Romualdo,"
was presented, and ordered to be filed and docketed with No. 50 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, May 10th 1852.
In Case no. 50, John Wilson for the place named "Huerta de Romualdo," the deposition of Pablo de la Guerra, a witness in behalf of the Claimant, taken before Commissioner Harry J. Thornton, was filed;
(Vide page 5 of this Transcript.)

San Francisco January 4th 1853.
In the same case the deposition of John Young, a witness in behalf of the Claimant, taken before Commissioner Harry J. Thornton, was filed;
(Vide page 9 of this Transcript.)

San Francisco August 3rd 1853.
Case no. 50, on Motion of the United States Law Agent, was placed on the Trial Docket.

San Francisco August 4' 1853.

Case No. 50 called; evidence read, case submitted on briefs and taken under advisement by the Board.

San Francisco December 12' 1854.

In the same case Commissioner Alphons Felch delivered the Opinion of the Board rejecting the claim;

(Vide page 38 of this Transcript.)

and the following order was made, to wit:

(Vide page 35 of this Transcript.)

261 SD
PAGE 3

S

3

Petition

To the Honorable Commissioners to settle Private Land Claims in California

The Petitioner John Wilson respectfully shows.

261 SD
PAGE 4

That in the year 1842 the Alcalde of San Luis Obispo, acting under the direction and authority of Juan B Alvarado, Governor of California, gave to Romualdo a small tract of land situate in the County of San Luis Obispo, called Huerta de Romualdo or del Chorro containing some 1500 or 1600 varas square, within the boundaries established by the aforesaid Alcalde.

That on the 27th day of June A.D. 1846 the said Romualdo sold and conveyed to the Petitioner the aforesaid tract of land and that on the 28th day of June A.D. 1846 the said tract of land was surveyed and the judicial possession of it given to the Petitioner by the proper authority.

That on the 10th day of July A.D. 1846 Pio Pico Governor of California by virtue of authority in him vested, gave a new and formal grant of the said tract of land to the said Romualdo and that on the 11th day of July A.D. 1846 the said Romualdo confirmed by a new deed his former conveyance to the Petitioner, who on the same day was again put into the judicial possession by a new act of Court, the sale and conveyance aforesaid being made by judicial authority and with the approbation of the Governor; copies of the certificate of the Governor and Alcalde proving the Grant of Governor Alvarado in 1842, of the first conveyance and Act of Judicial possession, of the Grant of Governor Pico in 1846, of the second conveyance and Act of judicial possession and of the approval of the Governor, and also of the maps of the aforesaid tract of land are hereto annexed marked A, with Translations marked B

And

4

261 SD
PAGE 5

And the Petitioner further shows that he knows of no interfering claim; that the said land has not been surveyed by the Surveyor General of the United States, but that it was surveyed by the proper authority at the time of giving the judicial possession of it and has been since, by the county Surveyor of San Luis Obispo County, and that its boundaries are definite, well known, and undisputed that from the year 1842 to the 27th day of June A.D. 1846 the said Romualdo was in quiet, peaceful and full possession of the said tract of land, and that since that time the petitioner has been, and now is in the full and undisputed possession and occupation of the land aforesaid.

The petitioner relies for confirmation of title upon the original papers, copies of which are hereto annexed; upon the documents and minutes relating thereto in the Archives now in the possession of the Surveyor General and upon such other and further proofs as he may be advised are necessary.

Wherefore he prays the Commissioners to confirm to him the grant of the said tract of land.

By his Attorneys

Galleck, Peachy & Bellings

Filed in Office February 17th 1852

(signed) Geo. Fisher

S-

Deposition
of
Pablo de la Guerra

Office of the Board of
Land Commissioners in California
San Francisco May 10 1852

261 SD
PAGE 6

On this day before me Harry J. Thornton
one of the Commissioners for ascertaining and
settling Private Land claims in California
came Pablo de la Guerra a Witness produced
in behalf of the Claimant John Wilson, whose
Petition is N^o 50 on the Docket of said
Commissioners and after being duly sworn testified
as follows, the Law Agent of the U. S. was
duly notified and attended

1st Question

What is your name age and place
of residence.

Answer, My name is Pablo de la
Guerra, my age is 32 years, I reside in
Santa Barbara and have resided in Cal-
ifornia all my life?

2^d Question

Are you acquainted with the
signatures of Juan B. Alvarado, J. Mariano
Bonilla, Jose Garcia, Juan Wilson, Pio
Pico, Jose Matias Moreno and Inocente Garcia
and if so say whether their signatures to the
papers before you are genuine, whether the
papers marked Exhibit A in Claim N^o 50
filed in the Office of the Secretary of the Com-
missioners are correct copies of these originals

Answer, I do not know the signatures
of Jose Garcia but I am acquainted with the
signatures of Juan B. Alvarado, J. Mariano
Bonilla Juan Wilson, Jose Matias Moreno
and Inocente Garcia their signatures to the
documents before me are genuine and to the
best of my knowledge and belief the documents
themselves are genuine and originals, I have
compared them with Exhibit A filed in
Claim N^o 50 filed in the Office of the
Secretary of the Commissioners and find the
latter to be correct copies of these originals.

6
3^d Question

What was the usage and custom of the country with respect to sales of lands by Indians which had been granted to them by the Governor, was there any distinction in this respect between Indians and whites?

Answer.

I know of no distinction I have always understood that Indians had the same rights of property under the Mexican laws as White men. I have frequently known Indians to sell lands which had been granted to them, and such sales were always considered legal under the Mexican Government.

Questions by U. S. Law Agent.

Quest 1.

What action have you ever known to be taken by the Mexican Government which would show that said Government considered sales in California by Indians legal.

Ans.

I know of no action by the Government or Public authorities either approving or disapproving such sales.

Quest 2.

Have you ever known any action taken either by the Public authorities in California or by People living in California which would show that such sales by Indians were considered legal.

Ans.

I know of no action taken either by the Public Authorities nor by the People in regard to this matter. I know of an instance when the Governor of California recognized the right of an Indian to sell lands. I refer to the letter which is among the papers in this case. Dated San Luis Obispo July 11th 1846. I have frequently known of sales made

7
by Indians to white people and considered
by them as valid

3rd Quest.

How many such instances have
you known?

Answer,

I now remember distinctly four
such instances

261 SD
PAGE 8

Question by Clarmonts Counsel.

Quest A. Whether or not sales by Indians of
lands granted to them by the Government
made as freely and as generally in Cal-
ifornia as such sales were made by whites
in proportion to the relative number of
grants the two kinds of grants.

Ans.

They were made as freely and as
generally

(signed) Pablo de la Guerra

The Law Agent present

Sworn to and subscribed before
me this 10th of May 1852.

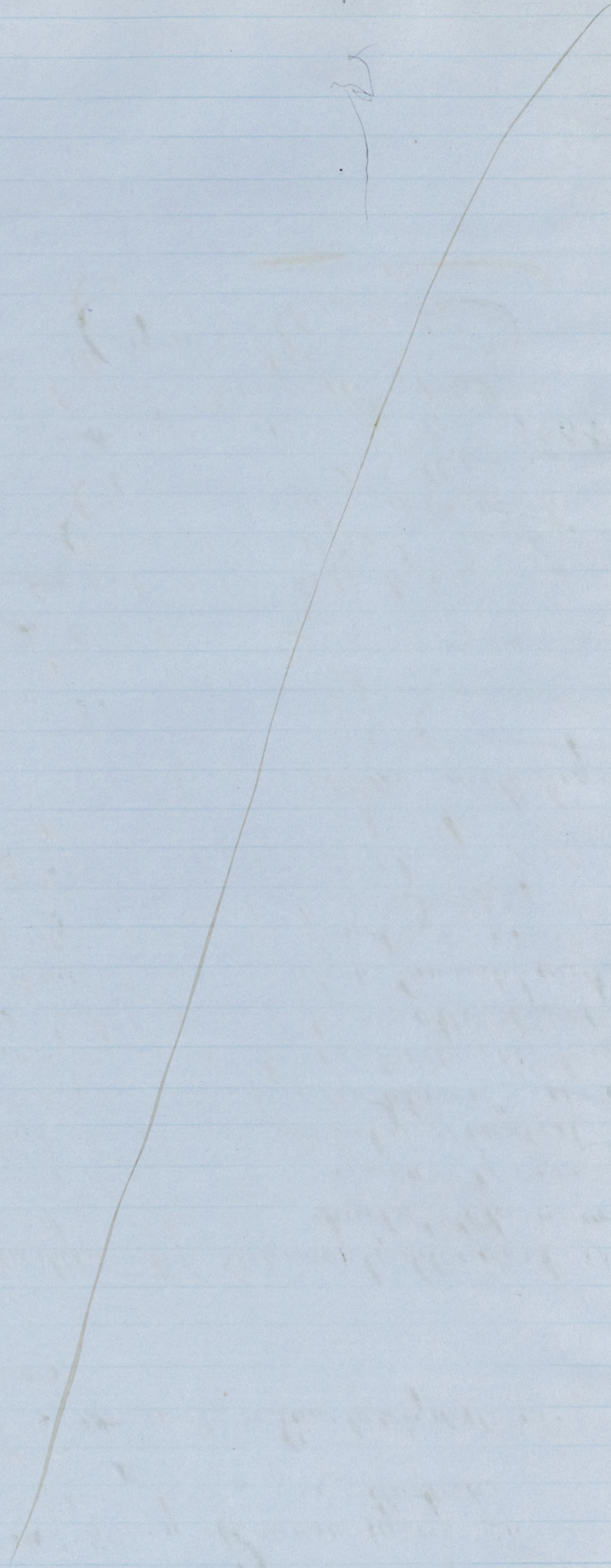
(signed) Harry J. Thornton
Clerk

Filed in Office May 10th 1852

(signed) Geo. Fisher

8

10



9
Exposition
of
John Young

San Francisco Jan^y 4th 1853
On this day before Com^r Harry J
Thornton came John Young a Witness in
behalf of the Claimant John Wilson -
Petition N^o 50 and was duly sworn
his evidence being given in English

The U S Associate Law Agent - was pre-
sent)

261 SD
PAGE 9

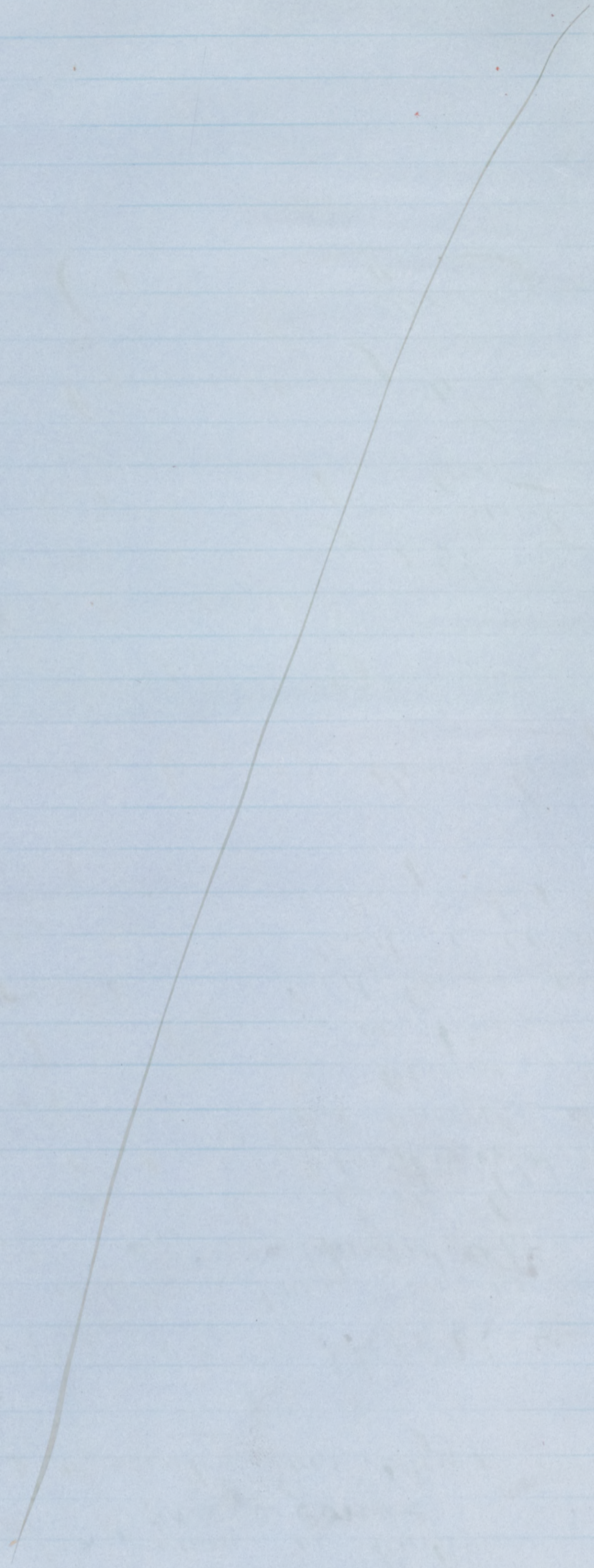
My name is John Young my age is
28 years I reside in Santa Clara County
and have lived in California 9 years.
I know the tract of land called
"Huerta de Pomarado" & del Cerro" it is
in the county of San Luis Obispo John
Wilson has occupied it since the early
part of 1846 he has had horses and
cattle on it, and has had a garden
on it. he occupies it at the present time
and has a house on it

(Signed) John Young

U. S. Law Agent present)

Sworn to and subscribed
before me this 4th January 1853
(Signed) Harry J Thornton
Com^r

Filed in Office January 4th 1853
(Signed) Geo. Fishem
"



"A"

Originals

261 SD
PAGE 10

Expediente de D^{no} Juan
 Wilson del parage conocido con el
 Nombre del
 "Chorro" o Huerta
 de Romualdo q. se haya al N. O.
 de este pueblo en Distancia de una
 y media leguas.

Año de 1840.

Juan B. Alvarado Coronel de la Milicia
auxiliar del Departamento de Californias.

Certifico que siendo Gobernador
de este Departamento en el año de 1842
mande orden en dicho tiempo al Encargado
de la misión de Sr. Luis Obispo entonces
Sr. Mariano Bonilla, para que de los terre-
nos baldíos pertenecientes à dicha misión
repartiere proporcionalmente à algunos
de los indigenas del expresado estableci-
miento conforme à los meritos y capacidad
de cada uno las suertes de tierra que creyere
conviniente poniéndolos inmediatamente
en posesion de ellos.

En consecuencia de esta dispo-
sicion por su cumplimiento abis dicho em-
pleado de haberlo verificado, resulto me lo
agraciado el Indigena Romualdo con el
paraje llamado el Chorro con la estension
que el dicho Sr. Bonilla le demarcó en
cuya posesion de ha mantenido hasta la
fecha quita y pacificamente. Ya pidiendo
del interesado para los fines que le convengan
le doy el presente en Monterey à dos de Mayo
de mil ochocientos cuarenta y seis.

Juan B. Alvarado.

2. El of. suscribe certifico: of. en el reparto of.
hize de suertes de tierra en el Establecimto
de Sr. Luis Obispo p. orden del Gobierno
en el año de 1842 à los Indigenas del mis-
mo establecimiento à Romualdo le señale
p. propiedad suya la suerte que ocupaba
con el nombre de su huerta en el Arroyo del
Chorro señalándole p. termino y lindero p.
la parte del establecimto el vertiente de
la Agua of.iega ctra tierra y p. la parte
opuesta, la sin conada; siendo la estension
de mil 100 p. o mas ó menos de longitud
del S. E. à N. O. y trescientas de Latitud
de S. O. à N. E. toda huerta p. testimonio
de los demas indigenas hace mucho tiempo
of. la ocupa el expresado Romualdo y p.
falsacion de la señale como suya.

habiendo opecido el recobrar del Gobierno su respectivo titulo y p^a que conste à pedim^{to} del interesado le doy el presente en S. Luis Obpo. à 20 de Junio de 1846.

J. Mariano Bonilla

3. En el pueblo de San Luis Obispo de la Alta California à los veinte y siete dias del mes de junio del año de mil ochocientos cuarenta y seis ante mi Victor Linaris juez de Paz suplente de dho pueblo y en Denrificación y los testigos de existencia con quienes actuo en la forma establecida p^a falta de escribano publico, fueron presentes el Indígena Romualdo y Dⁿ Juan Wilson cuyas personas doy fe conosco y dijo el primero of p^a si y à nombre de sus herederos y sucesores y de quien de ellos hubiere titulo voz y firma en cualesquiera manera de en venta legal y enajenacion perpetua à Dⁿ Juan Wilson un terreno of. le pertenece en propiedad en estension de quinientas ò seiscientas varas conocido con el nombre de Huerta de Romualdo y se haya al N. O. de este pueblo entre las tierras de el y las de Dⁿ Juan Wilson. Y aunque no presente titulo de adquisicion y propiedad. p^a constar del testimonio de hombres de bien ser del referido indigena la enunciada huerta de clara que esta libre de todo gravamen publico, perpetuo, temporal, especial, general, tacito y expreso y como tal se lo vende p^a of. lo disfrute, goze, cambie enajene y disponga de el como de cosa suya adquirida con legitimo y justo titulo, dando se el otorgante p^a recibido de la cantidad de ciento cincuenta pesos valor de dho; terreno y sobre no parece de presente la entrega enuncie las leyes de ella, las de su prueba y pago del recibo como en ella se contiene y desde hoy en adelante se desapodera, desiste quite, y aparta del dominio y posesion señorio titulo recurso o cualesquiera derecho que le compete al enunciado terreno y lo enuncia à Dⁿ Juan Wilson para of.

261 SD
PAGE 13

disponga de el como de cosa propia y le compra
poder irrevocable con libe, fianca y general
administracion obligandose el otorgante
a qd. esta venta le sea cierta segura y efe-
tiva y nadie le inquietara ni movera pleito
alguno sobre su propiedad y posesion ni con-
tra el terreno aparecera gravamen alguno ya
la firmeza y validacion de todo lo referido
obliga el otorgante sus bienes presentes y fu-
turos y con ellos se sometera al fuero y jurisdic-
cion de los señores jueces qd. de sus causas de-
ben conocer como p. sentencia definitiva, con-
sentida y pasada en autoridad de cosa ju-
gada y p. tal la recibe. En cuyo testimonio
asi lo otorgo y no firmo p. no sabe lo hacer y sola-
mente pone una señal de Cruz, siendo testigos
instrumentales Dr. José Maria Carrasco Dr.
Nicolas Carpio y Dr. Tomas Herrera de qd. y el
referido juez ob. p. e.

Romualdo f.

Victor Linarez. Jose Garcia d. s. o.
J. Mariano Benilla.

Se extendio el presente documento en papel
comun p. falta del sellado correspondiente
p. ut supra.

Linarez

4. Don Luis Obispo Juv. Gor. D. de Paz de. J.
28 de 1846. De confor } Luis Obispo.
midad con lo pedido } Juan Wilson vecino del
en la presente instancia } partido de Santa Barbara
p. el 29. del corriente } ante V. como mejor procede
previa citacion de los } pareces y dijo: Que en vir-
colindantes se le dara p. tud de obtener en propio
al interes de la posesion } dad el terreno del Chorro
juridico qd. solicita } como consta por la Coeri-
to de D. Luis Obispo } tura de venta qd. debida
y su demarcacion asi lo } mente a compañero y tambien
decreto y firmo. } los documentos que a falta
de titulo a creditos qd. esta }
concedido al Indigena

Linarez

Romualdo (quien a mi
me vendio) hace ya algunos años; Solicito. V.
tenga a bien darme la posesion por dicha
citacion me el dia y hora en qd. deba verificar

15 - se, de lo cual recibí gracia que por
Don Luis Obispo Junio 28 de 1846.

Juan Wilson.

En San Luis Obispo à los veinte y nueve dias
del mes de junio del año de mil ochocientos

En el parage conocido y seis siendo presente D^o Juan Wil-
son con el nombre de le hizo poner el auto anterior y dijo lo
del Chorro ò Huerta y es conforme y lo asiente p^o diligencia
de Romualdo de of. doy fea con dos testigos de asistencia p^o
do en el mismo falta de Escribano publico.

dia mes y año

Victor Linarez

yo el juez de paz Ass^o

suplente de don José Garcia

#

Ass^o Enrique Tomson

Luis Obispo y en el mismo dia se paso esta por escrito à D^o
demarcacion Francisco Villa como encargado del terreno de
y los de mi as^o D^o Obispo de of. colinda con el parage conocido
sistencia sin nombre del Chorro p^o of. preceden la las medi-
presente D^o J. de of. se van à tomar y lo asiente p^o diligencia
Wilson hice mes. forme con los de asistencia.

di un cordel Ass^o

Victor Linarez

Ass^o

con Ofeto de José Garcia

#

Ass^o Enrique Tomson.

presente à las En el pueblo de San Luis Obispo à los veinte y
medidas del nueve dias del mes de junio del año de mil
tenenoy al efecto de ochocientos cuarenta y seis se presento D^o Fran-
de medio un ²⁰ Villa en cumplimiento à la citacion of.
cordel de veinte se hizo el dia anterior y lo asiente por dil-
y en covara se agencera of. rubrique.

bellanas y en su En el mismo dia mes y año. Yo el juez de paz
estemos scaturido suplente de Don Luis Obispo acompañado
dos Estacas D^o de los de mi asistencia y colindantes ya cita
p^o su asistencia dos p^o años al parage conocido con el nombre de
lo puse p^o diligencia Chorro ò Huerta de Romualdo que se halla
g^o que forme como legua y media de distancia al et. D. del
con los de as^o edificio principal de San Luis Obispo con objeto

Victor Linarez de proceder à las medidas del terreno y lo asen-
Ass^o José Garcia - te p^o diligencia of. forme con los de asistencia
Ass^o Enrique Tomson Ass^o Victor Linarez Ass^o

José Garcia

#

Ass^o Enrique Tomson

En el mismo parage dia mes y año yo el juez
de paz suplente de Don Luis Obispo y su demar-
cacion acompañado de los de asistencia
p^o faltan un perito agrimensor dispuse nom-
brar de los convenientes dos mediceros cordel-
leros, y fueron nombrados D^o Vicente Tecliz

y D^o. Inocente Garcia los cuales aceptando el encargo juraron p^r. Dios et^ho S^ov y la santa Cruz desempeñarlo fielmente segun su saber y entender. Lo asente p^r. diligencia q^d. forme con los de asistencia.

Victor Amarez

Asso
Jose Garcia

Asso
Enrique Tomson

261 SD
PAGE 15

En el mismo parage dia mes y año a continuacion y o el juez de paz suplente de Don Luis Obispo y su Demarcacion a compañia de los de asistencia y concurrentes ya citados siendo presente D^o. Juan Wilson pasamos a un Rincon q^d. demuestra el Deseño y previo el reconocimiento de los instrumentales q^d. ohan en el Expediente y q^d. justifican haber sido de la propiedad de Romualdo el terreno mencionado despues de demarcado a quel punto con unos Alisos en q^d. D^o. Juan Wilson labio una Cruz y estampo su marca de comenzo la medida tomando los mediciores el Cordel p^r. D^o. Eschemos y estacas midieron de E. O. de E. p^r. toda la Quilla del Corollo del Chorro a llegar a un Aliso q^d. sirve de Lindero al Don Olibret en donde se midieron cuarenta y tres cordeles y se demarco este punto con una Cruz q^d. formo Wilson en el mismo Arbol y su marca que a presencia de los concurrentes tambien la estampo en el mismo lugar. De alli se tiro el cordel p^r. el rumbo O. O. hasta llegar al pie del Cerro q^d. llaman de Romualdo y resultaron diez y nueve cordeles siendo demarcado este punto p^r. un Encino grande en donde el presitado Wilson estampo su marca y formo una Cruz señal de lindero p^r. aquel punto en advertencia q^d. en la linea recta q^d. hay de el Aliso citado en la primera medida hasta el mencionado Encino, se encuentran el nacimiento del agua q^d. del Chorro y un Aliso q^d. tambien esta marcado como los demas. En seguida se continuo la medida por el rumbo del hasta terminar con el lindero de otro terreno tambien perteneciente a Wilson y se midieron cuarenta y cuatro cordeles. De alli se siguió un

setenta,

261 SD
PAGE 16

mediendo por el Punto N. E. de termino con el punto de donde se comensaron las medidas en cuyas distancias se contaron cinco cordales con lo cual se concluyeron las medidas y se marcó los terminos y linderos bajo un ángulo de ciento y once cordales q. componen dos mil sietecientas y cinco varas castellanas y a fin de q. D^o Juan Wilson concluido este acto manifiestare ser el dueño y D^o del terreno; lo tome por la mano y en voz clara le dijo; en el nombre de la Nación Mexicana doy a V. posesion por juicio del terreno que tiene comprado y q. ahora se le ha medido y le mando que hiere al guna demostracion de haber adquirido el Dominio util y directo y con esto la propiedad del terreno y el como en demostracion manifiestando ser el unico D^o y dueño, cabo la tierra avances Verbas y tres piedras con lo q. se concluyo el acto y lo firmo con los de asistencia.

Asa Victor Linares y asa
Jose Garcia # Enrique Tomson.

Don Luis Obispo Junio 29 de 1846.

De vuelbazo estas diligencias Originales al interesado p^a q. haga de ellos el uso q. le convenga como testimonio de adquisicion de propiedad y tomese razon en el libro respectivo.

Linares
Don Luis Obispo Junio 30 de 1846.

Atendido el acto anterior con esta misma p^{ta} se devolvió a D^o Juan Wilson el expediente en q. sejas utiles y lo asento p^r diligencia q. rubrique.

6 Queda tomada razon el libro respectivo en las sejas . 17. 18. 19. y 20.

Victor Linares
y Provisor Gobernador Constitucional del Departamento de California.

Por cuanto el indigena Romualdo ha hecho constar que ha ee bastante tiempo que legalmente posee un terreno para Cabot de quinientas Varas en su adho en este lugar el que adquirio por buena conse con

y no teniendo documento que lo acredite para en todo tiempo justificar su derecho usando de las facultades que me estan conferidas a nombre de la Nacion Mexicana he venido en conformacion la consecucion de el referido terreno de el arrendole la propiedad por las presentes letras bajo las condiciones siguientes.

261 SD
PAGE 17

1^a Pochà cercar las quimientas varas de terreno que de nuevo se le adjudican sin perjudicar los caminos y serriales que lo dispongan libre y exclusivamente destinandole al uso o cultivo que mas le acomode.

2^a Solicitar a del juez respectivo le de la posesion juridica en virtud de este despacho el que se demarcaran los correspondientes linderos que seran señalados con las Mapas necesarios.

En consecuencia mando que teniendo el presente titulo por firme y valido de tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en el pueblo de Sⁿ. Luis Obispo en este papel comun por falta de sellado a Diez de Julio de mil ochosientos cuarente y seis.

Pro p^{ro}.
Jose Matias Moreno
S^{no} Int^o.

Here follows
Map.

En San Luis Obispo à los once dias del mes de Julio del año de mil y ocho cientos cuarenta y seis. Por ante mi Inocente Garcia juez Auxiliar de dho pueblo y su demarcacion y los testigos de asistencia con quienes actuo en la forma establecida fue presente el Indigena Romualdo à quien doy fe conozco y digo: q. habiendo del currido del Gobierno Departamental el titulo de la Huerta de su nombre; en virtud de haberle enagenado en venta q. hizo de el à D^o Juan Wilson como consta p^a la Escritura respectiva q. presento, tras pase dha Huerta al referido D^o Juan Wilson p^a mas seguridad de la venta hecha. Y para q. conste lo asente p^a diligencia q. formé con los de asistencia no haciendolo el expresado Romualdo p^a no averlo hacer.

50-

261 SD
PAGE 18

Inocente Garcia

Asso	Asso
José Garcia	# Enrique Gonsoro
San Luis Obispo	San Luis Obispo
Julio 11 de 1846.	Julio 11 de 1846.
De conformidad con lo pedido p ^a el día 12 del cor ^a nente se le dara al interesado la posesion juridica q ^e solicita.	Juan Wilson vecino del partido de St ^o Barbara ante V. como mejor proceda porzco y digo: q. en virtud de tener comprado al Indigena Romualdo el terreno q. demuestro el titulo y Diseño q. devido ante acompaño à mas de la escritura de venta y tras pase de dho titulo hecho à mi p ^a el referido Indigena solicito tenga V. à bien darme la posesion juridica del mencionado terreno vendose citarme el dia y hora en q. deba ser. Por tanto. A. V.
Yo el juez de paz auxiliar de S. Luis Obispo y su Demarcacion asi lo declaré y formé.	
Garcia.	

Duplico accedo à mi favor gracia que espero dispensarme este papel como p^a falta de sellado.

San Luis Obispo Julio 11 de 1846.
Juan Wilson

En San Luis Obispo à los once dias del mes de Julio del año de mil y ocho cientos cuarenta y seis, siendo presente D^o Juan Wilson se

le hizo saber el acto anterior y dijo lo Oyo y es conforme y lo asente p^a diligencia de que doy fe con dos testigos de asistencia p^a falta de Escribano.

Ass^o Inocente Garcia. Ass^o
 José Garcia Enrique Tomson

En el parage conocido con el nombre de la Heredia de Romualdo à los doce dias del mes de Julio del año de mil y ochocientos cuarenta y seis. Yo el juez de paz Auxiliar de la Demarcacion de San Luis Obispo acompañado de los de mi asistencia hice medir un Cordel con Objeto de proceder à las medidas del terreno y al efecto se midio un Cordel de veinte y cinco varas castellanas y en sus estremos escaparon dos estacas, q^{as} p^a su constancia lo puse p^a diligencia of. formé con los de asistencia

Ass^o Inocente Garcia Ass^o
 José Garcia # Enrique Tomson

En el mismo parage dia mes y año yo el juez de paz de San Luis Obispo y de la Demarcacion acompañado de los de asistencia p^a falta un perito Agrimensor dispuse nombrar de los concurrentes dos mediciores cot de leros y fueron nombrados D^o Vicente Felix y D^o Mercurial Garcia los cuales aceptando el encargo juraron p^a Dios n^oro D^o y la Santa Cruz de desempeñar feo y verda deramente segun su saber y entender y lo asente p^a diligencia of. formé con los de asistencia.

Inocente Garcia.

Ass^o Ass^o
 José Garcia Enrique Tomson

A. continuacion en el mismo parage dia mes y año yo el juez de paz de San Luis Obispo y de la demarcacion acompañado de los de asistencia y concurrentes ya citados presente D^o Ramon Wilson pasamos à un Rin con q^o se encuentra demarcado en el diseño q^o pertenece al Indigena Romualdo y q^o ahora es de la propiedad de D^o Juan Wilson en q^o queda demarcado con un Alisal of. sobre el lindero d otro terreno tambien de la propiedad del referido Wilson p^a comensar las

medidas y al efecto los nombrados medidores en
deleiros tiraron el cordel y siguiendolo en direc-
cion al S. E. p^a toda la Quilla del Corro q^d la
man del Corro se midieron hasta llegar a un
Aliso que queda marcado con una Cruz labrada
con Acha en el mismo Arbol enarenta y tres
cordeles, y continuando las medidas desde
dicho punto al rumbo S. O. a llegar al pie del
Corro que llamamos de Romualdo se midieron
diez y nueve cordeles quedando demarcado
este punto p^a un Encino q^d servira de lindero
hoy una Cruz y de alli ante o de se firmo las
medidas p^a otro rumbo volvimos atrás p^a la mis-
ma linea y llegamos a un Aliso en donde esta
el nacimiento del Aguaje del Corro y alli man-
de a Dr. Juan Wilson que hiciera otra Cruz
que demostrara ser aquel lindero con las tierras
del Indio Pedro Maria y la hizo. en seguida vol-
vimos de nuevo al Encino y tiraron los medido-
res el cordel a linea recta p^a el rumbo N. hasta
llegar a una piedra q^d esta en donde siempre ha
habitado Romualdo y se midieron treinta cor-
deles de continuo midiendolo p^a el rumbo N. O.
hasta llegar a un Rincon que tiene varios A-
lisos que sirve de lindero al Rancho de los Osos
y se midieron catorce cordeles; de alli se mi-
dio p^a el rumbo N. E. hasta llegar al punto don-
de se comenzo la medida y se contaron cinco
cordeles con lo cual fueron concluidas las me-
didas y señalados los terminos y linderos del
terreno y a fin de q^d Dr. Juan Wilson conclui-
do este acto manifestase ser el Jor y Dueño
absoluto del terreno lo tome de la Mano y en voz
clara le dijo, en el nombre de la Nacion Mexica-
na doy a V. posesion juridica del terreno q^d
tiene comprado y que ahora se le ha medido
y le mande que hiciese alguna demostracion
de señorio y de haber adquirido el dominio
util y directo y el como demostracion de haber
adquirido la propiedad del mencionado ter-
reno manifestando ser el unico Jor y dueño babo
la tierra arrancar yerbas y toro piedras con lo q^d
se concluyo el acto q^d firme con los de asis-
ta que doy fee.

ass^{os} Inocente Garcia ass^{os}
 José Garcia Enrique Tomson.
 San Luis Obispo Julio 12. de 1846.
 Debueltanse estas diligencias Originales al
 interesado p^o q^d. haga el uso q^d. le convenga como
 testimonio de adquisicion de propiedad y
 tomeserayon en el libro correspondiente.

261 SD
 PAGE 21

Garcia
 San Luis Obispo Julio 13 de 1846.
 Atendido el acto antecedente con estas mis
 mas p^{as} se devolvió à D^o Juan Wilson el espe
 diente en q^d fogas utiles y lo asente p^o diligencias

Doña Doña Ramona Carrillo.

D^o Luis Obispo Julio 11 de 1846.

Mi estimada prima.

Ya que la brevedad del tiempo y mis ocupaciones
 me privan de la satisfaccion de ir à hacer à U.
 una visita le dirijo la presente con el principal
 objeto de saludarla afectuosamente desear
 dole completa salud en union de toda la familia
 ayunto à U. igualmente para que se sirva
 entregarlo à D^o Juan el titulo de las tierras
 que compró al indio Romualdo que va acom
 pañado à la Escritura de Venta y tendrá U.
 à bien advertirle à D^o Juan que le estendió
 à favor del Indio por que así me parecia prudente
 por lo que haré que el referido Romualdo lo
 pasara en su favor con una diligencia que ponga
 el juez pues esto no es mas de una mera formali
 dad.

Desee de conserve U. buena y que disponga del
 afecto sincero que le profeso su apto. primo.

J. S. P.

Pio Pico

Filed in Office Dec: 29th 1852

Geo: Fisher Clerk

Translation
"B"
Titles, Sale
and
Judicial
Possession

261 SD
PAGE 22

Juan B. Alvarado Colonel of
auxiliary Militia of the Department of
California

I certify that in the year 1842 being
Governor at that time, I ordered the person
in charge of the Mission of San Luis Obispo
then Don Mariano Bonilla, to distribute
to several of the Indians of said Estab-
lishment from the vacant lands belong-
ing to that Mission such separate
parcels of land as he might deem
proper proportioning them to the merits and
abilities of each one and putting them in
possession immediately.

In consequence of this order said
employee reported that ~~he~~ he had com-
plied with it, and that to the Indian
Renualdo had been granted the place called
the Chorro in extent that which said Don
Bonilla marked out for him in quiet
and peaceful possession of which he has
remained up to this date and at the
request of the interested party for the pur-
poses which it may serve I give this
in Monterey on the second of May One
thousand eight hundred and forty six

(Signed) Juan B. Alvarado

I the subscriber certify that in the
distribution which I made of separate pieces
of land in the establishment of San Luis
Obispo by order of the Government in the
year 1842 to the Indians of that estab-
lishment, I assigned to Renualdo as his
property the piece of ground which he
occupied by the name of his garden on
the Arroyo of the Chorro designating as his
boundary on the side of the establishment
the source of the stream which waters said
land

24

261 SD
PAGE 23

land, and on the other side the angle (formed by the hills) its extent being One thousand varas long a little more or less from S. E. to N. W. and three hundred in breadth from S. W. to N. E., which garden according to the testimony of the other Indians that the said Romualdo has occupied for a long time and for this reason it was assigned to him as his own having offered to obtain from the Government the corresponding title and in testimony I give this at the request of the party interested in San Luis Obispo on the 20th of June 1846

(Signed) Mariano Bonilla.

"B"

In the Pueblo of San Luis Obispo in Upper California on the twenty seventh day of the month of June in the Year One thousand eight hundred and forty six before me Victor Sinaris Provisional Justice of the Peace of said Pueblo and its demarcation and the Witnesses of assistance with whom I act in the established form for want of a Notary Public, appeared the Indian Romualdo and Don Juan Wilson which persons I certify to know, and the former said that for himself and in the name of his heirs and successors and of whoever of them might have title voice, and claim in any manner he grants in legal sale and perpetual alienation to Don Juan Wilson a land which belongs to him in fee in extent five or six hundred varas shown by the name of "Huerta de Romualdo" and is situated N. W. of this Pueblo between its lands and those of Don Juan Wilson and though he presents no title of grant and ownership yet it appears from the testimony of honest men that the said garden is the

is the property of the aforementioned Indian and he declares that it is free from all incumbrance whether public, perpetual or temporal, special or general, tacit and expressed, and as such he sells it, that (the second party) may enjoy exchange alienate and dispose of it as his own, acquired by just and lawful title, the vendor acknowledging that he has received the sum of one hundred and fifty dollars the value of said land and the delivery not being made in pursuance he renounces the laws respecting it and those concerning the proof of its payment and receipts and from this time forward he releases, desists, retires and withdraws from the dominion and possession the ownership title, recourse or whatever right he may have in the aforesaid land and he renounces and transfers it to Don Juan Melero that as his own he may dispose of it and he confers on him irrevocable power with free full and general administration, the vendor obliging himself that this sale shall be certain sure and effective and that no person shall molest him or enter suit against his ownership and possession nor shall any incumbrance appear against the land and for the legality and validity of this the vendor binds all his property in present possession or which he may hereafter obtain and he submits himself with it (the property) to the laws and jurisdiction of the Judges who may have cognizance of such cases as a definitive sentence consented to and passed with the authority of res-judicata and as such he receives it.

In testimony of which he acknowledged this and did not sign because he did not know how but made a cross the witnesses to the instrument being Don José María Carrasco, Don Nicolás Carrasco and Don Tomás Herrera to which I the

I the aforementioned Justice certify

(Signed) Remualdo ^{his} _{mark}

(Signed) Victor Sinares

Asstg. Witnesses

(Sgd) José Garcia

(Sgd) S. Mariano Bonilla

261 SD
PAGE 25

This document was made out on common paper for want of that of the corresponding stamp

Date as above

(Signed) Sinares -

"

"B"

Sau Luis Obispo
June 28th 1846.
In conformity with the request contained in the present instance on the 29th inst the co-terminous neighbors (colindantes) being previously - summoned the judicial possession which he solicits will be given - to the party interested & the Justice of the Peace (provisionally) of Sau Luis Obispo and its demarcation thus decreed and signed

(Signed) Sinares

To the Justice of the Peace of Sau Luis Obispo
Juan Wilson resident in the District of Santa Barbara in the most proper manner - appears and represents that having obtained the ownership of the land of the Ahorro as appears by the act of sale which he duly transmitted herewith as well as the documents which for want of titles, prove that it was granted to the Indian Remualdo (who sold it to him) some years since he prays you will see fit to give him the judicial possession naming the day and hour on which to verify it by which he will receive favor, which he swears. Y. P. Y. C.

Sau Luis Obispo June 28th 1846.

(Signed) Juan Wilson

27
In Saw Luis Obispo on the twenty ninth
day of the month of June, One thousand
eight hundred and forty six, present Don
Juan Wilson, I informed him of the preceding
order and he acknowledged notice and I
noted it Officially which I certify with
the two assisting witnesses for want of a
Notary Public

261 SD
PAGE 26

(Signed) Victor Sinares

Asstg. Witnesses
(Sgd) Jose Garcia
(Sgd) Enrique Thomson

On the same day written summons were
sent to Don Francisco Villa as in charge
of the land of Senor Olivet, which adjoins
the place called by the name of Chorro
to be present at the measurements which are
to be made and I noted it Officially
and signed with the Assisting witnesses,

(Signed) Victor Sinares

Asstg. Witnesses
(Sgd) Jose Garcia
(Sgd) Enrique Thomson

In the Pueblo of Saw Luis Obispo
in the twenty ninth day of the month of
June in the year One thousand eight hundred
and forty six, Don Francisco Villa pre-
sented himself in compliance with the summons
sent him on the day previous and I noted
it Officially and signed in Rubric

(Rubric of Sinares)

261 SD
PAGE 27

On the same day month and year I the Provisional Justice of the Peace of San Luis Obispo, accompanied by the assisting Witnesses and co-terminous neighbors (colindantes) before named went to the place known by the name of the Ahorro or garden of Romualdo which is situated about one league and a half N. W. of the principal edifice of San Luis Obispo for the purpose of proceeding to measure the land and I noted it officially and signed it with those of my assistance

(Signed) Victor Linares

Asstg. Witnesses
(sg'd) José García
(sg'd) Enrique Tomson

In the place known by the name of Ahorro or Huerta de Romualdo on the same day month and year, I the provisional Justice of the Peace of San Luis Obispo and its demarcation foreman Don Juan Wilson, caused to be measured a cord for the purpose of measuring the land and a cord was measured twenty five varas long and two stakes fixed to its extremities and in testimony, I made official note of it which I signed with assisting Witnesses,

(Signed) Victor Linares

Asstg. Witnesses
(sg'd) José García
(sg'd) Enrique Tomson

261 SD
PAGE 28

In the same place day month and year
I the Provisional Justice of the Peace of
San Luis Obispo and its demarcation ac-
-companied by assisting Witnesses for want
of a Professional Surveyor, I decided to
appoint from the bystanders two measuring
rope bearers, and those appointed were
Don Vicente Felix and Don Inocente Garcia
who accepting the Office made oath by God
our Lord and the Holy cross to discharge
its duties faithfully to the best of their
knowledge and understanding. And I made
Official note of it which I signed with
the assisting witnesses
(Signed) Victor Sinares

Asstg Witnesses
(Signed) Jose Garcia
(Signed) Enrique Jimson

In the same place day month and year
I the Provisional Justice of the Peace of San
Luis Obispo and its demarcation accompanied
by the Assisting Witnesses and other persons afore-
-mentioned present Don Juan Wilson, went to the
angle (of the hills) shown in the Map and
after examining the instruments which go with
the Record of Proceedings (Expediente) and
prove this land to have been the property
of Romualdo having marked that point with
some pegs on which Don Juan Wilson
carved a cross and stamped his mark the
measurement was commenced taking the cordel
by its extremities and going from N.W. to
S.E. along the bank of the Arroyo del Chorro
forty three cordels, to a Sycamore which is
the boundary of Senor Olivet and it was
marked with a cross which Wilson carved
and his mark which he also stamped on it
in presence of all the bystanders
Thence drawing the cordel S.W. (19)
nineteen

nineteen cordels to the foot of the Cerro called that of Romualdo, this point being marked with a large Oak in which the aforesaid Wilson stamped his mark and carved a cross designating it as a boundary on that side, it is to be observed that a right line from the sycamore where the first measurement ended to the said Oak passes through the source of the running stream of the Cerro and a Sycamore also marked as the others thence continuing the measurement N to terminate with the boundary of another piece of land belonging to Wilson forty four cordels distant - thence N.E. five cordels to the place of beginning with which the measurements were concluded and the boundaries designated as being in the aggregate One Hundred and eleven cordels long or two thousand seven hundred and seventy five Spanish varas and that Don Juan Wilson might manifest himself to be lord and owner of the land, I took him by the hand and in a loud voice said to him,

In the name of the Mexican Nation I give you Judicial possession of the land which you have purchased and which has just been measured and I directed him to make some demonstration of having acquired the useful, and direct dominion and with it the ownership of the land and he showing himself to be sole lord and owner of it dug up earth pulled up grass and threw stones with which the act was completed and I signed with assisting witnesses

(Signed) Victor Sinares

Atty. Witnesses

(Sgd) Jose Garcia

(Signed) Enrique Tomson

Saw Luis Obispo June 29th 1846
 Let these original Official papers be given
 to the party interested, to make such use of
 them as he may see fit, in testimony of
 acquisition of ownership and let them be
 entered in the proper book

(Signed) ——— Linares

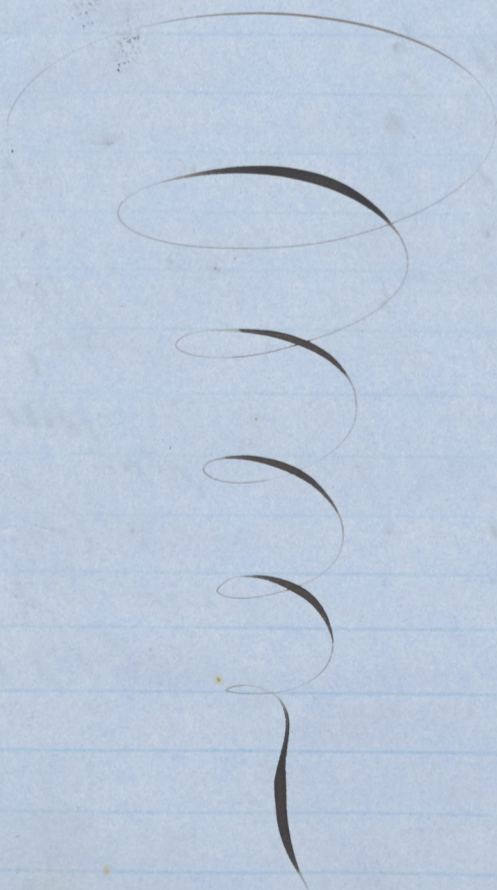
261 SD
 PAGE 30

Saw Luis Obispo June 30th 1846
 In compliance with the foregoing order
 on this day this Record of Proceedings
 (Expediente) was delivered to Don Juan
 Wilson in 9 written leaves and I made
 note of it Officially which I signed in
 Public

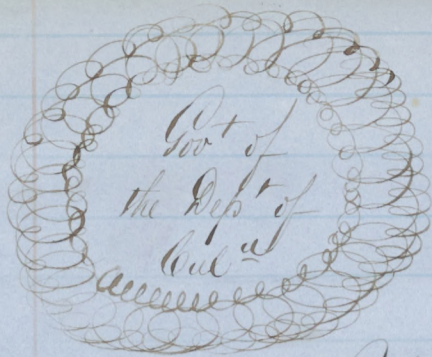
(Public of Linares)

It has been registered in The proper
 book on folios 17, 18, 19, and 20

(Signed) Victor Linares



B



Pio Pico Constitutional
Governor of the Department
of California

261 SD
PAGE 31

Whereas the Indian Pinnaldo has made it appear that for a long time he has legally owned a piece of cultivated land of five hundred yards square in this place, which he acquired by a proper grant and as he has no document to prove it in order to justify his right in all future time, using the powers which are conferred in me in the name of the Mexican Nation I have confirmed the grant of said land declaring to him the ownership by these presents under the following conditions viz

1st He may enclose the five hundred yards of land which are again granted him without prejudice to the roads and servitudes and enjoy it freely and exclusively making such use or cultivation of it as he may see fit

2^d He will request the Proper Magistrate to give him Judicial possession in virtue of this order by whom the corresponding boundaries will be marked out, which will be designated by the necessary land marks

In consequence I order that the present title being held as firm and valid it be registered in the proper book and delivered to the interested party for his security and other purposes. Given in San Luis Obispo on this Common paper for want of stamped on the tenth of July One thousand eight hundred and forty six —

(Signed) Pio Pico
(Ag'd) Joe Matias Moreno
Secretary

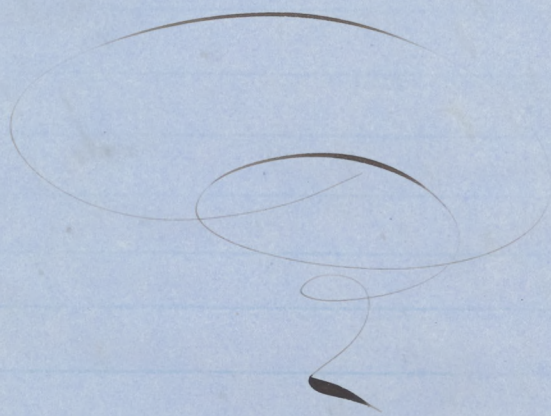
"B"

261 SD
PAGE 32

I saw Luis Obispo on the eleventh day of the month of July in the year One thousand eight hundred and forty six before me Innocente Garcia auxiliary Magistrate and the assisting witnesses with whom I acted in the established form appeared the Indian Pomualdo whom I certify I know and said that having acquired from the Departmental Government the title of the fruit garden called by his name and he having alienated it by sale to Don Juan Wilson as appears by the document which he presented he transfers said title to the before mentioned Don Juan Wilson for the greater security of the sale made and in testimony I made official note of it which I signed with the assisting witnesses Pomualdo not doing so as he did not know how to sign

(Signed) Innocente Garcia

Assist. Witnesses
 (Signed) Jose Garcia
 (Signed) Evague Tomson



"B"

San Luis Obispo
July 11th 1846

In conformity
with this request
on the 12th inst
the juridical pos-
session which he
solicits will be
given to the party
interested

I the auxiliary
Justice of the Peace
of San Luis Obispo
and its demarcation
thus decreed and
signed

(Signed) Garcia

To the Justice of the Peace
Juan Wilson a resident of
the District (Partido) of Santa
Barbara before you in the
most proper manner appears
and represents, That in virtue
of having purchased of the
Indian Romualdo the land
shown by the title and maps
which he duly transmits here-
with as also the act of
sale and transfer of said
title to him by the aforemen-
tioned Indian he requests
that you will have the
goodness to give him the
juridical possession of said
land naming the day and
hour on which it ought
to take place

Therefore he prays you
to accede to his request a favor which he
expects excusing this common paper for
want of stamped

San Luis Obispo July 11th 1846

(Signed) John Wilson

In San Luis Obispo on the eleventh
day of the month of July, One thousand
eight hundred and forty six pursuant to
Juan Wilson I informed him of the foregoing
order and he acknowledged notice and
I noted it officially which I certify with
two assisting witnesses for want of a Notary

(Signed) Innocente Garcia

Assy Witnesses
(Sgd) Jose Garcia
(Sgd) Enrique Tomson

34

In the place known by the name of La Puerta de Romualdo, on the 12th day of the month of July in the year One thousand eight hundred and forty six I the auxiliary Justice of the Peace of the demarcation of San Luis Obispo accompanied by my assisting witnesses caused to be measured a cord for the purpose of marking the measurement of the land and a cord was measured twenty five Spanish varas long and at its extremities two stakes were tied and in testimony, I noted it officially which I signed with those of my assistance

(Signed) Inocente Garcia

Assisting Witnesses
(Sgd) Jose Garcia
(Sgd) Enrique Tomson

In the same place, day, month and year I the Justice of the Peace of San Luis Obispo and its demarcation accompanied by assisting witnesses there being no Professional Surveyor I decided to name from the bystanders two measuring rope bearers, and those appointed were Don Vicente Feliz and Don Mercurial Garcia who accepting the Office made oath by God our Lord and the Holy cross to discharge its duties faithfully and truly according to their knowledge and understanding and I made Official note of it which I signed with those of my assistance

(Signed) Inocente Garcia

Assig Witnesses
(Sgd) Jose Garcia
(Sgd) Enrique Tomson

In continuation in the same place day month and year of the Justice of the Peace of San Luis Obispo and its demarcation accompanied by those of my assistance and other persons aforementioned, Don Juan Wilson being present we passed to a corner marked on the Map which did belong to the Indian Romualdo and which now pertains to Don Juan Wilson which point was designated by a sycamore which served as a bound with another piece of land also belonging to Wilson and the measurers drawing the cordel in direction to the S.E. along the bank of the Arroyo called that of the chorro forty three cordels to a sycamore marked with a cross cut with an axe, on the tree thence continuing the measurement S.W. to the foot of the Cerro called that of Romualdo sixteen cordels this point being marked by an oak which served as a bound on which a cross was carved then before measuring in another direction we went back on the main line to a sycamore which is at the source of the running water of the Chorro and I directed Don Juan Wilson to make there another cross which should show that place to be a boundary with the lands of the Indian Pedro Maria and he did so, we then returned to the oak and the measurers drew the cordel in a straight line Northerly to a rock where Romualdo has always dwelt distant thirty cordels thence the measurement was continued N.W. fourteen cordels to an angle formed by the hills where are several sycamores which serves as a boundary with the Rancho of Los Oros - thence five cordels to the place of beginning with which the measurement was finished and the limits and boundaries marked and in order that Don Juan Wilson to finish this act should show himself to be the absolute lord and owner of the land -

I took him by the hand and in a loud voice said to him in the name of the Mexican Nation I give you judicial possession of the land which has just been measured for you and I direct him to make some demonstration of ownership and of having acquired the useful and direct dominion and he manifesting himself to be the only lord and owner of it dug up earth, pulled up grass and threw stones, with which the act was concluded and I signed with the assisting witnesses which I certify

(Signed) Inocente Garcia

Assistg Witnesses

(Sgd) Josi Garcia

(Sgd) Enrique Tomson

In San Luis Obispo July 12, 1846
Let these originals Official papers be returned to the party interested that he may make of them the use he may see fit and as a testimony of acquisition of ownership and let them be entered in the corresponding book

(Signed) Garcia

San Luis Obispo July 13th 1846
In compliance with the foregoing order on this day the Record of Proceedings (Expediente) was delivered to Don Juan Wilson in 9 folios and I noted it Officially

37

"B"

To
Senora Dona Ramona Carrillo

San Luis Obispo July 11, 1846

My Esteemed Cousin

As want of time and my engagements prevented me the satisfaction of going to make you a visit, I direct to you this letter with the principal object of saluting you affectionately, wishing you perfect health together with all your family.

I also transmit with this that you may have the goodness to deliver it to Don Juan the title of the land which he bought from the Indian Romaldo, which accompanies the act of sale. Be pleased to call the attention of Don Juan to the fact that it was made out in favor of the Indian because it seemed to me most prudent he will therefore cause the said Romaldo to transfer it to him by an official act which the Magistrate should make out but this is only a mere form.

Wishing you may remain well and dispose of the sincere affection, which is professed towards you by your cousin, who is at your feet.

(Signed) Pio Pico

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this Office in Case No 50 John Wilson for the place named "Huerta de Romaldo" annexed to the deposition of "Pablo de la Guerra"

(Signed) Geo. Fisher

Filed in Office February 17th 1852.

(Signed) Geo. Fisher

261 SD
PAGE 37

Opinion

John Wilson

vs.

The United States

For the place called
"Huerta de Romualdo
& del Ahorro" in
San Luis Obispo County
containing 1500 varas
square of land.

261 SD
PAGE 38

In the Claimant's Petition it is alleged that in 1842 the Alcalde of San Luis Obispo by direction and Authority of Alvarado then Governor of California gave to Romualdo (an Indian) the small tract of land in question the boundaries of which were established by the Alcalde that Romualdo sold and conveyed it to the Petitioner June 27, 1846, that judicial possession was given the next day, that on the tenth day of July 1846 Gov Pio Pico gave a new and formal grant of said land to said Romualdo: that on the following day Romualdo confirmed his former conveyance to the present claimant, who was immediately again put into judicial possession of the premises.

So far as the allegation that a grant was made to Romualdo - under the direction of Governor Alvarado by the Alcalde is concerned there is no sufficient proof of the fact. The only evidence of it is found in the certificate of said Alvarado made long after his official capacity ceased stating that in 1842 while he was Governor he ordered Bonilla then in charge of the Mission to distribute to several of the Indians of that Mission such separate parcels of land as he might deem proper proportioning them to the merits and abilities of each

of each one and putting them in possession immediately and a like certificate by Bonilla that he had assigned the land in question to Romaldo and that he had offered to obtain from the Government, the corresponding title.

261 SD
PAGE 39

These certificates given long after the official functions of the signers ceased have no official character which makes them evidence of the facts contained in them. These facts must be sustained by the proper official documents or oral proof where evidence of that character is admissible sanctioned by the solemnity of an oath. These certificates were prepared to be presented to the Governor in 1846 when they were made in order to obtain the grant of the land to Romaldo.

They conveyed to that functionary information which was designed to induce him to regard favorably the applicants and the application, and to show the propriety in the exercise of the broad discretion given to the Governor in such cases of granting the solicitation.

For this purpose they were used. But for the purpose of proving there that a concession or grant of any character was made in 1812 they are incompetent as evidence. The unofficial certificate of a former Governor of the acts of his administration cannot take the place of official co-temporary documents or of the solemn oath by which the verity of human testimony is required to be sanctioned.

But if these certificates were regarded as legal evidence, they are not sufficient to prove a grant of the land by the Mexican government to Romaldo. The Alcalde had himself no power to grant, he does not appear to have been commissioned by the Governor (even if the

latter had power to grant by substitution) to grant. The distribution seems intended as nothing more than a temporary arrangement evidently contemplating if grants should be obtained, it should be on the subsequent application of the several beneficiaries to the Governor in the usual manner and upon a proper showing.

This is evidence by the statement contained in Boullas Certificate that he offered to obtain the grant for Pomales. No grant was ever obtained and in truth none is pretended to have been procured from any competent authority until that signed by Pio Pico in 1846.

The rights of Pomales to the land must then depend on the validity of the last mentioned document.

The grant issued in 1846 is presented and the signatures of Pio Pico as Constitutional ^{Governor} ~~Stoalde~~ of the Department of California and Jose Matias Moreno as Secretary ad interim which are upon it are proved to be genuine. Its date is July 10. - 1846.

The question whether a grant issued at that date by Governor Pico is valid and entitled to confirmation necessarily arises.

The Flag of the United States was raised at Monterey and possession taken of the country on the seventh day of the same month. It was a conquest by our Nation from Mexico then in open war and the possession held at the date of this grant has never been relinquished by the Government.

The respective rights and Powers of the two legitimate nations over the public domain, when one possesses itself by conquest of territory belonging to the other are well settled among writers on international law. By such conquest and during

during the occupation under it the territory passed under the Allegiance and sovereignty of our own Nation. In the case of the Tollina. A Decree Admⁿ Rep^t 450 it is said that "No point is more clearly settled in the Courts of Common Law than that a conquered Country forms immediately a part of the King's Dominion (Campbell v. Hall Law. R. 208) In the United States vs. Waywood 2 Gall R. 485 Judge Story declared that in case of such occupation by conquest the sovereignty of the conquered Nation was of course suspended and its laws could no longer be rightfully enforced or be obligatory upon the inhabitants who remained and submitted to the conquerors.

But although the sovereignty of Mexico by such conquest was thus suspended it had not permanently passed under our own sovereignty. In the language of the Court in the case above cited the right which existed was the mere right of superior force the allegiance was temporary and the possession not that firm possession which give to the conqueror, plenum dominium et utile the complete and perfect ownership of property.

While the country was thus held by conquest neither the conqueror nor the government of the conquered territory had the full unrestricted and unconditional power of granting the Public domain thus held.

The cession of National Domain is an act of full sovereignty and requires in the granting power the union of possession and the right to the territory. A grant made by the Conqueror while territory is thus held by conquest is subject to the contingency of the retaking

of the territory by the original possessor or its restoration to him at the close of hostilities by the treaty of peace. But that event "the purchaser of any portion of the National domain takes it at the point of being evicted by the original sovereign owner when he is restored to the possession of his dominion" Wheat Inst § 441. The conqueror has the possession of the territory and exercises over it the dominion of sovereign power, but the contingency above mentioned reduces his title to something less than that firm and settled ownership which the granting of an indefeasible estate requires. His grant however would be subject only to the contingency which in the case of *Dodson* is annunciated "The shadowy right of the former proprietor." (*Dodson* 57 430)

The power of the original proprietor of territory thus held under conquest by the enemy is still more restricted. The most essential ingredient and the most palpable evidence of full title is holding. While it is true that the defeated Nation may retake the conquered territory it is equally true that the possessor may retain it if he can, and although the event of the war may restore it to the original owner it is also certain that the same power which wrenched it from him may be able to dictate terms of peace without restoring the acquisition. A grant made by the original proprietor within territory thus held by conquest from him could become good only by the restoration of the territory by re-conquest or by treaty.

Mexico was never possessed of conquered California, but on the contrary surrendered all right to it on the termination of hostilities by the treaty of Guadalupe Hidalgo. If this treaty had been silent

been silent on the subject of the conquered territory, the title of our government to it would have been unquestionable. On the conclusion of war by treaty if nothing be said about the conquered country or places they remain with the conqueror and his title afterwards cannot be called in question. But the treaty is not silent on the subject. By it the conquered territory remains with and becomes the absolute property of the American Nation subject only to private rights. According to all the authorities both foreign and American the law of Post Limine is precluded by such a treaty, and no such rights derived from the ceding nation after the conquest can be valid.

Vattel, 393

1. Kent, 146

Wheat. Int Law, 572

The *Tama* 5 Robinsons Admiralty
Rep 106

The same principle by which on the cession of such territory to the conqueror by a treaty of peace, titles derived in the mean time from the conqueror are made perfect, those which are made by the original owner become forever inoperative and void.

The principle above cited, that possession of and the right to the thing granted must exist together in the grantors in order to constitute a valid grant is stated by Chancellor Kent to be a necessary principle in the law of property in all systems of jurisprudence. 1. Kent Com. 130 and its application to cases of the alienation of National Domain is undoubted.

The Supreme Court of the United States have repeatedly declared and applied this principle in a manner which both

which both establishes it as Authority and illustrates its application. By the treaty of St. Ildefonso Spain ceded Louisiana to the Republic of France on the first of October 1800 but did not make formal delivery of possession until December 20th 1803. In the meantime France by the treaty of Paris ceded the same territory to the United States.

261 SD
PAGE 44

This treaty bears date April 30th 1803 but the delivery of possession was not made until the 20th of the following December.

Between the signing of the treaty of cession by Spain to France and the delivery of possession to the latter the authorities of the former continued in the exercise of their functions in the Province.

The Power of those authorities to presume the peace and order of community until the new Sovereignty took possession was admitted. A grant of land made by those authorities between the signing of the treaty was declared nevertheless to be without authority and void.

The ratification of the treaty of cession was held to be retroactive, and therefore the treaty became binding on the respective parties from the day of signing.

In the intermediate space of time the ceding party had parted with its sovereign right to dispose of its domain to third persons, and its grants thus made were therefore void.

The possession remained in the original owner, but the right to the subject of the cession had been disposed of by solemn contract.

U. States vs Reynes G. Nov. 27
Davis vs Police Jury of Concordia
ib. 280

And in case of disputed boundaries grants made by the Nation in full possession of territory ultimately recognized to belong to a co-terminous

a cotermious power have repeatedly been
declared to be void

Mencourt vs Guillard 12 Wheat R.
- 5280

Mudroon vs Ponderer

12 Wheat R 535, 11 Pet R 209

Pooler vs Steger

12 Pet R, 521

261 SP
PAGE 45

Grants then which were made by the
Mexican Authorities in the Conquered country
while held by our Army, could have become
valid in no contingency, excepting by re-
conquest, or by restoration at the conclusion
of hostilities, these contingencies never hap-
-pened, but on the contrary being relinquished
to the Conqueror by the treaty of Peace, all
claim of Mexico ceased and all the con-
-tingent grants became null the right of
Post limine having ceased forever

The treaty of Guadalupe Hidalgo
guaranties property and this must be
considered as embracing grants from
the Mexican government whether the
title under them was complete or merely
in-cohate and imperfect. This does not
however embrace every semblance of title,

The guaranty applies only to rights
founded in justice and good faith and
based on authority competent to their cre-
-ation

U. S. vs. Reynes, 9 How R. 651

And a grant made after the sovereign
power over the territory had been superseded
by the conquest of the enemy was not made
by competent authority, and is not made
good by the treaty. The grantee of a
government whose territory is held by a
public enemy must be presumed necessarily
to know the defect of his title and to
take it cum onere

A question of some difficulty arises
as to the limits and extent of the territory

which was held by conquest at the time of issuing this grant.

We know historically that the American flag was raised at Monterey on the 7th of July 1846 and the conquest of California proclaimed by the Officer in Command. The whole region of country to the North of this point fell immediately into the undisputed power of the invading forces, but the Southern portion of the present State of California was not so soon actually occupied by the American troops.

It can rarely and perhaps never happen in case of the conquest of an extensive province that every portion of its territory should be occupied by the invading Army at once. On the first successful planting of the flag of their Nation some little time must necessarily elapse before every detachment of troops can be dislodged, every town surrendered and every settlement subdued.

Where there is no formal surrender under Articles of capitulation it becomes a difficult question to determine precisely the limits of the territory which can be regarded as conquered. Such territory can from the nature of the case have no established and admitted boundaries. The invasion is a matter of mere force, conquest the result of successful invasion and the extent of the enemies' country, which must be regarded as conquered must be that over which he proclaims the authority of a conqueror from which he expels the authority of the former possessor and within which he is able to maintain his own. When the power of the established government in one of its provinces is broken and fails to protect its citizens from the force of an invading

invading enemy who brings it within the exercise of his own proper commands its resources and established the sovereignty of his own flag in place of the former government. The conquest must be regarded as made. And as before the ascendancy of his power the sovereignty of the former government was not annihilated by a casual invasion or temporary occupation by the enemy of minor points, so the general character of a conquered country is not destroyed by the partial and temporary occupation of unimportant places by their former possessor after the conqueror is fully established and while the changes incident to a conquest are being made.

And a conquest thus made and fully and permanently maintained must be regarded for every purpose connected with the disposition of the Public Domain as commencing at the time of the first permanent planting of the standard and as extending to the whole conquered territory.

Was this principle the successful establishment of the power of the American forces in Upper California on the 9th July 1846 gives the date of the conquest. Anterior to that time the Commandant of the Mexican forces had been in the North, but the North yielded without a struggle and was at once in the power of American forces raised chiefly among the inhabitants of the country. A powerful squadron of the American Navy was upon the coast and could command every harbor and the means of defence possessed by the Mexican authorities were inadequate for any purpose of successful resistance. Within five weeks from the first raising of the standard at Monterey the American forces had marched throughout the territory and possessed

themselves of every town, and established undisputed authority in every part of the Department.

The forces of the enemy in the meantime were scattered and the Chief Officers both of the Military and Civil government, left the Country. The powers of the Mexican authorities yielded and that of the Americans was in the ascendant throughout all California from the moment of the raising of the flag and the successful occupation of different points by the Military force was the result of the establishment of the new Sovereignty.

But if the question whether the land granted was within the territory conquered at the time of the grant became important, it was necessary to decide how far the conquered territory extended at that date. This would be really a question of territorial boundaries between the sovereignties of the two nations at the date specified and must be decided on the same principles of other cases of conflicting national jurisdictions.

Questions of National boundaries have uniformly been held by the Supreme Court of the United States as possessing of political rather than Judicial character and tested by this criterion it is believed that the whole Upper California is embraced within the conquest of July 7.

And the instructions given by the Executive branch of our government to Commodore Sloat, then in Command of the American Squadron on the Pacific, the conquest and occupation of the entire territory of California was in a certain contingency directed,

On the happening of that contingency possession was taken and his proclamation dated at

dated at Monterey July 6th 1846, the day before the raising the American flag announced the intended capture of the country and his determination to carry the standard of the United States throughout California. The subsequent reports and messages of an official character from the Executive branch of the government clearly refer to this taking possession of the Country as the date of its military occupation. Congress has not by direct and positive declaration to that effect fixed the day which is to be regarded as the date of the conquest, but in the act of March 3rd 1851 organizing this Commission the 7th of July 1846 is mentioned in connection necessarily to imply this. The 14th section of that act raises the presumption of a grant in certain cases by the Mexican government but it expressly limits such presumption of its issuance to the time anterior to the date of raising the flag at Monterey leaving the unavoidable inference that the power in the Mexican Authorities to grant lands ceased throughout California on the happening of that event. The intention of the fourteenth Section in which the limitation occurs is manifestly of the most liberal character in behalf of those in whose favor the provision is made, and was intended to raise the legal presumption of a grant in every case where a valid grant could in fact have been issued by Mexican Authority and by restricting the presumption to the period anterior to the seventh of July that date seems at least by necessary implication to be designated as the time when the power of the Mexican government to make grants was superseded. Nothing is found in the action of any Department of the Government tending to recognize the idea that any portion of Upper California was to be regarded as remaining under the sovereignty of Mexico after the first military possession of Monterey or that it was so

claimed by the Supreme Government of Mexico and if it had been that the latter claimed that grants made by the local Authorities after that date in any part of the department were to be recognized as valid after the cession they would most assuredly have claimed for such rights, a guaranty in the treaty.

261 SD
PAGE 50

The treaty of Guadalupe Hidalgo as originally signed by the Mexican Commissioners and as transmitted to the United States Senate contained a solemn declaration on the part of Mexico that no grant whatever of lands in any of the territories aforesaid has been made since the 13th day of May 1846.

This Article (the 6th) was stricken out by the Senate. If it had been permitted to remain it would have excluded from recognition all grants of a date subsequent to that mentioned. As the treaty was finally ratified by both parties without specifying any time when the power of Mexico to grant lands in the ceded territory was to be regarded as ceasing general and recognized principles of law must be the test by which all doubtful concessions must be determined.

We have already referred to the uniform and repeated decisions of the courts that a grant made after the signing of a treaty of cession and its ratification by the high contracting parties is void. In Davis vs. The Police Jury of Concordia 9 How 280 it is said by the Court that "before the signatures of a treaty and after negotiations have begun for a cession of territory grants of land cannot be made in it without being subject to confirmation by the sovereign to whom the transfer shall be made. If the mere negotiations in regard to a cession the preparation to cede not yet opened into an undertaking to alienate

to alienate on one part or to receive the cession on the other deprives the owner of the power to make valid grants. The same want of authority would exist where grants were made of territory just falling into the possession of a conquering foe and with the evident intention to deprive him of the fruits of his conquest.

The want of good faith on the part of such grants as well as on the part of the grantor, would deprive the latter of the right of a bona fide purchaser. If such title would be valid as against the successful belligerent power, the defeated Nation need but send its agent with its retreating Army and as the foe carried his conquering standards from district to district deliver to the individual subject title deeds of the territory at the moment when its conquest became inevitable and retiring give place to the advancing Army. Such titles I apprehend have never been recognized on the cessation of hostilities as defeating the recognized rights of the conqueror or establishing individual titles, which on the restoration of peace would be regarded as valid without an express treaty provision for their recognition.

If the conquest of the whole of California was not to be regarded as made on the day of the taking possession of the country on the 7th of July, we know of no criterion by which the date of the conquest of its several portions could be determined. As to an isolated point, fort or Seaport town the time might well be known but as to the broad plains, the sequestered valleys and the Mountain ranges in the interior sparsely settled and but little known it would be impossible to make a distinction, and the attempt in adjudicating the validity of the grants depending on the question, as their date would lead to insurmountable difficulties. From the view which we have taken of the

question we deem no such effort necessary
 A consideration of the law and
 the facts presented brings us to the con-
 clusion -

1st That grants made by the
 Mexican Authorities after the date
 of the conquest are not protected
 either by the law of Nations or
 the treaty of Guadalupe Hidalgo
 and cannot therefore be confirmed

2^d That the conquest of California
 was accomplished at the taking pos-
 session and raising of the American
 flag at Monterey on the 7th day of
 July 1846

3^d That this conquest must be con-
 sidered as embracing the whole territory
 of Upper California

4th That therefore the power of the
 Mexican government to grant land
 within any portion of California ceased
 at that date and grants issued sub-
 sequently to that event are invalid

Filed in Office Dec. 19th 1851

Geo. Fisher

[Signature]

5-3

54.

John Wilson

Decree

vs

The United States

261 SD
PAGE 53

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 his ap-
plication for a confirmation thereof
be denied

(signed) Stephen. Titch

(signed) J. Aug. Thompson

(signed) S. B. Farwell

Commissioners

Filed in Office Dec 12th 1854

(signed) Geo. Fisher
Secy

5-5-

261 SD
PAGE 54

And it appearing to the satisfaction
of His Honor that the Comptroller
appointed is situated in the South-
west part of California it is hereby
ordered that the Comptroller of the Public
Accounts of the said State in this State
and of the papers and records upon
which the same are founded be
removed and safely kept in the
Secretary of State's Office and shall
be kept with the Clerk of the United
States District Court for the Southern
District of Cal. and the other returns in
this State during and of the U.S.

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 *Fifty five* pages, numbered from
1 to *55*, 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. *57* on the Docket of the said Board,
wherein

John Wilson is

the Claimant against the United States, for the place known by
the name of "*Huerta de Remeraldo*."



In Testimony Whereof, I hereunto set my hand
and affix my private Seal (not having a Seal
of Office) at San Francisco, California, this
Thirtieth day of *June*
A. D. 1855, and of the Independence of the
United States of America the seventy=*ninth*

Geo. Fisher
Geo. Fisher

U. S. DISTRICT COURT,

Southern District of California.

No. 261.

261

THE UNITED STATES,

vs.

261

John Wilson

'Acerta de Romualdo'

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. *57*

Filed, *July 12* 1855

C. E. Lear
clerk

By A. A. Clark
deputy

261

57

United States District Court for the Southern
District of California

John Wilson, appellant }
vs } State of intention to
The United States, appellee, } prosecute the appeal from
} decision of U.S. Land Commission

John Wilson, claimant of the land called "Hacienda de Rosmualdo," situate in the county of San Luis Obispo, in the Southern District of California, hereby gives notice of his intention to prosecute an appeal from the decision of the Board of Commissioners in his claim for the said land, which claim was presented to the said Board of Commissioners and by them rejected; his claim being that which is numbered on the docket of said Board No 50, the transcript whereof as filed in this office is numbered No 261.

Stallan Peck & Billings
Attys for appellant.

No 261.
U.S. Dist Court
Southern Dist of Cal.

John Wilson, app^t
vs.
The United States
appellee

Notice of intention to
prosecute appeal

Filed Sept. 22nd 1855.
C. C. Carr, clk,
By John W. Ragsdale

261 SD
PAGE 57

Hullish Rensby & Billings
Attys for appellant

further shows that the aforesaid tract of land is situate in the Southern District of California, and he prays this Honorable Court to review the said decision of the said Board of Land Commissioners, and to reverse it, and to confirm to the petitioner his title to the said tract of land.

261 SD

PAGE 59

Hallam Peckay & Billings
Attys for Appellant

Los Angeles Sept 22^d 1855

No 261

U. S. Dist. Ct. for the
Southern Dist of Calif^a

John Wilson
Appellant

vs.

The United States Appellee

Petition.

Filed Sept 22nd A.D. 1855

O. E. Canby
By Shute Reporter

261 SD

PAGE 60

Hallack Prachy & Billings
Attys for appellant

No 261.

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

John Wilson, appellant }
vs } Transcript No 50
The United States, appellee }

On motion of H.W. Halleck of
counsel for appellant
ordered that additional testimony
may be taken by either party in
the above entitled cause.

No 261

John Wilson, appellant
vs.

The United States, appellee.

Order to take
Additional Testimony.

Filed Oct 9th 1857

J. E. Jan
Clerk.

261 SD

PAGE 62

Halliburton Peckham & Williams
Attys for appellant

Apr 26.

U S Dist Court,
South Dist of Cal.

John Wilson
app. et.

vs

The United States,
app. et.

Answer of Realty.

Filed Dec 27th 1855.

J. E. [Signature]

261 SD
PAGE 64

Marshall's report
Having answer of \$300

I have served this answer on Billings
Atty for John Wilson, by delivering to
him a true copy of the same at
Los Angeles Dec 28th 1855

Edward Hunter
U S Marshal
per M L Goodman
Deputy

No. 261.

261 SD
PAGE 65

Dist Court So. Dist of
Cal. U. S. C.

The United States

vs

John Wilias,

On motion of F. Billings of counsel
for claimant it is ordered that
witnesses may take further testimony
in the above entitled cause

July 6/56

261

The United States.

u

John Wilson

Order to take further
testimony.

261 SD
PAGE 66

Filed Jan 7th / 856.

J. E. Fair
Clerk

H. P. B.

p. Clabats

Deposition of Jose Mariano Donillo taken
before C. Finn United States Commissioner
for the District of California, at the
United States Court House in the City of
Los Angeles on Wednesday the 14th day of
January A.D. 1857 at 10 o'clock P.M. and
behalf of the appellant by Consent and Agre-
-ement of parties to be used in testimony
in a certain cause now pending in the
United States District Court for the Southern
District of California, being cause No 261
on Docket of said Court wherein the
United States are appellee and Juan
Wilson is appellant

Present P. and M
J. My on behalf of the Appellee and
Walker Peasby & Billings atty for appellts

Man Wilson

Appellant

~~vs~~ vs

The United States

Appellee

3
3 No 261
3
3 "Hacienda de Romualdo"
3 Romualdo "or" "El Chorro"

261 SD

PAGE 68

Jose Mariano Borillo a witness on the part of the Appellant, being duly sworn deposes and says as follows

Qust What is your name age and place of Residence?

Ans My name is Jose Mariano Borillo, am 57 years of age and reside in San Luis Obispo County

Qust Do you know the place called "Hacienda de Romualdo" or "El Chorro", if you where is it situated and how long have you known it?

Ans I know it - It is situated on the north West of the mission building of San Luis Obispo distant from the same about one league & a half. It is on the West side of the Road called the Coast Road going from San Luis Obispo to the Coast the Road passes upon the edge of it - The greater portion of the Land lying to the West of it - This Hacienda is well known and is so much so that it cannot be well mistaken. I have known the same since 1841 -

Qust What office did you hold if any under the Mexican Government in the year 1845

Ans. Donas Alcala in San Luis Obispo
and also was empowered to distribute
lands to the Indians, which power was
a special one

261 SD
PAGE 69
Ques. All such officers did you re-
ceive any order or orders from the
Governor of California relative to the
granting of Lands in San Luis Obispo
to the Indians, if yes, were those orders
in writing. If in writing can you pro-
duce them or if not - state what has
become of them

Ans. I did receive ^{such} an order ^{dated}
on the 9th September 1843 from the
Government of California, and the
same was in writing - It was from
Governor Alvarado which said order
was deposited in the Alcala's office
~~that~~ In 1846 Col Fremont passed
through San Luis Obispo ^{from} ~~after~~ which
time all public Records of the Alcala
disappeared or were destroyed
I have searched for this and other
public papers since that time, in the Al-
calas office and in other government
offices and have been unable to find it
nor do I know it to be ⁱⁿ existence -

It rec'd various orders which
Alcala upon the subject of the distribution
of the Lands ^{the ones} of which I have spoken
had reference to those previous orders
^{and directed} ~~Secretary~~ in a definite manner how
the Lands should be distributed and
the public founded, In the order of

distribution the Indians were to be

distribution the Indians were particularly mentioned - The order was directed to me as Alcalde of San Luis Obispo State ~~at~~ as near as you can recollect the contents of said order ~~and what it directed you to do~~

Just

Ans

The order said you will distribute Surtis of Land to the Indians according to their respective merits and the number of their families and their services, such the conditions that they would cultivate the Lands and ~~that~~ should fence the same and not alienate it ^{The order also directed that} after I should have measured the said to give them a paper that might serve them as a title

The Lands that were to be divided among the Indians, were the Lands of the Mission when over the Indians might ~~to~~ select them

Just

Did you know Comualdo, who was here, where did he live?

Ans

Said, - he was a very old Indian much favored by the Mission ~~of~~ and the Government for his long services. He lived on this place called "Beluete ~~Calla~~ ^{de} Comualdo" - I think the Indian since 1841 - he was on the place when I first knew him and continued there till 1843, at which time he left his family on that place and went to work for Governor Alvarado - I think he died about the year 1845 - I do not remember the exact date of his death - After his death his Widow continued to reside on the same place

The time he worked for Alvarado was but a few months. The widow as understood sold the place ^{to Juan Pilsen} but continued to live there till she died.

Ques. State what you did under the order you have mentioned particularly so far as the Indian Romualdo was concerned; Objected to by Ms. Atty

Ans. I did not immediately give Romualdo the land he wanted as I did the other Indians because his land was of greater extent than that which I gave the others.

The land which he wanted was the "Huerfano" where he lived. The Indian Romualdo afterwards brought me a special order from Governor Alvarado, dated in June year of 1843, (I do not remember the month) which order directed me to put Romualdo in possession of the entire extension of the "Huerfano" upon which he lived.

(Answer above objected to by Ms. Atty)

Ques. Were you acquainted with the handwriting of Gov. Alvarado, was the said special order signed by him in his own hand writing and what has become of the order;

Ans. I know his hand writing and his signature. This special order was signed by him with his genuine signature. - The said order was kept as all the other Archives of San Luis Obispo. - This order was deposited in the Archives of San Luis

Luis Obispo. - I have examined for the

His Office - I have examined for it
and cannot find it

Just Now state more particularly the
words if you can, if you cannot, the words, then
the substance of this Special Order?

261 SD
PAGE 72

Ans The Special order contained ~~the~~ a
Recommendation of the particular good
conduct of the Indian "Romualdo"
and that I should put him in possession
in of his "Huerfano" declaring him to
be the proprietor thereof. The Order
declared that I should concede to him
the Land as the owner of thereof

Just State what, if any conditions, were
in this Special Order

Ans It had no condition

Just State what you did under this Special
order? (Objected to by Ms. Stetby)

Ans I went with the Indian Romu-
aldo upon the Land, and measured
and gave him possession of it,
and also gave him a paper of
possession and informed him that
it was his

Just To what land do you refer?

(Objected to by Ms. Stetby)

Ans The Huerfano of Romualdo

Just Did you give the Indian Romu-
aldo any title paper?

(Objected to by Ms. Stetby)

Ans I did not - he would not receive,
because the Indian had said that

the Governor himself had offered
to give him the title to the Land.

Qust

Did you make any note or
Record of this ^{transaction} in your office the Re-
cord of your office, if yes, what and
what has become of the Record?

Ans

In the book of Records that
I kept of all the possession of lands
given to Indians, I also noted
this transaction. This book of
Records is lost with the other Archives
of which I have formerly spoken,

261

SD

PAGE

73

Qust

Describe particularly ~~which~~
the Land that you say you read-
and and of which you say you
gave possession to the Indian;

(Applied to by Mr. M. M.)

Ans

The land is situated north
east from the houses of the mission
of San Luis Obispo one and a half league
distance. This one thousand Paces
in length little more or less and
three hundred in width, a little
more or less. It is wider in some
places than in others. It is bounded
on the North West by the Arroyo called "El Chorro",
On the North East by the Lands of an
Indian called, Pedro Maria. On
the South & South West by the "Sancti-
Cerritos". ~~But~~ On the ~~west~~ North
westwardly there ~~are~~ is a row of
Sycamore trees on an arroyo at the foot
of the Hill.

Qust

What marks the boundary line

Ques - What marks the Boundary, line
between the Huerto, and the lands of
Pedro Maria? - (Obt by Wally)

Ans - When I measured the line there was a fence
there but at the ^{end} ~~end~~ of ^{each} ~~end~~ of the line
there were two trees - they are ^{marked} ~~marked~~ trees
and none other is near them

261 SD
PAGE 74

Ques - State if this Huerto was fenced at the
time you gave possession, and if so
has it continued to be so
(Obt by Wally)

Ans - This line between the Huerto
and the Indian Pedro Maria was
the only one that was fenced being by
nature fenced on the other sides
by Arroyos and Carritas, the fence
is not existing now

Ques - How is the land called
"Las Osas" situated in reference
to this Huerto and what separates it
from the Huerto
(Obt by Wally)

Ans - It is adjoining the Huerto on the
^{right} ~~left~~ side, and is separated by the
"Carritas" that I have mentioned, and
which continue on to the Arroyo

Ques - To whom are the "Las Osas"
reputed to belong?

Ans - John Pifflon

Ques - Did the Indian have a house
on this land and cultivate it from
the time you gave possession

Ans - He had a house

and cultivated the Land, When I know
it in 1841, He had a pole house on
it in which he lived with his family
He cultivated "one ^{about} ^{fourth} of the land
~~which was immediately adjacent to the~~
~~house which said~~ ^{partly} cultivated was
immediately adjacent to the house

Qust What was the nature of possession that,
you say you gave to the Indian?
(Capt. G. by W. C. C.)

Ans It was the measurement of the
Land and describing the monuments
of the boundary.

Qust How long have you ever seen
the paper since ~~as~~ or do you know
what has become of it?

Ans I have never seen it since
but I think the Indian lost it
because he applied to me for a
Certificate which I gave him
The Indian did not say that
he had lost it, he only asked for
that Certificate - I gave the Certificate
after I was out of office, I did
not give him a certified copy of the
original paper because I was
out of office and could not give
a certified copy of it - I do not
know what became of that Certificate
as I never again heard of it.

Qust State of the Record in your office
set forth the measurement and

Qust State of the

Q. State what the record in your office
^{to which you say you made when all papers}
is connected with this matter set
forth?

261 SD
PAGE 76
A. It contained a copy of possession
this was all that that book contained
on the subject - The other separate books
relative to this matter, were filed in the
office in their respective places

Q. Who is the present occupant of the
Huerto, how long has he been so and
in what manner has he occupied
it?

A. John Wilson is the present oc-
cupant and has been so since
the year 1846 (I think) he has cultivated
a portion of the land which is fenced
he has a house on the same
and grazes a flock of sheep on the
other portion of it

Oral Examination by W. H. H. H.

Q. What quantity of the land did you
distribute to the Indians of the
mission of San Luis Obispo in 1842
when was the land situated and
what was the extent or basis of the
distributions given to each Indian?

A. About two miles of land immedi-
ately contiguous to the garden of the
Mission. And about ~~another~~ another
mile at different points where they had

had previously their houses & gardens
I gave them in conformity to the
size of their families the "Maximum"
of the ~~laws~~ ^{concessiones} being two hundred varas
and the "Minimum," one hundred
varas

261 SD

PAGE 77

Ques What was the size of Romu-
aldo's family in 1842

Ans It consisted of his wife and
adopted son

Ques Did the special order that
you say, you heard from Alvan-
do in the year 1842, directing you
to give possession to Romualdo
specify or limit the quantity of
land which you were to concede
to him

Ans No - The special order said
but give in possession of the land
known as the "Hacienda of Romualdo"

Ques Do you or not know whether
Gov: Alvarado ever issued an order
to Romualdo a title to this land?

Ans I do not know

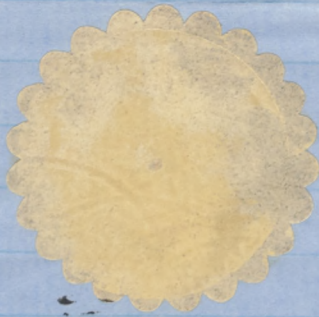
Done at San Francisco J. Mariano Bonilla
before me this
15th day of July 1857
O'Neil
Notary

United States of America
State of California
County of Los Angeles

261 SD
PAGE 78

I, C. Lewis United States Commissioner for the District of California do hereby Certify that the foregoing deposition of Jose Marians Bonillo was taken before me in accordance with the request and agreement of the said attorney at the United States Court House in the City of Los Angeles State of California on behalf of the appellant, that the said Jose Marians Bonillo was by me duly sworn according to law as a witness in said cause in the Caption of this deposition mentioned, and after being so sworn his testimony was by me reduced to writing in his presence and that of the said attorney, and after having been by me carefully read to him & by him corrected as he desired was by him signed in my presence.

In witness whereof I have to set my hand and affix my private seal (having no seal of the office) this 15th January A.D. 1857



C. Lewis
U.S. Comm^r

W. 261

United States Dist Court
for Southern Dist Calif^a.

Ernest Wilson
appellant

vs

The United States
appellee

Deposition of Jose M. Corillo

Filed this 15th January
1857

Cesarius cek
J. H. Sherman
sek

261 SD

PAGE 79

United States District Court
Southern District of California

The United States

Appellee

No. 261

John Wilson

Appellant

Trans. No. 50.

I John Wilson on oath say that I am the
claimant in this case - that I purchased
the land in 1846 of the Indian Romualdo.

That no paper connected with ^{the} title or
possession of said Romualdo of the
land has ever come to my possession
or sight, save three papers which
appear in the moment. The Indian
Romualdo died in 1846 and his
wife in 1848. Neither left any
papers that I am aware of. If they
did I know not where they are or
what has become of them. I have
made diligent enquiry for the papers
of possession given by Alcalde Bonilla
to Romualdo in 1842 but cannot find
it - but know where it is, and believe
it is lost.

John Wilson

Subscribed & sworn.

this 19th day of
July 1857 before me

James
McCarty

No. 261

The United States
Appellee

"

John Wilson
Appellant

Affidavit of Claimant
as to loss of papers.

Filed July 19th 1837
Jims
Clerk

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

Hon. Isaac S. K. Ogier Judge

261 SD
PAGE 82

December Term 1856.

The United States
Appellees
vs.
John Wilson
Appellant } No. 261.

Transcript from the Board of Land
Commissioners No. 50.

This cause coming on to be heard, on
appeal from the decision of the Board
of Land Commissioners to ascertain
and settle private land claims in
California, upon the Transcript of
the proceedings and decision of
said Board and the documentary
and other evidence upon which said
decision was founded, and also
upon other evidence taken and filed
in this Court; And counsel for
the respective parties having been
heard, it is
Ordered, adjudged and
decreed, that the decision of said
Board of Land Commissioners declaring

invalid and rejecting the claim of the
appellant John Wilson to the land set
forth and described in his petition to
said Board and in the documentary
and other evidence in this case, be
and the same is hereby reversed:

261 SD
PAGE 83
And it is further ordered adjudged
and decreed that the title of the
appellant John Wilson to the land
so claimed by him is a good and
valid title, and that his claim
to said land be and the same
hereby is confirmed.

The land of which confirmation is
hereby made is situated in the County
of San Luis Obispo, is known by the
name of "Hacienda de Romualdo" or "El
Chorro", and is in quantity a thousand
varas, a little more or less, in length by
about three hundred varas in width,
and bounded by the Arroyo del Chorro,
the line of the Indian Pedro Maria, and
the hills (los cerros), according to
the judicial possession given to said
John Wilson on the 29th day of June
A.D. 1846 and the deposition of J. M.
Bonilla taken in this case - to which
judicial possession and deposition
reference is had in and of said
description

James H. Ogden
U.S. District Judge
for the S. Dist. of Cal.

No. 261.

The United States
appellee
vs.

John Wilson
appellant

Decree =

Reversing decision of
Land Commissioners
and confirming Claims.

Filed Feb 9th 1857
J. W. Wilson
Clerk

Recorded in page 163

UNITED STATES OF AMERICA, ss.

261 SD
PAGE 85

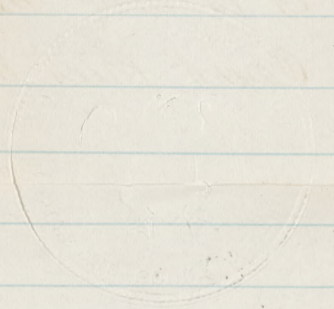
THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the District Court
of the United States, for the Southern District
of California.



Greeting:

Whereas, lately, in the District Court of the United States, for the Southern District
of California before you, in a cause
between John Wilson, appellant, and The United States,
appellee (No. 261, for "Huerta de Romualdo")
wherein the decree was rendered in favor of the said
appellee.



261 SD
PAGE 86

as by the inspection of the transcript of the record _____

_____ of the said *District*
Court, which was brought into the Supreme Court of the United States, by virtue of *an appeal*

agreeably to the act of Congress, _____

_____ in such case made and provided, fully and at large appears.

And whereas, in the present term of *December*, in the year of our Lord one thousand eight hundred
and *sixty three* the said cause came on to be heard before the said Supreme Court, on the said transcript
of the record, and was argued by counsel: ~~On consideration whereof,~~ *on the motion of*
Mr Attorney General Bates of counsel for the Appellants,
It is now here ordered adjudged and decreed by this
Court that this cause be and the same is hereby dismissed
24 March

261 SD
PAGE 87

You, therefore, are hereby commanded that such further proceedings be had in
said cause,

as according to right and justice, and the laws of the United States ought to be had, the said appeal
notwithstanding:

Witness the Honorable Roger B. Taney Chief Justice of said Supreme Court, the
first Monday of December in the year of our Lord one thousand eight hundred
and sixty three

COSTS OF
Clerk..... \$
Attorney... \$
\$

Tested by

L. W. Middleton

Clerk of the Supreme Court of the United States.

No. 286 December Term, 1863.

261. S. 1863

MANDATE

SUPREME COURT UNITED STATES.

U. States vs. Prisons

For the U. States
Geo. C. Whitney
U. S. Marshal
1863

District Court of the United States
For the district of California

"
The United States

vs

John Wilson

claimant for the tract called

"Huerta de Romualdo"

Nº 261 (S. D.)

261 SD

89

PAGE

"
And now comes the claimant in the
above entitled cause and presents the mandate
of the Supreme Court of the United States
dismissing the appeal heretofore taken in this
cause on the part of the United States, and
moves that the same be filed and made a part
of the record in this cause, &c

And thereupon it is ordered adjudged
and decreed that the same be filed and that
the claimant be allowed to proceed under the
decree of this court confirming the title to said
lands as under final decree.

John Hoffmann
Dist Judge

N^o. 261 (S. D.)

District Court U.S.
District of California

The United States

v

John Wilson

"Huerta de Romualdo"

Deceit

Filed & Sent Dec 20/64
Geo. C. Mutney
Clerk
by Snead
DC

UNITED STATES OF AMERICA, } SS.

Southern District of California,

261 SD

PAGE 91

TO

The President of the United States,

*L. Ord U. S. Dist. Atty.
for the South Dist of California*

Greeting :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against *The United States* in the District Court of the United States, in and for the Southern District of California, on the *22^d* day of *September*, in the year of our Lord one thousand eight hundred and fifty-*five*, at the City and County of Los Angeles, in said District, by

John Wilson praying the Court to review the decision of the U. S. Land Commission respecting his claim to a tract of land called "Huerta de Romualdore"

and that *you* are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said Petition, or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this *15th* day of *December* A. D. 1855.



J. E. Jan.

CLERK.

Marshalls cost

Copying Summons 1.00
Service " 3.00
" Return 3.00
\$ 6.50

No. 261.

UNITED STATES OF AMERICA,
Southern District of California,
U. S. District Court.

John William
By
The United States

SUMMONS.

Received 185

U. S. MARSHAL.

261 SD
PAGE 92

I served this Summons, together with a certified copy of the Petition, upon *P. Bird*
U.S. Dist Atty for the Southern
Dist of Cal by delivering to him
personally a true copy of the same
at *Los Angeles* in the Southern District of California, on
the *18th* day of *December* A. D. 185 *6*.

Sworn to and subscribed before me,

CLERK.

Edward Hunter
U. S. MARSHAL.