CASE NO.
290

SOUTHERN DISTRICT

ALAMITOS GRANT

ABEL STEARNS

CLAIMANT

LAND CASE 290 SD 211 pgs.

MAR 2 0 1963

ALSO AVAILABLE ON MICROFILM

TRANSCRIPT

2903 SD
PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. 404.

Abel Stearns — CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

1 "Alamitos." 1

404.

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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

The Petition of Abel Stearns *for the Place named* "Alamitos," *was presented, and ordered to be filed and docketed with No.* 404 *and is as follows, to wit;*

(Vide page 5 *of this Transcript.)*

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

Los Angeles November 8th 1852.

In Case No. 404, Abel Stearns for the place named "Alamitos", the deposition of José Antonio Camillo, a witness in behalf of the Claimant, taken before Commissioner Hiland Hall, with documents marked H. H. Nos. 1 & 2 and translations thereof annexed thereto were filed;

(Vide page 11 of this Transcript.)

Los Angeles November 11th 1852.

In the same case the depositions of Felipe Talamantes and José Justo Morillo, witnesses in behalf of the Claimant, taken before Commissioner Hiland Hall, were filed;

(Vide pages 13 & 15 of this Transcript.)

San Francisco Feby 24th 1854.

In the same case the deposition of Jose Loui=

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a witness in behalf of the claimant, taken before Commissioner Thompson Campbell was filed;

(vide page 16 of this Transcript.)

San Francisco March 16' 1854.

In the same case the deposition of J. L. Brent a witness in behalf of the claimant, taken before Commissioner R. Aug. Thompson, was filed;

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(vide page 27 of this Transcript.)

In the same case the deposition of Manuel Dominguez, a witness in behalf of the claimant, taken before Commissioner R. Aug. Thompson, was filed;

(vide page 24 of this Transcript.)

San Francisco July 10' 1854.

In the same case the depositions of Juan Bandini, Manuel Reguena, Agustin Olvera, and Jose Joaquin Ortega, witnesses in behalf of the claimant taken before Commissioner S. T. Burrill, were filed;

(vide pages 29 to 37 of this Transcript.)

San Francisco, November 28' 1854.

Case No. 404 on motion of the Counsel for the claimant, with the consent of the U. S. Law Agent, was ordered to be placed at the foot of the 3d class cases on the Trial Docket.

San Francisco December 19' 1854.

Case No. 404 was submitted under the Rule of March 21' 1854 and taken under advisement by the Board.

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San Francisco January 31' 1855.

In the same case the Counsel for the claimant

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filed the following Stipulation, to wit:
(vide page 41 of this Transcript)

San Francisco February 13th 1858.

In the same case Commissioner Alpheus Felch delivered the Opinion of the Board confirming the claim.
(vide page 103 of this Transcript)

And the following Order was made, to wit:
(vide page 108 of this Transcript)

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To the Honorable the United States Commissioners for ascertaining and settling Private Californid land Claims.

Petition

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Your petitioner Abel Stearns, resident of the County of Los Angeles, State of California, would respectfully represent: That he claims to be owner in fee simple of all that tract of land, according to the boundaries hereinafter described, situate in the County aforesaid, called the Alamitos. Said tract of land is part of the tract originally occupied by Manuel Nieto, who possessed and occupied from about the year 1784 until the time of his death, which took place about the year 1807, all the lands now known by the name of the ranches Santa Gertrudes, Coyotes Bolsas, Alamitos, Lemitos and Palo Alto, in Los Angeles County, being all the territory of land lying between the ocean on one side, by the river of San Gabriel on one side, by the river of Santa ~~Gabriel~~ Ana on one side, and the lands occupied by the Mission of San Gabriel on the other side.

The said Manuel Nieto occupied said land by virtue of a concession to him by Pedro Fages then Governor of the Californias under the crown of Spain, about the year 1784, the precise nature of which concession so made by the said Pedro Fages to the said Manuel Nieto your petitioner is not acquainted with. Said Manuel Nieto during his life time actually occupied the before named lands, during all the period above named; and after his death, up to about the ~~time~~ year 1833, said lands were occupied by his heirs hereinafter named. At the time of his death, the said Manl. Nieto left the following children to wit; Juan Jose Nieto, through whom your petitioner claims to have title to the rancho of the Alamitos, Manuela Nieto, Antonio

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Maria Nieto and José Antonio Nieto —

About the year 1833 a division of the aforesaid tract of land was agreed upon between Juan José Nieto, Manuela Nieto and the legal representatives of Antonio Maria Nieto and those of José Antonio Nieto, who had died subsequent to the death of their father Manuel Nieto, and before the division of said estate. And accordingly on the 26th day of July 1833 the aforesaid parties Juan José Nieto, Manuela Nieto and the legal representatives of Antonio Maria Nieto and those of José Antonio Nieto presented their petition to José Figueroa then acting Governor of California for good and sufficient titles in fee simple to the aforesaid lands, according to the division concluded upon between the parties aforesaid which gave the rancho of the Alamitos to Juan José Nieto; and that accordingly on the 27th day of July 1833, the said Governor Figueroa made a decree granting the prayer of the petition and decreeing the proper titles to issue to the aforesaid parties for the lands prayed for in their said petition, postponing the making out of formal titles only until he should reach the Capital of Upper California, which was then at Monterey the said Governor at the time of the granting of said petition being at San Diego —

And your petitioner states that he is informed and believes that in the year 1834, a full and perfect title to the lands hereinafter described as the rancho of the Alamitos was executed according to law by the said Governor Figueroa to the said Juan José Nieto, but which title has never come into the possession of petitioner, nor can hereafter diligent search find said title papers, nor any record thereof in the archives of land titles in California —

By deed of conveyance bearing date June

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30th 1834 the said Juan Jose Nieto granted and sold the hereinafter described tract of land to the aforesaid Jose Figueroa; Figueroa died about the year 1836 seized of the aforesaid lands; on the 12th day of July A.D. 1842 the legal representatives of the said Jose Figueroa sold and conveyed according to law, the aforesaid Rancho of the Alamitos, by deed of conveyance of that date made and executed by Francisco Figueroa to your petitioner—

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Said lands of the Alamitos are bounded on the South by the sea, on the East by the rancho of the Bolsas, on the West by the rancho of the Santos, and on the North by the rancho of the Coyotes, and contains six square leagues of land lying in Los Angeles County, State of California—

There is no interfering claim to said rancho of the Alamitos—

It has not been surveyed by the U. S. Surveyor General for California—

Your petitioner relies upon the following documentary evidence to support his claim—

1st Copy of Expediente, marked A.
2d do of Power of Atty to Fran.co Figueroa and sale to petitioner, mk.d D—
3rd Copy of conveyance to Jose Figueroa mk.d C.
4th Copy of Jud. Delivery to petitioner mk.d E.

The above papers are accompanied with translations marked 1 and 2 and a Diseño marked 3.

Your petitioner will rely upon such other documentary evidence and parol testimony as he may think necessary to support his claim—

And he prays your Honorable Board

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to grant him continuance in his legal posession of the rancho of the Alamitos

And as in duty bound &c.

Scott & Granger.

for Petitioner—

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Oct 21st 1852.

Filed in Office Oct 21st 1852.

Geo: Fisher
Secy.

Deposition of Manuel Requena—

Office of the Board of Commissioners of California Land Claims.
Los Angeles Sept 22d 1852.

On this day before Henry D. Thornton one of the Commissioners for ascertaining & settling land claims in California, came Manuel Requena, a witness produced in behalf of the claimant Juan Temple whose petition is No 351, on the Docket of the Board and was duly sworn, his evidence being given in the Spanish language was interpreted by the Secretary—

The U. S. Law Agent was present.

Questions propounded by claimants counsel—

1st Question.

What is your name, age and place of residence?

Ans—

My name is Manuel Requena, my age 51 years, place of residence is in Los Angeles.

2d Question.

Examine the documents marked A. B. C. and E. and attached to this deposition

and counter marked A. of Abel Stearns Esqr on this day and on file in this case, and say whether you know their signatures?

2d Answer.

I know the signatures of Jose Figueroa and Agustin V. Zamorano on doc, marked A. Manuel Arzaga, Policarpio Leal and Domingo Rondon and also Francisco Ballado, on doc B. that of Gov Micheltorena, Guillermo Gola, on doc C. also Joaquin de los Rios y Ruiz on doc C—

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3d Quest.

What opportunities have you had for learning the hand writing of the gentlemen above referred to?

3d Answer.

I Know from the fact that I have been for two different years Alcalde of Los Angeles and having had business with them all and for which reason I Know their signatures to the said referred to documents to be genuine —

4th Question. Did you Know personally Don Tiburcio Lapiz, Vicente Sanchez and Gil Ibarra who are referred to in doc. marked C.?

4th Answer.

I Know them all personally and that they have all held the Office of Alcalde of this City and the first named has also been Prefect of this district to my personal knowledge.

5th Question. Do you Know the documents above referred to, to be genuine and the original?

Answer 5th "

I believe them to be both original and genuine —

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Manuel Requena.

U. S. Law Agent present.

Sworn to and subscribed
before me this 22d of
September 1852.

Henry A. Thornton.
Com'r &c.

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Filed in Office Sept 22d 1852.
Gen'l Fisher.
Secy.

10

11

Los Angeles Nov 8th 1852.

On this day before Comr. H. Hall, came Jesi Antonio Carrillo, a witness in behalf of the claimant - Abel Stearns, petition No 404, and was duly sworn, his evidence being interpreted by the Secretary.

Deposition of Jesi Anto. Carrillo -

The U. S. Deputy Surveyor Ord Agent was present.

In answer to inquiries by counsel for the claimant the witness testified as follows -

My name is Jesi Antonio Carrillo, my age is fifty seven years, and I reside in Los Angeles - I am native of California.

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I am acquainted with the hand writing and signatures of Manuel Dominguez, Ignacio Coronel, Francisco J. Alvarado, Jesi Perez, Manuel Arzaga, Vicente Moraga, Ignacio del Valle and Felipe Valenzuela.

A paper is now shown me purporting to be an instrument of conveyance from Juan Jesi Nieto to Jesi Figueroa, dated June 30' 1834, and to which is attached an instrument of conveyance from the executor of said Figueroa to Abel Stearns dated July 12' 1842, said paper is hereto annexed and marked H. H. No 1.

The signatures of the said Dominguez, Coronel, Perez, Arzaga, Moraga and del Valle appearing on said paper I believe to be genuine - José Perez was acting as Alcalde at the date of the first instrument in 1834 and said Dominguez as Justice of the Peace at the date of the second in 1842, and they were authorized and sanctioned to certify said instruments.

11

An other paper is also shown me purporting to be a testimonial of judicial possession dated in September 1842. It is hereto attached and marked H. H. No 2. The signatures

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of said Dominguez, Cornel and Valenzuella appearing on said paper I believe to be genuine said Dominguez was Justice of the Peace and Judge of the First Instance and authenzied to give such possesion.

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I was acquainted with the children of Manuel Nieto, they were Juan José, José Antonio, Antonia Maria and Manuela—

I Know the tract of land occupied by said children. When I was quite a young man about forty five years ago, I was at the house of Juan José and at his request I wrote a letter for him to the Priest of the Mission of San Gabriel notifying him to take away some sheep from the said Juan José Nieto's land— At that time he showed me a title paper by which the land had been granted by Governor Pedro Fages by order of the Vicroy of Mexico as the title paper stated— The boundaries of the land in said title paper was the river San Gabriel, the river Santa Ana, the main road leading from San Diego along the hills to San Gabriel and the sea coast.

The land has since been divided between the heirs of said Manuel Nieto. The rancho Alamitos is a part of the land included within the boundaries before mentioned—

In answer to inquiries by the Associate Law Agent— the witness says he was from twelve to fourteen years of age when he wrote the letter—

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Was the order from the Viceroy to the Governor which was mentioned in the title papers a special order to grant land to Nieto, or a general order to make grants?

13

Answer. I do not know.

Do you recollect whether this title made any mention of the Commandant General of the Internal Provinces?

Answer. It did not mention him.

José Ant°. Carrillo.

Sworn and subscribed
before me Hiland Hall.
Comr.

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

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Los Angeles Nov 11th 1852.

Deposition of Felipe Talamantes

On this day before Comr Hiland Hall came Felipe Talamantes, a witness in behalf of the claimant Abel Stearns, petition No 404, and was duly sworn, his evidence being interpreted by the Secretary —

The U. S. Associate Law Agent was present.

In answer to questions by counsel for claimant the witness testified as follows.

My name is Felipe Talamantes, my age is about eighty five years, and I reside in the County of Los Angeles — I have lived in the district of Los Angeles for fifty or sixty years.

I knew Manuel Nieto upwards of fifty years ago, I was in his employ — I lived with him about two years. I cannot tell how many years it was before his death —

I knew the boundaries of the rancho

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they saw the river Santa Ana, the river
San Gabriel, the old main road and the
sea coast—

I cannot tell how long Manuel
Nieto occupied the land before his death—
He was occupying the land when I first
came here. He had a house on the land in
which he lived with his family— He had great
number of cattle and horses, fifteen or twenty
thousand or more— He had cornals and cul-
tivated land— I was about twenty five or
twenty six years old when I lived with said
Nieto. I cannot tell how long ago he
died.

Nieto was a soldier and was an old
man when he retired from the service and
I believe the land was given him by the King,
tho' I never saw any papers not being
able to read.

I heard Nieto and his chil-
dren say they had papers that came from
the Viceroy or from some where—

Manuel Nieto occupied the
whole land included within the bounda-
ries before mentioned, with cattle and horses.

Questions by the Associate Surveyor.

Who did the soldiers receive their pay from?
Answer.

From the King— when they retired as
invalids they received it by order of the King.

How old was Manuel Nieto when he died?
Answer. I cannot tell, he was a very old man.

his
Felipe X Talamantes.
Sworn & subscribed mark
before me
Hiland Hall. Comr.
Filed in Office Nov 11th 1852. Geo: Fisher. Secy.

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1/4 04

1 S-

Los Angeles Nov 11th 1852.

Deposition of José Justo Morillo—

On this day before Comr. Hiland Hall came José Justo Morillo a witness in behalf of the claimant Abel Stearns, petition No 404, and was duly sworn, his evidence being interpreted by the Secretary—

The U. S. Associate Law Agent was present.

In answer to inquiries by counsel for the claimant the witness testified as follows.

My name is José Justo Morrillo, my age is fifty seven years, and I reside in the County of Los Angeles.

I know the rancho called Alamitos— It is six or seven leagues from this place in a Southerly direction— When I first knew the land in 1834 it was occupied by Don Figueroa— He had a house on it, in which he had a mayordomo and people living, had corrals and a stock of horses and cattle. There were two houses on the land and he cultivated some of the land— I was mayordomo of Figueroa and I remained there until the possesion was delivered to Abel Stearns, and was present when possession was delivered him— This I think was about ten or eleven years ago— Said Stearns has continued to occupy the land to the present time— He has people living there, and has cattle and horses and other stock— The number of cattle on the land at this time I think is about Eleven thousand and the number of horses two thousand and the number of sheep about two thousand—

his
José Justo + Morillo—
mark

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Sworn and subscribed
Before me
Heland Hall
Comr.

Filed in Office Nov 11th 1852.
Geo: Fisher.
Secy.

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Deposition of
José Castro.

United States Board Commission
San Francisco Feby 27 1854.

On this day before Commissioner Thompson Campbell, came José Castro, a witness in behalf of the claimant Abel Stearns, case No 404, who, after being duly sworn, deposed as follows, his evidence being interpreted by the Secretary.

1 Quest.

What is your name, age and place of residence?

Ans.

My name is José Castro, I am forty five years of age, and I reside in Monterey—

2 Quest.

Were you acquainted with José Figueroa, formerly Governor of California?

Ans.

I was acquainted with him, he is now dead, and died in 1835 in Monterey— He made a will in Monterey, I was present at his death.

16

3 Quest.

Who were the subscribing witnesses to Figueroa's will?

Ans.

I am not certain, but I think Agustin Zamorano, Manuel Crespo were the subscribing witnesses— Zamorano I am certain

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was one of the witnesses.
4 Quest.
Where are the said subscribing witnesses, are they living or dead?
Ans.
They are both dead.
5 Quest.
Do you know what became of said will, or who took possession of it?
Ans.
It remained in the possession of Nicholas Gutierrez and Francisco Figueroa.
6 Quest.
Is Nicholas Gutierrez living or dead?
Ans.
He is dead.
7 Quest.
Is Francisco Figueroa living or dead and if living where does he live?
Ans.
He is living and resides in Mexico.
8 Quest.
Do you know where Jose Figueroa's will is at this time?
Ans.
In 1836 in consequence of a revolution Gutierrez left this country and took the will with him.
9 Quest.
When did Gutierrez die and where?
Ans.
He died about four months ago in a town in the State of Sinaloa.
10 Quest.
Did Gutierrez ever return to California after he left here in 1836?
Ans.
No, he never returned.
11 Quest.
Who acted in fact as the Executor of José Figueroa?
Ans.

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Francisco Figuera acted as Executor by authority of Gutierez given to him in writing.

(The Law Agent objects to the above question and answer, because the writing is not produced)

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12 Quest. Did you ever read the will of José Figuera?
Ans. I did read the will of José Figuera.

13 Quest. Do you remember what power was conferd on his Executor by the terms of the will?

(The question objected to by Law Agent)
Ans. All the power authorized by the terms laws was given to Gutierez.

14 Quest. Was there any power in said will concerning the sale of real or personal property for the payment of debts, and if so, state what it was?

(Law Agent objects to this question because no proof of the loss of the will is produced, and also because it is leading)
Ans. The Executors was authorized by the terms of the will to sell real and personal property for the payment of his debts—

15 Quest. What amount of debts did he owe and to whom?
Ans.

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He owed more than what his estate ammounted to. He owed to Antonio Ygnue, Eulogio Deliz and other merchants.

16 Quest.

Did José Figuera leave a wife or legitimate children?

Ans.

He left neither wife nor children.

17 Quest.

To whom did he leave the balance of his estate after the payment of all his debts?

Ans.

After the payment of his debts his brother Francisco was to be heir to the balance —

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18 Quest.

Have any of the papers that belonged to the estate of José Figuera ever been returned to California since they were taken away by Gutierrez?

Ans.

They have not.

19 Quest.

Are you acquainted with the Rancho called Alamitos in Los Angeles County?

Ans.

I do Know it, and have Known it since I Knew anything.

20 Quest.

Who was the first occupant of said place?

Ans.

Juan José Nieto was the first occupant he sold to José Figuera about the year 1833 or 1834.

21 Quest.

How long had Nieto occupied said place previous to the sale to Figuera and

in what manner?
Ans.

He occupied it ever since I was twelve years of age, he had on it about eight or nine thousand head of cattle, he had on it three or four large houses, one very large corral and an other smaller one, some of the land inclosed and under cultivation.

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22 Quest.

How long did Figuera occupy said land, and in what manner?
Ans.

Immediately after José Figuera bought it, he had it occupied by his Mayor domo and his servants, and had other houses built on it, corrals and put stock on it and cultivated a portion of the land. I think he occupied it in this way about one year when he died, after his death it was occupied by the same Mayor domo under the charge and direction of his administrators — Francisco Figuera his brother lived on it himself.

23 Quest.

To whom did the Executors of José Figuera sell this land?
Ans.

They sold it to Abel Stearns —

24 Quest.

Do you Know whether Mr Stearns has occupied this place, and if so, how long & in what manner?

20

Ans.

I think Mr Stearns has occupied it from about 1845 or 1846, at which time he had on it about eight or nine thousand head of cattle. Stearns has continued to occupy it in the same way up to the present time, and now has on it about fourteen or

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fifteen thousand head of cattle. I have heard it said that he has some two thousand head of horses on it. I know myself that he has a great many.

25 Quest.

Has there been any time from the period when you first knew it that it has not been occupied by persons living upon it, and having stock upon it?

Ans.

It never has been unoccupied or abandoned since I knew it. Mr Stearns went on it immediately after he bought it.

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26 Quest.

What is the lowest number of stock that has been on that rancho since you first knew it?

Ans.

The stock put there by Governor Figueroa which consisted of about one thousand head is the lowest number I ever knew to be on it at one time. The reason why Governor Figueroa did not reside on this place, was that he was Governor, and his duties required him to reside elsewhere.

27 Quest.

Did Juan José Nieto live on this place in person?

Ans.

Yes, he lived on it a long time, and according to accounts he lived on it before I was born, and continued to live on it until he sold it to Figueroa.

21

28 Quest.

Did Mr Stearns live on the place in person?

Ans.

Yes, he lived there a portion of the time.

22

29 Quest.

What was the custom in California in regard to Rancheros living upon their Ranchos, did they live part of the time on the Ranches and part of the time in town?

Ans.

It was the custom for all who had the means, to put Mayor domos on their ranchos, and for the owner to reside in the towns.

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30 Quest.

Could Ranchos be denounced by the former customs of California, on the ground that the owner did not live upon them in person?

(Law Agent objects to this question because it proposes that which in its nature, is matter of law)

Ans.

I never knew of an instance when land was denounced on account of the owner not living upon it, when it was occupied by a Mayor domo, servants and stock.

Questions by the Law Agent.

1 Quest.

What time did Nieto die?

Ans.

He died perhaps about the year 1843 or 1844. I resided at Monterey at that time. I dont know precisely when he did die, but suppose he died at Los Angeles or on his rancho.

22

2 Quest.

When were you when you were shown the mill of Figueroa, what time was it, and who were present?

Ans.

I was shown the mill in Monterey, about the end of 1835 or the first of 1836. Gutierrez

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on of the Administratrix was the only person present. The will was dated about the 16th of September 1835. I dont recollect the contents of said will, with sufficient clearness to specify what they were.

3 Quest.

How many pages did the will contain?

Ans.

It contained six or eight pages.

4 Quest.

Before whom was said will executed?

Ans.

It was executed before Escobar, Alcalde at Monterey - Under the law Alcaldes could act as Notaries Public, in the absence of a Notary.

5 Quest.

Is your recollection of the power which you state was in the will made by Governor Figueroa, authorizing his Executors to sell real estate founded on your recollections of that particular will, or merely on your knowledge of the form by which a power to sell was usually inserted?

Ans.

I do not found my recollection on the precise language used in the will, I know the power was given, but I do not recollect the language in which the power was expressed. My impression is that it was in the usual form by which such powers were expressed.

6 Quest.

When did you last see Governor Figueroa's will, and how do you know Gutierrez took it to Mexico?

Ans.

I saw the will a few days after the death of Figueroa - In the fall of 1836. I surprised Gutierrez, took him prisoner, and caused all

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of his papers to be collected together and put safely into a box. When Gutierez was expelled from this country, I sent him on board a vessel, the name of which I dont now recollect, and sent every thing he had on board with him, including the box containing his papers.

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7 Quest.

How do you Know Figueroa was in debt at the time of his death?

Ans.

I only Know it from having heard Figueroa say, in his lifetime, that he was involved

José Castro.

Sworn to and subscribed
before me this 27th day
of February A. D. 1854.
Thompson Campbell.
Comr.

Filed in Office Feby 27/1854.
Geo: Fisher. Sec'y

Deposition of Manuel Dominguez—

Case 404.

United States Land Commission
San Francisco March 10/1854.

On this day before Commissioner R. Aug. Thompson, came Manuel Dominguez, a witness in behalf of the claimant Abel Stearns, case No 404, who, after being duly sworn, deposed as follows, his evidence being interpreted by the Secretary—

Present J. R. Scott, Atty for claimant and J. H. McKune, U. S. Dist Agent—

Witness states his name is Manuel Dominguez

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his age fifty year and his residence in the County of Los Angeles, California.

1 Question by Claimants' Atty.

Who was acting Alcalde in the Jurisdiction of Los Angeles in 1842?

Answer.

In 1842 I was acting Alcalde in said district, and discharged the duties of Judge of the first instance.

2 Question by same.

Was there any Notary Public in that Jurisdiction at that time?

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Answer.

There was not.

3 Question by same.

In the absence of a Notary Public, who acted in that capacity according to the custom of the country?

Answer.

In the absence of a Notary, the Alcalde with two assisting witnesses who signed with him.

4 Question by same.

Look at the document marked H. H. No 1. annexed to the deposition of José Antonio Carrillo filed in this case, and state whether it is a true copy of the original filed in the archives of the Alcalde's Office in Los Angeles?

Answer.

I have no doubt the first-sixteen leaves of said document as certified by me in my official capacity as Constitutional Alcalde and Judge of the first-instance is a true copy of the original then in the archives of said Office — My Rubric is placed on each of said sixteen leaves, and my signature to the certificate on the sixteenth leaf as well as those of Ignacio Coronel and Francisco J. Alvarado are genuine —

25

Question by same.

Were you acquainted with Nicholas Gutierez and do you know his hand writing? Answer

I knew Colonel Don Nicolas Gutierez I have seen him write his name and attach his Rubric, I know his said signature_

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Question by same.

Have you ever examined particularly the original document of which the one spoken of in your answer to question 4 is a copy, if so state whether the signature of Nicolas Gutierez to the paper which appears thereon and is contained in leaves 4 or 5 of said copy, dated San Sebastian July 15th 1842 is genuine or not?

(The above question objected to by U. S. Law Agent unless the original is produced) Answer.

I have certified the paper contained in pages 4 and five of the document first mentioned to be a true copy of the original and doubtless at the time considered said original and the signature thereto as genuine. I know the signature of Nicholas Gutierez and most frequently saw it on said original at the time, and I certainly would not have certified if I had not considered it genuine.

Cross-examined by U. S. Law Agent.

Question by same.

By what authority and by whom were you appointed Alcalde?

26

Answer.

By the Prefect of the second district in the year 1842.

Question by same.

What was the extent & boundary of your jurisdiction?

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Answer.

It extended to the city of Los Angeles and the neighboring ranchos attached to that jurisdiction. The limits of the jurisdiction were well assigned so that the Alcaldes of Santa Barbara and San Diego could not interfere with mine nor I with theirs.

Question by same.

How far was the rancho of Alamitos from the city of Los Angeles?

Answer.

I do not know exactly the distance but I think it is about 8 leagues —

Manl. Dominguez.

Sworn to and subscribed
before me March 10' 1854.
R. Aug. Thompson
Comr.

Filed in Office March 10' 1854.
Geo: Fisher.
Secy.

Case No 404. United States Land Commission
San Francisco March 10' 1854.

Deposition of J. L. Brent.

On this day before Commissioner R. Aug. Thompson, came J. L. Brent a witness in behalf of the claimant Abel Stearns, case No 404, who, after being duly sworn, deposed as follows.

Present J. R. Scott, Atty for claimant and J. H. McKune, U. S. Dist Agent.

Witness states his name is J. L. Brent, his age twenty seven years and residence the city of Los Angeles, Calª. —

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Question by same.

State if you know what had

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become of the ancient protocols and records of the city and county of Los Angeles, and also your means of such knowledge?

Answer.

In the course of my profession practice I had frequent occasion to examine the Mexican Archives now in the custody of the County Clerk of the County of Los Angeles. I have never seen a protocol of the public acts during the Mexican Government. It is a matter of public notoriety and I have always ~~done~~ understood that previous to the capture of the city of Los Angeles by the Americans, the public records were all concealed, and when they were afterwards returned, the protocols and most valuable local documents had been abstracted. The archives are very voluminous, and have never examined them year by year to see if protocols existed for each year, but I have examined for several particular years and have been unable to find one. There are also some Mexican Archives existing in the archives office of the clerk of the Common Council of the City of Los Angeles. I have frequently examined them and have been unable to find a protocol among them.

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Question by same.

Have you ever heard any reason assigned for the concealment or abstraction of the records and protocols above spoken of?

Answer.

I have not.

J. Lancaster Brent.

Sworn to and subscribed
before me March 10th
1854.

R. Aug. Thompson
Comr.

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Filed in Office March 10/1854.
Geo: Fisher.
Secy.

Office of the Commissioner
G. Tompson Burrill at Los
Angeles California —

Deposition of
Juan Bandini.

Before me G. Tompson Burrill, commissioner duly qualified for the taking of testimony, to be used before the Board of Commissioners to ascertain and settle the private land claims in the state of California personally appeared Juan Bandini a witness in behalf of Abel Stearns, claimant for the land named Alamitos, numbered on the docket of the said board with No 404. who upon oath declareth as follows ——

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Questions asked by counsel for claimant

Question No 1.
What is your name, age & place of residence?
Answer.
My name is Juan Bandini. I am fifty four years of age and I reside in the County of San Diego.
Question No 2.
How long have you resided in California?
Answer.
Thirty five years.

Question No 3.
During that time have you been intimately acquainted with all the Governors of California —
Answer.
I have.
Question No 4.
Are you acquainted with the

custom that prevailed in this department since your coming here, relative to the part acted by the Governor in the decision of claims to real estate, whether they acted in a judicial capacity or not by such custom?

Answer.

The experience in the different employs that I have had in California for the time of fifteen years near the operations of the Government, I know that the Governors had cognizance of all cases particularly in questions respecting lands whose decisions were final — The people all conformed to the decision —

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Question No 5.

When any question arose whether any party had title to public lands, who or what tribunal of the country decided the question, by the custom of the country?

Answer.

All petitions by individuals and questions between individuals as to the right of property and denouncements, the Governor had exclusive jurisdiction according to custom.

Question No 6

When you speak of fifteen years that you were acquainted with the operations of the Government what fifteen years do you mean?

Answer.

From the year 1827 to the year 1842, at which time I was deputy of the departmental Assembly.

Question No 7.

Had you knowledge of the custom of the country before the year 1827, if so, how long.

Answer.

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I Asaved the same customs from the year 1819 when I first came to the country.

Questions asked by C. E. Thom Esq, acting Law Agent.

Quston No 1.

In the determination of questions in cases of petitions by individuals for lands, and questions between individuals as to the right to lands, did the Governor have exclusive jurisdiction without the intervention of the departmental Assembly?

Answer.

In petitions for vacant lands the Governor had exclusive jurisdiction to give title which afterwards required the approval of the departmental Assembly, and upon questions between individuals the Governor decided definitively.

Juan Bandini.

Sworn to and subscribed
before me this 29th day of
June A. D. 1854.

G. Tompson Burrill.
Comr.

I hereby certify that C. E. Thom Esq was present at the time that the foregoing testimony was taken, acting for on behalf of, and by the authority of J. H. McKune Esq U.S. Law Agent—
Los Angeles, June 29th 1854.

G. Thompson Burrill.
Comr

Filed in Office July 10' 1854.

Geo: Fisher
Dicy.

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Office of the Commissioner
G. Tompson Bunell at Los
Angeles, Cal.

Deposition of Manuel Requina.

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Befor me G. Tompson Bunell, commissioner duly qhalifyid for the taking of testimony to be used befor the Board of Commissioners to ascertain and settle the Private land claims in the State of California, personally appeard Manuel Requina a witness in behalf of Abel Stearns claimant for the land named Alamitos numbred on the docket of the said board with No 404 who upon oath declareth and saith as follows—

Questions asked by counsl for claimant.

Question No 1.

What is your name, age and place of residence?

Answer.

My name is Manuel Requina, I am fifty two years old and I reside in the city of Los Angeles.

Question No 2.

How long have you resided in California?

Answer.

Nineteen years.

Question No 3.

During that time have you been intimately acquainted with all the Governors of California?

Answer.

I have.

Question No 4.

Are you acquainted with the custom that prevailed in the department since your coming here relative to the part the Governor

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acted in the decision of claims to real estate, whether they acted in a judicial capacity or not, by such custom?
Answer.

I am acquainted with the custom — Whenever there was a question respecting the rights to real estate the Governor examined the case and determined as his good judgment dictated, when questions arose in judicial tribunals respecting the rights to property then the Governor decided upon his own responsibility.

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Questions asked by C. E. Thom, acting Law Agent.

Question No 1.

In the determination of questions in cases of petition by individuals for lands, and questions between individuals as to the right to lands, did the Governor have exclusive jurisdiction without the intervention of the Departmental Assembly.
Answer.

By law he was compelled to act in certain cases in conjunction with the Departmental Assembly, such as when a title was given requiring the approval of the departmental Assembly, and in failure to obtain it then the Governor acted in conjunction with the departmental Assembly, when the Assembly was not in session then it was the custom of the Governor to decide himself and when he ought to have called them together he failed to do so, and still decided himself, this was the general custom, altho' there were laws at times which required a different actions.

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Question No 2.

Please enumerate each individual case in which you have known the custom above referred to, to have prevailed?

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Answer.

I myself was attorney for a certain individual contending with another for a parcel of land, this case was commenced in a judicial manner, but the Governor would not permit it to proceed but decided it himself. Another of a similar nature wherein one party pretended right to a portion of land which right was opposed by another, in this case he also determined absolutely, another case the municipal authorities determined to close up an alley, but the Governor decided to the contrary, the municipal authorities endeavored to establish their decree, a change of Government prevented the final decision of the question, the general customs of which I have been speaking prevailed until the entrance of General Riley, these are the only cases which I can now recollect.

Manuel Requena.

Sworn to and subscribed
before me this 30th day
of June A.D. 1854.
G. Tompson Bunnell.
Comr.

I hereby certify that C. E. Thom Esq was present at this time that the above and foregoing testimony was taken acting for on behalf of, and by the authority of D. H. McKune Esq U.S. Law Agent
Los Angeles, June 30/1854.
G. Tompson Bunnell.
Comr.

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Filed in Office July 10/1854.
Geo: Fisher.
Dep'y.

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Office of the Commissioner
G. Tompson Bamill at Los
Angeles, California.

Deposition of Agustin Olvera.

Before me G. Tompson Bamill, Commissioner duly qualified for the taking of testimony to be used before the Board of Commissioners to ascertain and settle the private land claims in the State of California, personally appeared Agustin Olvera a witness in behalf of Abel Stearns claimant for the land named Alamitos numbered on the docket of the said Board with No. 404, who upon oath declareth and saith as follows.

Questions asked by counsel for claimant.

Question No 1. What is your name, age and place of residence?

Answer. My name is Agustin Olvera, I am thirty four years of age, and I reside in the County of Los Angeles.

Question No 2. How long have you resided in California?

Answer. Twenty years.

Question No 3. During that time have you been intimately acquainted with all the Governors of California?

Answer. I have.

Question No 4. Are you acquainted with the customs that prevailed in this department since your coming here relative to the part acted by the Governor in the decision

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of claims to real estate whether they acted in a judicial capacity or not, by such custom?
Answer.

I know the custom having been near them, as also having business with them, the Governor always decided all claims to real estate except local lands, by the authority vested in him by law, but am not positive about its being law, but he did determine in all cases.

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Question No 5.

When any question arose whether any party had title to public lands who, or what Tribunal of the country decided the question by the custom of the country?
Answer.

The Governor according to the custom of the country decided all questions in cases as far as I know of.

Questions asked by E. E. Thom Esq Acting Law Agent.

Question No 1.

In the determination of questions in cases of petitions by individuals for lands and questions between individuals as to the right to lands, did the Governor have exclusive jurisdiction without the intervention of the departmental Assembly?
Answer.

By what I have seen he had exclusive jurisdiction.

Agustin Olvera.

Sworn to and subscribed
before me this 30th day
of June A. D. 1834

G. Tompson Burrill
Comr.

I hereby certify that E. E. Thom Esq was

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present at the time that the above and foregoing testimony was taken, acting for on behalf of and by the authority of D. H. McKune Esq, U. S. Surveyor Agent.
Los Angeles June 3rd 1854.

G. Tompson Bunill.
Comr.

Filed in Office July 10 1854.
Geo: Fisher
Dep'y

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Deposition of José Joaquin Ortega —

Office of the Commissioner G. Tompson Bunill, at Los Angeles, California —

Before me G. Tompson Bunill commissioner duly qualified for the taking of testimony to be used before the Board of Commissioners to ascertain and settle the private land claims in the State of California, personally José Joaquin Ortega a witness in behalf of Abel Stearns, claimant for the land named Alamitos, numbered on the docket of the said Board with No 404 who upon oath declareth and saith as follows —

Question asked by ~~claimant~~ counsel for claimant.

Question No 1. What is your name, age and place of residence?

Answer. My name is José Joaquin Ortega, I am fifty three years of age and I reside in the county of San Diego.

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Question No 2. How long have you resided in California?

Answer. I have resided in California since

the year 1861.
Question No 3.

During that time have you been intimately acquainted with all the Governors of California?
Answer.

I have had acquaintance with some since the Government of Spain ceased.
Question No 4.

Are you acquainted with the custom that prevailed in this department since your coming here relative to the part acted by the Governor in the decision of claims to real estate, whether they acted in a judicial capacity or not by such customs.
Answer.

I do Know some thing of this custom. They did not act judicially, they acted for themselves exclusively, they always or in the greatest number of cases decided the title to real estate, the parties interested always adhered to such decisions, altho' by some it was resisted, but their decisions have always carried into effect.

Questions asked by C. E. Thom Esq. acting Law Agent—

Question No 1.

In the determinations of questions in cases of petition by individuals for lands, and questions between individuals as to the right to lands, did the Governor have exclusive jurisdiction without the intervention of the departmental Assembly?
Answer.

The Governor had exclusive jurisdiction.
Question No 2.

Please mention each individual case in which you have known the custom above

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refund to, to have prevailed?
Answer.

I Know of one case which was between the departmental Assembly and the Governor himself, the Assembly asking to be called together to decide land titles the Governor said it was not necessary that he himself could decide them, I Know of another between two individuals who were contending for a piece of land who applied to the judicial authorities who could not settle it, and they applied to the Governor and he determined it, another was a case of a similar nature.

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José Isaac Ortega.

Sworn to and subscribed
before me this 30th day of
June A. D. 1854.

G. Simpson Burrill.
Comr.

I hereby certify that C. E. Thom Esq was present at the time that the above and foregoing testimony was taken, acting for on behalf of and by the authority of D. H. McKune Esq. U. S. Law Agent—
Los Angeles June 30 1854.

G. Simpson Burrill.
Comr.

Filed in Office July 10 1854.
Geo: Fisher
Secy.

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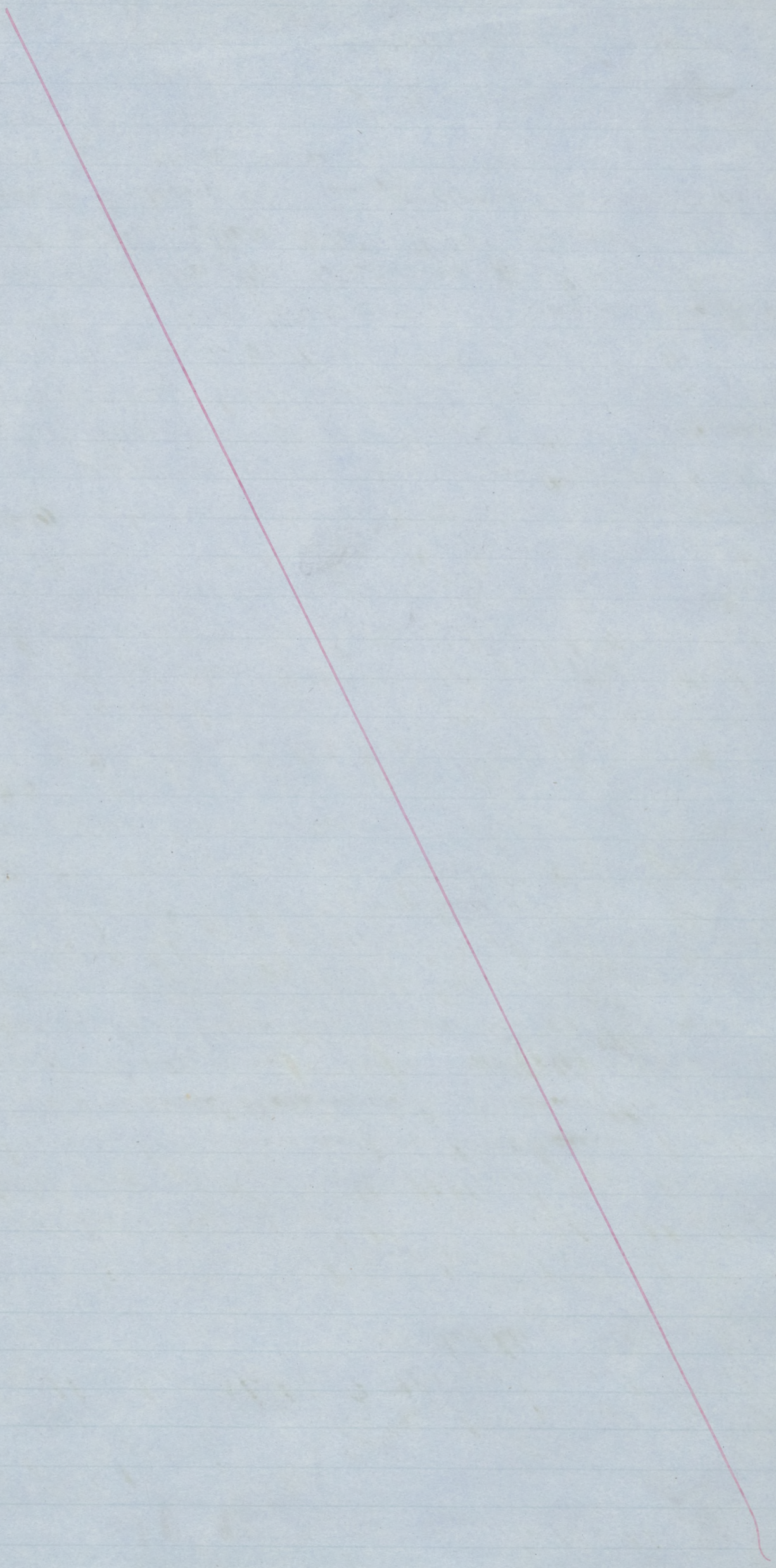

404

H1

Before the U.S. Land Commission
for settling private land claims in
California, in case No 404

Abel Stearns.
vs
The United States. } For the Rancho called
Almitos, situated
in Los Angeles County.

Stipulation.

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It is hereby stipulated between J. H. McKune Law Agent on the part of the United States and J. K. Scott Attorney for Abel Stearns the claimant in this cause, that the papers and documents hereinafter mentioned, shall be read and considered in evidence in this case the same as if the same had been taken and filed thereon to wit; in case No 357 Documents A. B. C. D. and E. annexed to the depositon of Abel Stearns also the depositon of Manuel Requena taken before Commissioner Thornton in case 357.

In case No 402 a paper purporting to be a grant from José Figueroa to Catarina Ruiz, dated May 22d 1834, marked H. H. No 1. also a paper purporting to be testimonial of judicial possession given to Catarina Ruiz in March 1835 Marked H. H. No 2. in case 402. In case No 339 document purporting to be a grant from José Figueroa to Josefa Cota dated May 22d 1834 Marked H. H. No 1, also in same case, testimonial of judicial possession given to Josefa Cota in 1835 marked H. H. No 2. Also in case 402 a paper purporting to be a grant from José Figueroa to Lucia José Nieto, dated May 22d 1834 Marked A. Also a testimonial of judicial possession given in same case in 1834.
Jany 31st 1855.

J. H. McKune
U. S. Law Agent.

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A. R. Scott.
Atty for Steams.

Filed in Office Jan. 31' 1855.
Geo: Fisher
Secy.

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1. N.º 919.

Expedt.º

Remito à Vm. la adjunta Copia de dictamen que expuso el 2.º Asesor de esta Comandancia en 24 de Octbre. del año ultimo sobre el punto de señalamento de sitios que pidieron varios Individuos de esa provincia segun Vm. dió cuenta en representacion N.º 204 de 20 de Novre. de 84 para que Vm. proceda à concederselos arreglandose à lo que pide dho Sor Ministro.

Dios que à Vm. m.s a.s Chihuagua 21 de Junio de 1786.

Jacobo Vgarte y Loyola

2 Sor D.n Pedro Fages

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Sor Comte. Gral en la Instrn. q.e trata del Govno politico y poblacion de la California que se halla inserta en el titº 14 del nuevo Reglamtº de aquella peninsula aprovado por S. M. en R.l Ord.n de Veinte y quatro de Oct.e de mil setecientos ochenta y uno se dispone por el artº 8.º q.e los nuevos pobladores gozaron para mantener sus Ganados del aprovechamiento comun de Aguas y pastos Leña y madera del exido, Montes y dehesa q.e con arreglo à las Leyes se ha de señalar à cada pueblo y ademas disfrutaran privativamente cada uno el pasto de sus tierras propias con la prevencion de q.e cada poblador en lo subsecivo no ha de exceder de cincuenta Cavezas de cada especie de Ganado q.e posea para q.e de este modo se distribuya entre todos la utilidad q.e producen los Ganados y no se estanque en pocos Vecinos la Verdadera riqueza de los pueblos:

por las Leyes 5.a y sig.tes del titº 17 Libº 4.º De la recopil.on de estos R.nos se manda que el uso de todos los pastos, Montes y Aguas de las prov.as de Indias sea comun à todos los Vez.nos de ellas, para q.e los puedan gozar libremt.e con sus Ganados revocando en caso necesario qualesquiera Ordenanzas, q.e huviese contrarias y extendiendose esta provid.a no solo à los Montes, pastos y Aguas

MS&N

de los Lugares de dominio comunes dichos en estos Pueblos si no es tambien à las Tierras y Heredades vendidas y mercenadas q.e alzados los frutos sembradas en ellas, quedan sus pastos de aprovechamt.o comun.

El señalamt.o de sitios p.a cria de Ganados que pretenden algunos pobladores de California y propone el Govr. en su Oficio de 2 de Novr. de 1784, no puede ni debe hacerse dentro del testimonio asignado à cada pueblo q.e conforme à la Ley 6.a tito. 5.o Lib.ro 4.o de la Recopilacion, deben ser quatro leguas de Territorio en quadro ò prolongado segun la Calidad de la tierra por q.e diligenciandose la Solicitud de los nuevos pobladores à hacerse dueños privativos de los Montes, pastos, Aguas Maderas, Leña y demas aprovechamt.os de los sitios q.e se les asignen, merecen, y reparten y apivar de estos beneficios à sus convecinos se ve desde luego ser diametralmente contra esta pretension à la disposicion de las citadas Leyes, y à lo prevenido espresamt.e en el artículo 8.o de la Instruccion de aprovechamt.o comun todas las Aguas pastos leña y Madera del termino que en arreglo à las Leyes se asignase à cada pueblo para q.e todos los pobladores puedan gozarlos y disputenlos manteniendo en ellos sus ganados y participando de los demas aprovechamt.os que produgesen.

Por las leyes 1.a y 2.a tit.o 4.o lib.o 6.o y la 13 tito. 12 del mismo Libro 4.o se permite el repartimiento y señalamt.o de peonias caballerias y sitios para Estancias de Ganados Mayores y menores con tal q.e se obligue à los Dueños ò interesados à poner Pastores y Guardas q.e vasten à evitar los daños que los ganados puedan hacer à los Indios y à satisfacerles lo q.e efectivamente les causasen; y siendo mui conven.te la concesion de los enunciados sitios ò Estancias p.a

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fomentar la pobla.on en la Californias don
de p.a la Extencion de la tierra y abund.a
de sus pastos hay proporcion.s pa verificarlo
sin perjuicio de los Indios, ni de otro tercero
21 alguno y donde por la falta de Comercio
activo y de consumo y salida de los demas
frutos, ha de consistir forzosament.e la mayor
Riqueza de los pueblos en la cria y aum.to
de los Ganados por estas consideraciones
me parece podra V.S. si fuere servido a-

Espedt.e continued

cordar y mandar se pase oficio a el Gov.r de
Californias Dn Pedro Fages para q. señalan
do desde luego a cada nueva poblacion
el termino de cuatro leguas que le corresponde
lo mida y amojone en cuadro o prolongado
segun lo permitiere la calidad del Terreno
y dentro de el no conceda merced ni repar
ta sitio alguno p.a estancia y cria de Ganados
a ningun Vecino o poblador, por deber
quedar sus montes pastos Aguas y (demas beneficios de aprovechamiento comun p.a todos los vecinos y) pobladores, sin q. ninguno tenga en ellos dominio ni
propiedad en particular y q. en los demas
Terrenos q. quedaren fuera del expresado
termino y distrito asignado a cada pueblo
y a tenta distancia, que no puedan resul
tar daños en las Misiones, pueblos, y Ranche
rias de Indios, ni a sus sementeras, mer
cene y reparta sitios para Estancias y
cria de Ganados con la precisa calidad de
q. los Vecinos y pobladores a q.nes los conceda
se han de Obligar a poner tantos pastores y
Guardas q. basten para evitar los Daños y
a satisfacer el import.e de los q. por algun caso su
cedieren y la de que ningun Vecino o poblador
pueda tener mas de tres sitios o asientos suge
tandose a fabricar en cada uno Casa de
piedra a tener en el dos mil cavezas de Ganado
p.r lo menos y a q. sinembargo de su merced
y concesion queden los pastos de aprovecha
miento comun y donde no hubiere hatos de
Ganado puedan darse sitios para ingenios
y otras heredades segun y como lo disponen
5. Las Leyes 12. tit.o 12. y por lo respectivo a la Isla
Española, la 5.a tit.o 1.o y Lib.o 4.o de la recopi

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=pilacion de estos Reynos cuyas condiciones y leyes se mostraren por clausulas espresadas en la Escritura de Mercedes que se hiciere con pena que constando à los Reenos y pobladores que las obtengan sepan la Obligacion à cuyo cumplim.to queden sujetos y no tengan justo motivo ni pretesto para alegar derecho à lo contenido en lo subsesivo: ò resolvera V. S. sin embargo sobre todo lo que fuere de su agrado. Chihuahua Veinte y siete de Octubre de mil setecientos ochenta y cinco.

Galindo Navarro.

Es copia de su Original de que certifico Chihuahua 21 de Junio de 1786.

Pedro Garrido y Durem.

Office of the Surveyor General of the United States for California.

I. Jno: C. Hays Surveyor General of the United States for the State of California and as such now having in my Office and under my Custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California made by Virtue of the 2nd Section of the Act of Congress approved on the 3rd day of March 1853. providing for the Survey of the public lands of California and for other purposes, do hereby certify that the one preceeding and hereunto annexed pages of Writing paper numbered from One to one inclusive, exhibit true and accurate copies of a document on file and forming a part of the said Archives in this Office

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(Seal) In testimony whereof I have signed my name Officially and affixed my seal of Office at the City of San Francisco this 20th day of July 1853

John C. Hays.
Surv.r Gen.l Cal.

Filed in Office Feby 3rd 1854
Jno: Washbey Deputy

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No 919.

I transmit you the adjoind copy of the opinion delivrid by the assessor of this command on the 27th of Octuber last year upon the subject of assignment of sitios, asked for by sevral individuals of the province, accordding to what you stated in a representation No 204. dated 20th of November '84, in order that you may proceed to grant it them, gevin in 1785 in accordance with the request of said Minister.

Translation of an Opinion

God preserve you.
Chiguagua 21st of June 1786.
Jacobo Ugarte y Loyola.

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To
Mr D. Pedro Fages.

To the Commandant General.

In the instance treated of the political government and settlement of California, inserted in title 14 of the new regulation of that peninsula, approved by his Majesty in royal order of twenty fourth of October one thousand seven hundred and eighty one, is prescribed by article 8th, that the new settlers shall for the maintenance of their cattle enjoy the common benefit of waters and pastures, wood and timber from the commons, woods and pasture grounds, which in accordance with the land are to be assigned to each Pueblo, and besides each one shall enjoy singularly the pastures of its own grounds, with the restriction that each settler hereafter is not to exceed fifty heads of each species of cattle he may possess, so that in this way the utility derived from the cattle be distributed among all, and a few residents do not check the true wealth of the Pueblos—

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By the laws aforesaid and the following in title 17. Liber 4 of the

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recopilation for these realms is ordered that the use of all the pastures, woods and waters of the provincias of the Indias be common to all its residents, so that they may enjoy them freely with their cattle, providing if necessary, whatever ordinance there might be against it, and this measure is extended not only to the woods, pastures and waters of the ~~villages~~ villages of the Baronies granted in their realms, but also to the grounds and hereditaments sold and hired, the pastures of which, when the crop put in on them has been raised, remain for the common benefit.

The assignment of sitios for the breed of cattle, solicited by some settlers in California, and proposed by the government in its official letter of 21th of November 1784, can not, nor ought to be done within the limits assigned to each Pueblo, which conformable to law 6th title 8 book 4th of the recopilation, ought to be four leagues of terrain in square angles or extended lengthwise according to the quality of the ground, because the solicitation of the new settlers is to be considered to their making themselves private owners of the woods, pastures, waters, timber, wood and other advantages of the sitios to be assigned, hired or appertained to them and to deprive their circumvicinous neighbors of these benefits, wherefore it is easily seen that this pretension is openly in contradiction with the rules in said laws, while expressly prescribed in article 8th in the instance of the population of California, according to which all the waters, pastures, wood and timber within the limits that in accordance with law should be assigned to each Pueblo ought to be for common benefit, so that all the settlers may be enabled to enjoy them and be enabled thereof, in maintaining thereon their cattle and participating

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in all the other advantages to be derived there-
from. By the laws 1st and following to the
13th title 12. said book 4th is allowed a dis-
tribution and assignment of lots of land for
day laborers and soldiers and sites for the
sojourn of black and small cattle, provided
they be given at a distance from the Pueblos
of the Indians and their cornfields and
that they owners or interested parties be bound
to place as many sheep, herds and watchmen
as may be sufficient to avoid the damage
which the cattle might cause the Indians
and to indemnify them for that they actu-
ally may cause them, and the concession of
said sites or places of sojourn being very
suitable to promote the advance of the popu-
lation in California, when on the account of
the extent of land and the abundance of
pastures, there are means to carry it out,
without prejudice to the Indians or to any
other third party and when in the absence
of an active commerce and the consump-
tion and channel for other produce, the bred
and increase of cattle has of necessity to
constitute the greatest wealth of the people.
In consideration hereof it appears to me, that
you may, if you should so be pleased, deter-
mine and order that there be sent an or-
der to the governor of California, Dr. Pedro
Fajes that from hence assigning to each
new settlement the extent of four leagues
appropriated to it, it be measured and
marked in square angles or extended likewise
as the quality of the ground may permit,
and without it, not to grant, hire or distribu-
ute any sitio for a sojourn and breed of
cattle to any resident or settler, and its
woods, pastures, waters and other benefits
ought to remain for the common profits
and benefit to all the residents and settlers,
so that nobody shall have therein any indi-
vidual dominion or ownership, and that

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on the other lands that may remain beyond the said limits and distinct assigned to each pueblo, and at such a distance that they can not cause any damage to the Missions, Pueblos or Indian Rancherias or to their corn fields, there be hoid or distributed sitios for the sojour or breed of cattle on the express condition that the residents and settlers to whom it may be granted, are to be bound to place so many Shepherds and watchmen that may suffice to avoid any damage, & to indemnify for such as casually may be occasioned, and that no resident or settler can have more than three sitios or country seats, subjecting him to build on each a house of stone to keep thereon 2000 head of cattle at least, and that notwithstanding the favor and the grant made him, the pastures remain for the common benefit and where there should be no herds of cattle, there may be given sitios for industry and other husbandments, according to land as is ruled in the laws 12. Title 12. and in respect to the Spanish island (Hayte) the 5th title 17. liber 4 in the recopilation for those realms, which condition and laws should be inserted as an express clause in the deeds of grant to be made, so that appearing for the residents and settlers, who obtain them, they may know the obligations to the fulfilment of which they are subject and not to have a just reason or pretext to allege a contrary right hereafter. But you will however resolve about all this or may be your pleasure.
Chihuahua 27th October 1785.

Galindo Navarro.

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This is a copy of the original which I certify.
Chihuahua 21 of June 1786.

Pedro Garrido y Duran.

Filed in Office March 24th 1854. Geo: Fisher Secy.

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1. Muy Sor. mio. Doy à V. S. la cuenta à mi paso pr. el pueblo de la Reyna de los Angeles me mostro su Encargado Vezo. Feliz las Cosechas de los Vecinos y agregados que entre unas y otras ascendian à 1800 fs.

209 de 84 lo

Han concluydo todas sus Casas; Guardia, Casa de Ayuntamiento y quedan haciendo su Iglesia, todo de Adove y texado y con bastante amplitud y curiosidad lo que con la disposicion de las sementeras y el Empeño con que dho Feliz se ha dedicado à su fomento me mueve à haserlo à V. S. presente pr. que juzgo à este Indio merecedor de su supor. piedad.

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PAGE 50

Esped P.

El Vezo. Franco. Sinova que ha servido algn. tiempo de Mayordomo en la Mision de Sn. Antonio me pidio agregase à dho pueblo con su familia y selo he concedido. Asi como à Manl. Buton en el de Sn. José.

Los Ganados van aumentandose de modo que siendoles preciso à varios, darles alguna extenon. me han pedido algunos sitios que les he concedido interinamente como son à Juan José Dominguez sold. que era del presidio de Sn. Diego y tiene en el dia 4 manadas de Yegua y unos 200 Reses en el Rio abajo de Sn. Gabriel del. à Manuel Nieto por igual causa el de la Zanja, camino Rl. de dha mision pa. el Encino, y à los hijos

2 de la viuda Ygnacio Carrillo en el Arroyo hondo contiguo al antecedte. vajo las Ordns. de que han de cuidar de rodear lo continuamte. entre dos sin acercarlo a y mi dan à los Dueños la mas leve perjuicio nià los Ganados de mision ò pueblo y asi mismo que los que salgan à recoger pr. ningun motivo se queden à dormir fuera de todo lo cual quedan encargados estrechamente ambos Cavos. Aun no se de positivo el no. de f. cosechadas en el pueblo de Sn. José pero haciendo una prudente Regulacn. con las noticias que tengo de lo q. han Alzado las Misiones resulta que entre estas y los pueblos ascenderan à 2000 f. con

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M SAN

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cuya consideracion he mandado que ya en lo subcesivo no se pidan semillas à Sn Blas, pues se vè verificado el caso de antemano prevenido pr el Reglamt.
En todo lo referido se ve claramente el espiritu de las superiores providencias de V. E. cuia observancia en mi principal atencion, y en ella hoy experimentado los felices progresos que aseguran entes à sus prudentes y acertadas disposiciones.

Dios &c.

Office of the Surveyor General of the United States for California.

I, John C. Hays Surveyor General of the United States, for the State of California and as such now having in my Office and under my custody a portion of the archives of the former Spanish and Mexican territory of Department of Upper California under and by Virtue of the second section of the Act of Congress approved on the 3rd day of march 1853. providing for the Survey of the public lands in California and for other purposes, do hereby Certify, that the two preceding and hereunto annexed pages of foolscap paper numbered from One to Two exhibit true and accurate copies of portions of two pages of an unbound book or Blotter now on file and forming a part of the said Archives in this Office.

(Seal) In testimony whereof I have hereunto signed my name Officially and affixed my Official Seal at the City of San Francisco this 20th day of July 1853.

John C. Hays
Survr. Genl. Cal

Filed in Office Sept. 3rd 1854

Geo: Washn Deery

1404

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Translation of Expediente.

Dear Sir.

I hereby communicate to you that on my passage to the Pueblo de la Reyna de los Angeles, the commissioner there Vict.e Feliz showed me the crops of the residents & the adjoining farmers, which all together amount to 4 or 500 fanegas.

They have finished all their houses places of safety, town house, and they are building their church, all of adobe and with platforms and sufficient extent and neatness; all of which together with the cornfields and the perseverance with which he has devoted himself to cultivation, moves me to communicate it to you because I judge from this indication that he deserves your superior consideration.

The resident Francisco Xavier who has served some time as Superintendant on the Mission of S. Antonio, asked me to settle in said Pueblo with his family and I have granted it him, as also Man.l Berton in the Pueblo of S. Jose.

The cattle is increasing in such a manner that it being necessary for several to give them some extension of land, they have asked me for some sitios, which I have granted provisionally, such as to Juan Jose Dominguez who was a soldier in the Presidio of S. Diego, and has at this moment 4 herds of mares and about 200 head of cattle on the river below S. Gabriel, to Manuel Nieto for a similar cause that of la Zanja on the highway from said Mission riding by the oak tree, and to the sons of the widow Ignacio Carrillo that on the deep creek contiguous to the foregoing one, under the order that they are to take care to alternately to surround it continually without using subterfuges and to give the Indians of the cattle of the Mission and Pueblo of the light impurions marz, and likewise that those that go out

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catching by no reason stay to sleep outside,
about all of which both dancers were strictly
charged.

Yet I do not know positively the
number of Jamejas gathered in the Pueblo
of San Ysle, but making a practicable com-
putation from the information I have of
what the Missions have raised, it results that
amongst the latter and the Pueblos it will a-
mount to 20000 fs.

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With considerable care I have ordered
that hereafter they do not ask for seed from
Gn. Blas, since it is seen that the case of dest-
rument anticipated in the regulations has
been realized.

In all the foregoing it is clearly
seen the efficacy of your superior provident
course of measures, the observance of which
is my principal aim and I am thereby ex-
perienceing the successful progress that is con-
sequent on your prudent and discriminate
administration.
Our Lord, etc.

Filed in Office March 24th 1834.
Geo: Fisher.
Secy.

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5-57 1. L. D. R.

Sello tercero | Place of a Seal in the Orig^nl. | Dos: Reales
para los años | | de mil Ocho cientos veinte
y seis y ocho cien | | -tos Veinte y siete.

A
Espedt^e.

(Stamp in the Orig^l. por the year 1828 & 1829)
(Stamp por 1830. 1831)
(Stamp por 1832 & 1833)

Sor. Jefe superior politico
El ciudadano Luciano Grifalba natural del Estado de Sonora y avecin. en este territorio con poder bastante del ciudadano Juan José Nieto a cuyo derecho y accion represento à V. S. con el debido respeto y po.... el ocurro mas oportuno hago present. que el año de 1ro/84, le fue concedido en propiedad por el Sor Gobernador Don pedro Fages à Manuel Nieto

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S^n. Diego 24 de Julio de 1833. Vista la presente instancia; siendo por notoriedad pu blica y fama sin interrumpida con q^e. Man^l. Nieto y su herederos ha ser disputado de los terrenos demarcados en el diseño; y de ti el Espedt^e. en q^e. consta la concesion de dicho terreno hecho por el Gober- nador Don pedro Fages al mencionado Nieto con todo lo demas que se titulos presentados y ver convinado total arreglo a las leyes y Regla mentos de la materia y con sujecion à las condiciones Efaci señalen ...

la porcion de terreno que demuestra el diseño que con el devido respeto acom........ Que haviendo fallecido deros entre quienes ha se cabado mi poderente, si fueron ininterrumpida pacifica. Poce: ocupado dicho terreno como legit. propietarios que en este estado se hem cumplido mas ha de veinte y nueve años haviendo transcurrido hasta la fha sin .... interrumpido en el goce de sus derech... que haviendose extraviado los titulos q^e. legitimavan la propiedad del terreno ocurrio varias veces al Jefe superior politico para q^e. en Virtud de las constancias escistentes en el Archivo de le es pidiera nuevo titulo mas en bano repitio sus ocursos hasta que la bondad de V. S. se sirvio atenderlo librandoles testimonio de la unica constancia que se encontro en el Archivo pero q^e. es bastante à convencer la legitimidad con que ha poseido el mencionado terreno como se

2. S. D. R.

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Note paper of the Orig^nl. torn off to the dotted line. S. D. R. S. Joint

M S & N

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se declaren
mem. en propie
dad à Juan
José Nieto de
los ... ales ...
nombrados los
otes, Alamitos
y pal... à Da.
Manuela ... los
de los Serritos
à Josefa Cota
viuda de Anto
nio Ma. Nieto ...
de Santa Gertru
des à Da. Catarina
Ruiz viuda de
Dn. José Antº. ...
Nieto del paraje
de las Bolsas
Librensele los do
correspondtes.
in ... dar la
posesion juridi
ca que pre-demarca
parajes ...
as partes y res
pecto à que no
se puede estender
en la Capital libre
se provisionalte. en
testimonio certificado
de este decreto para
qe. entretanto les sir
va de resguardo a
los interesados. El
señor Dn. José Fi
gueroa Gefe supr.
politico de este ter
ritorio asi lo mando
decreto y firmo de
que doy fee.
José Figueroa
Agustin V. Zamo
rano. Srio.

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demarca en el Expediente que
respectuosamente acompaño en 5 fo
jas utiles à fin de que teniendole por
bastante y legal se sirva en Mentos
de justicia como se la suplico libran
do el titulo correspondiente y man
den que se le de posecion juridica
Que deseoso de que todos los herede
ros disfruten de la merced concedi
da à su finado padre, suplico à V.
S. que si no huviere inconbeniente
se espidan por separado los titulos
de las partes que à cada uno corres
ponde segun queda demarcado
en el mismo diseño en estos termi
nos el parage de Santa Gertrudes
para Da. Josefa Cota y sus hijos
como viuda del finado Antº. Ma
ria Nieto el parage de las Bolsas
para Da. Catalina Ruiz y sus
hijos como viuda del finado José
Antonio Nieto el parage los Serritos
para Da. Manuela Nieto y el
resto en que se comprenden los p
ya nombrados los Coyotes à la
mitad pa. ... Al 1º &c. para
mi poderante Dn. José Nieto
quien como Cavesera de
familia resuelto efec
tuar estas particiones
en beneficio de sus dem
y para evitar todo motivo
de liti: q ... pide en conce
damente se posesione a
cada uno de la parte qe.
les corresponden en tal
concepto.
A. V. S. suplico se sirva acce
der à mi solicitud en qe. re
civere gracia y justicia que
imploro.

Juro no ser de malicia &.

Note: paper of the Orig. is torn off to the dotted lines. S. D. R. S. Gen. 8

The paper of the Orig. is worn off to the dotted lines. S. D. R. Sur. Genl.

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y lo necesario Vs.
Son Diego Veinte y seis de Julio de mil ocho
cientos treinta y tres.

Expedte
continued
L. S. D. R

Luciano Tafalla

Sellos treces (Place y stamp in the Engve) Dos Reales
para los años de mil ocho cientos veinte
y seis y ocho cien tos veinte y siete.

Stamp in the Engve years 1828 & 1829

Monterey Diciembre 21 de 1833
Cumplase lo mandado en el Antecedte
Decreto espidiendose los titulos con pre-
vencion de que por ellos se les de la pose
cion juridica respecto á que la Antigua
y dilatada concesion y posesion q.t.
tienen de ellos. El Sor Dn Josè Figueroa
Gral de Brigada y Comandante Gral
Gefe superior politico del Territorio cui
lo mando decreto y firmo de que doy
fee.

Stamp 1830 & 1831

Stamp por 1832 & 1833

Josè Figueroa
Agustin V. Zamorano Secro.

Office of the Surveyor General of the United States for California.

I, Samuel D. King Surveyor Ge-
neral of the United States for the State of Ca-
lifornia and as such now having in my Of-
fice and under my custody a portion of the Ar-
chives of the former Spanish and Mexican
Territory of Upper California do hereby certify
that the four preceeding and hereunto annexed
pages of tracing paper numbered from One to
four inclusive and each of which is verified
by my initials S. D. R. exhibit true and ac-
curate copies of certain pages embraced in
and forming part of the document desig-
nated as: Expediente relativo á los Lin-
deros del Rancho de Stas Gertrudes que posee
el ciudadano Luciano Prieto 103. which
is on file as part of the said Archives
in this Office.

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(Seal) In testimony whereof I have hereunto signed my name Officially and affixed my private seal (not having a seal of Office) at the City of San Francisco Cal. the 11th day of August 1862

Jam's D. Fry
Asst. Gen'l Cal.

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Filed in Office Oct. 21st 1862

Geo: Fisher Secy.

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1

Translation
Espediente.

Superior Political Chief.

Luciano Grijalba, native of the state of Sonora and resident in this Territory, with ample power of Attorney from the citizen Juan Jose Nieto, when right and action at law I represent to your honor with due respect and in the most opportune occasion would make known. That in the year 1784 there was granted to Dn. Manuel Nieto by his Excellency the Governor Don Pedro Fages the portion of land which is set forth in the diagram which I have the honor to accompany.

He having died, his heirs amongst whom he who gives me power of Attorney and formed the head of the family, continued in peaceable possession, occupying the said land as legitimate owners; That they have continued in and maintained this state of things for more than twenty nine years that have elapsed to the present date without being molested in the enjoyment of their rights.

That the title papers having been lost which legalized the property in the land, he applied many times to the Superior Political Chief, that by virtue of the existing evidences in the archives, he should give him a new title; but in vain did he repeat his petitions, until the kindness of your honor did him the favor to grant it, giving him the testimony of the only proof that could be found in the archives. But it is sufficient to make known the legal manner in which he has possessed the above mentioned land as is set forth in the proceedings which I respectfully transmit in five useful leaves, to the end that granting it to be sufficient and lawful, you will as a matter of justice give him the corresponding title and that judicial possession be given to him.

And desiring that all the

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heirs should enjoy the bounty conceded to his deceased father, & supplicate your honor, if there should be no inconvenience, that separates titles for the corresponding part may be given to each one, according as is designated in the diagram of those lands;- the part called Santa Gertrudes to Doña Soledad and her children as the widow of the deceased Don Ramon Maria Nieto; the part called Las Bolsas - to Doña Catarina Ruiz and her children as the widow of the deceased José Antonio Nieto; the part called the Limites to Doña Manuela Nieto; and the balance which comprises the places called the Coyotes, Alamitos, Palo Alto &c to him who gives me power of attorney Don Juan José Nieto, who as the head of the family has determined to effectuate these divisions for the benefit of his relations, and to avoid all motive for litigation he severely ask that as possession may be given to each one of the part that to them corresponds, in such judgment I petition your honor to be so kind, as to grant my solicitation by which I shall receive grace and justice which I implore;- I swear that it is not through malice & what is necessary &c-

San Diego, twenty sixth July A. D. Eighteen hundred and thirty three.

Luciano Guyalba.

(Endorsed) San Diego 27th July 1833.

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In the present instance, known by public notority the pacific possession and never interrupted, with which Manuel Nieto and his heirs have enjoyed the lands, marked in the design, and the petition wherein the said lands were conceded by the German Pedro Fages to the above mentioned Nieto with every thing else which he had present, and said was convenient-in full conformity with the laws and regulations of the

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matter and with subjection to the conditions which they set forth, they are declared owners of the landed estate, to Juan José Nieto, the place called Coyotes, Alamitos and Palo Alto, to Doña Manuela Nieto the place called Encinitos, to Doña Loreta Cota the widow of Don Antonio María Nieto the place called Santa Gertrudes to Doña Catarina Perez the widow of Don José Antonio Nieto, the place called San Bdsar — Give them the corresponding titles, it is ordered that judicial possession shall be given to them, as they have pretended, cause the parties to be informed; and as respects the title, which cannot be extended until my arrival at the capital give them as provisional testimony certified of this decree, which will serve in the mean time as a safeguard to the interested.

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José Figueroa, Superior Political Chief of this Territory thus I order, decree and sign which I certify — José Figueroa.

Agustin V. Zamorano.
Monterey 21st Dec. 1833.

embard 1833.

Complete what is commanded in the antecedent decree extending the titles with foresight that by them; shall be given to them the judicial possession with reference to the ancient and prolonged concession and possession which they have had of them —

José Figueroa, General of Brigade and Commandant General, Superior Political Chief of the Territory; thus I command it, decree it, and sign it, which I certify.

José Figueroa.

Agustin V. Zamorano.
Secr —

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Filed in Office Oct 21st 1852.
Geo. Fisher Secy.

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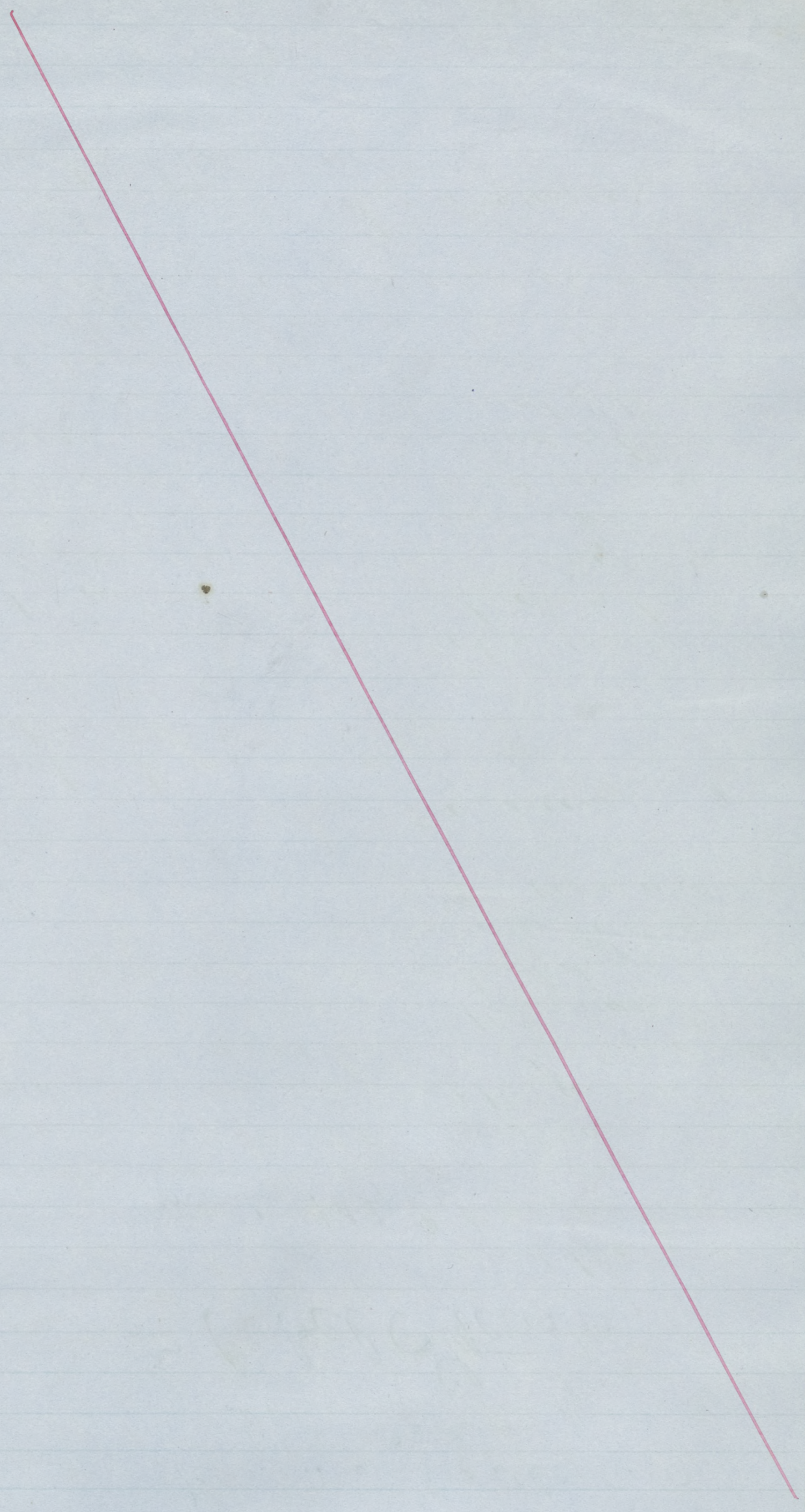

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Entrega Sumaria

Del Rancho de los "Alamitos"

á favor de

Dn. Abel Stearns

Año de 1842

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Exhibit H.H
@ No. 2 annexed
to Depn. of Jose
Ant. Carrillo

M. J. de V.

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Doc: H. H. No. 2 annexed to the Depo: of Josè antonio Carrillo taken & sworn before Comrs Hall.

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En la Ciudad de los Angeles del Departamento de las Californias al primer dia del mes de Septiembre de mil Ochocientos cuarenta y dos: Yo Manuel Dominguez Juez 1º de paz y Rª instancia de la referida Ciudad y su demarcacion comunmente à la Policia Verbal que hemos echo los señores Don Francisco Yorguera y Don Abel Stearns para que vaya en persona à presenciar la Entrega del Rancho de los Alamitos que el primero vaya hacer al segundo con arreglo à la Escritura Otorgada en este pasado el dia doce de julio del presente año pasese por mi y testigos de asistencia al espresado Rancho y procedase à la Entrega indicada prevka citacion de Colindantes para la veeduria del Terreno. Asi yo Manuel Dominguez Juez y a nombrado decrete mandè, y firmè por ante los de mi asistencia en este papel comun por falta de sellado: en el lugar.
Manuel Dominguez.
Asa Asa
Ygnacio Coronel # Basilio Valdez

2 En la misma fha y hallandome en el Rancho de los Alamitos, mande el Oficio de cita à los Colindantes del terreno que son Doña Catalina Ruiz de Nieto, Don Joaquin Ruiz, Don Basilia Leonche Don Juan Murillo y Don Guillermo Cota lo que asiento por diligencia que actuo se y firme con los de mi asistencia Sgn=
cho. Manuel Dominguez
Asa Asa
Ygnacio Coronel # Basilio Valdez

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por mi entrada la noche de que pende estas diligencias. = rubrica =
Alamitos Septiembre 2 de 1842.
En la fha y hallandose presente los colindantes y el comprador y Vendedor pase à examinar y reconocer las mojoneras q. demarcan los linderos del Rancho y se encontraron arreglados à la Escritura

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de Venta que hiso Don Francisco Figueroa quedando igualmente conformes los citados colindantes de ser los mismos linderos que ha tenido esta finca con anterioridad lo que asentè por diligencia que autorise y firmè con los de mi assistencia segun dio: Manuel Dominguez

Doc H. H. No. 2 continued

Assistencia Ignacio Coronel # Assistencia Basilio Valdez

3 En seguida pase a la Casa del Rancho y me presentò Don Francisco Figueroa el inventario de los bienes Raices y semovientes que ha recibido Don Abel Stearns y son los que siguen.

Corregida A. Lever

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Una Casa de Adobe con dos piesas techados de tea y otros sin techar. con dos puertas puestas.

Otra casa idem con techo de tule tres piezas y una puerta puesta.

Otra mas casa de Adobe con dos piezas techo de tule y una puerta puesta.

Cavallada.

39.	Treinta y nueve llegua(s) paridas à dos pesos setenta y ocho p.s	78..	
45.	Idem cuarenta y cinco horras à doce Reales sesenta y siete pesos cuatro Reales.	67.4.	2.9.4
8.	Ocho cavallos en la cria à ocho pesos sesenta y cuatro pesos	64.0	
92. 0.	pasan a la Vuelta.	. .	
92. 0.	Suma de la Vta.	. .	2.9.4
12. "	Doce idem de segunda a cuatro pesos cuarenta y ocho pesos.	48.0.	
23. "	Veinte y tres idem de tercera à doce Reales treinta y cuatro pesos cuatro Reales.	34.4	
23. "	Veinte y tres potros capones à tres pesos sesenta y nueve pesos	69.0	
14. "	Catorce de fata Riende enteros à cinco pesos, Veinte pesos.	20.0	339.0..
	Un burro en Veinte y cinco pesos	25.0.	
13. "	Trece mulas à cuatro y medio pesos importan cincuenta y ocho pesos cuatro Reales.	58.4.	
182..	Suma de la Caballada	$.548.4.	

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tachado capon no Vale

66

	⁴/₃	Setenta y tres pesos distribuidos de esta manera.		
		Cincuenta y ocho grandes à dos pesos, treinta chicos que se cuentan dos por uno y doce chiquitos		
		Al frente	54. 8. 4	
4		Suma del frente	54. 8. 4	
		Al pie de los madrinos que importan ciento cuarenta y seis pesos	146. 0. 0	
corregida		Ganado Mayor		
290 SD	61.	Sesenta y una vacas Chichihuas à seis pesos, tres-cientos, sesenta y seis pesos.	36. 6. 0.	
PAGE 64	231.	Doscientas treinta y una vacas de Rodeo à cinco pesos mil ciento cincuenta y cinco pesos	1155. 0. 0	
	14	Bueyes à cinco pesos setenta pesos	70. -	
	3.	Tres Cabritos à cuatro pesos doce pesos	12. 0. 0.	3187 4. 0
	129	Ciento Veinte y nueve bacquillas à dos pesos dos cientos cincuenta y ocho pesos	258. 0	
	3.10	Tres-cientas diez becerros à un peso tres cientos y diez pesos.	310. 0. 0	
	132	Ciento treinta y cuatro novillos à dos pesos, dos-cientas sesenta y ocho pesos.	268. 0 0	
	12	doce toros à Dos pesos Veinte y cuatro pesos.	24. 0	
	8.94	Suma de Ganado Mayor	2463. 0	
		Pasa à la Buelta.		3187 - 4 -
		Suma de la Venta		3187 - 4
64		Ganado Lanar		
	6.72	Seis cientos setenta y dos borregas y borregos à un peso seis cientas Setenta y dos pesos	672 - -	
	217	dos cientas diez y siete carneros à uno y medio pesos tres cientos Veinte y cinco pesos.	325 - 4	
	210	Doscientos cuarenta borregas chiquitos sin precio.		99 - 4
	1129	Suma el Ganado Lanar. Nueve dos cientos setenta y nueve pesos cuatro Rs		279 - 4
		Dies mil quinientos pesos -		1500 - -
		Suma Gral		$. 5984 - 4

67.

Doc: H. H. No 2. continuacion

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Importa la suma Total del Rancho la Cantidad de cinco mil nueve cientos treinta y cuatro pesos y cuatro reales de cuya entrega y recibo quedaron satisfechos las partes sin hacer objeccion alguna con lo que se dio por concluido el acto que autorise y firme con los interesados y mis testigos de asistencia segun dho. doy fee.

Manuel Dominguez

Francisco Mg.el Arguello # Abel Stearns

Assa

Assa

Ygnacio Coronel # Basilio Valdez

Rusg.do 1o. de los Angls. Sept. 3. 1852.

Deseles traslado à las partes en copia certificada para los usos que les convengan. Asi lo proveyo el juez que subscribe decreto mande y firme por ante los de mi asistencia segun dho;

Assa. Manuel Dominguez. Assa

Ygnacio Coronel # Basilio Valdez

Razon. En cha se dio el testimonio respectivo. Rubrica.

Concuerda con su Original à que me remito y se halla en el libro de instrumentales publicos de este año del cual estra fielmente sacada corregida y conpuntada en cinco fojas de papel comun. falta de sellado.

En testimonio de Verdad

Manuel Dominguez

Assa

Assa

Ygnacio Coronel. Felipe Valenzuela

Mg.el Alcalde Offici Nov. 8th 1852

Geo: Mg.el Hershey Deputy

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1404

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Judicial Delivery
of the
Rancho of the Alamitos in favor
of
Abel Stearns.
Year 1842

Translation of Act of judicial posession

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In the city of Los Angeles of the Department of the California on the first day of the month of September 1842 D. Manuel Dominguez 1st Judge of the Place of the 1st Instance of the aforesaid city and its jurisdiction complying with the verbal request which the Gents Don Francisco Figueroa and Don Abel Stearns have made, that I may go in person to present the delivery of the Rancho of the Alamitos, which the former is about to make to the latter, agreeably to the document enumerated upon in this cause on the 12th day of July of the present year — Pass we in person and with the assistant witnesses, to the aforesaid rancho, notice having previously having been given to the adjoining land owners to make inspection of land —— Thus I Manuel Dominguez — Judge herein before named, decreed, ordered and signed in presence of my assistant witnesses, on this common paper for want of the sealed in its place —

Manuel Dominguez

Asst —
Ygnacio Coronel.

Asst
Basilio Valdez.

On the same day, and being at the rancho

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of the Alamitos, I ordered notice of the place of meeting to the adjoining land claimants which are Don Catalina Ruis de Neito, Don Joaquin Ruis, Don Juan Bautista Leandry, Don Justo Morillo, and Don Guillermo Estes, all of which is set down for part of the proceedings according to law.

Manuel Dominguez.
Asa.

Asa.
Ignacio Coronel. Basilio Valdez.

These proceedings are suspended by the approach of the night.

Rubrico.

Alamitos Sept 2nd 1842. At date had being present the adjoining land claimants the purchaser and vendor I passed to the examination and recognition of the land marks which designate the boundaries of the rancho, and they not found agreeably to the indenture of sale which Don Jose Figueroa made, & remaining equally conformable to the testimony given by the adjoining land owners, that they were the same boundaries which this property has long possessed, all of which I enter in the proceedings, which I authorized and signed with those of my assistance according to law.

Manuel Dominguez.
Asa.

Asa.
Ygnacio Coronel. Basilio Valdez.

In continuation I passed to the house of the rancho, and Don Francisco Figueroa presented me the inventory of the real and personal property, which Abel Stearns has received, and which are as follows to wit;
One house of adobe, with two apartments covered with pitch and tiles without roof with two opposite doors ——

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One anne house of Adobe with three apartments coved by rushes and with one door placed therein
One other house of Adobe with two apartments coved by rushes and with one door—

Caballada

39 mares with colts at $2. each.		$78.
45 young mares at $1.50		67.50.
8 Horses without blemish @ $8.		64.
		209.50.
12 do do second class at $4.		48.
23 do do third class " $3.		69.
14 do half broken " $6.		84.
4 do not quite half broken at $5.		20.
1 Jack Ass.		25.
13 mules at $4.50. each.		58.50.
182. Total of the Caballada		$ 548.50.

73 Hogs divided in this manner, fifty eight large at $2. Thirty small ones which have estimated at two for one, and twelve very small sucking pigs, all of which amount to one hundred and forty six dollars— $ 146.00—

Ganado Mayor.

61 Milk Cows	$.6.	$366.
231 Cows of the plain	$5-	1155.
14 Oxen	5-	70.
3 Cabrestos	4.	12.
129 Heifers	2.	258.
310 Calves	1	310.
134 Steers	2.	268.
12 Bulls	2.	24.
		2463.00—

Ganado Menor.

672 male and female lambs $1. $672.

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217 Sheep $1.50 $325.50
$997.50
Sum Total ——— $5934.50

The sum ~~of~~ total of the property on the Rancho amounts to Five thousand nine hundred and thirty four dollars and fifty cents, of which delivery and receipt, the parties remained satisfied, without making any objection, with which the act was concluded, all of which I authorized and signed with the parties interested and my assistant witnesses according to law, I attest—

Manuel Dominguez.

Francisco Figuera.
Abel Stearns.

Ussa. Ussa.
Ygnacio Coronel. Baleibi Valdez.

Los Angeles, Sept 3d 1842.

Give copies to the parties which are entitled to for convenient purposes—

Thus I the Judge who subscribes, decreed ordered and signed in presence of my assistance according to law.

Manuel Dominguez.

Ussa. Ussa.
Ygnacio Coronel. Bacilio Valdez.

Notice— Let date the respective testimony was given.

Rubric—

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It agrees with its original to which I refer and is placed in the book of public instruments of this year, from which it is faithfully taken, corrected and compared, in five leaves of common paper for want of the sealed—
In testimony of the truth.

Manuel Dominguez.

Ussa. Ygnacio Coronel— Ussa— Felipe Valenzuela—
Filed in Office Oct 21st 1852. Geo: Fisher. Secy.

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Año de 1850

Octubre 11

Doc. H. H.
No 1 annexed
to the Depo.
of José Ant.
Carrillo before
Comr. Hall

Documentos que acreditan la legal Adquisicion del Rancho de los Alamitos por Don Abel Stearns.

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MSelt

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(corregdo)

En la Ciudad concordia (a) Don Sebastian en el Departamento de Entre Rios à los tres dias del mes de Julio de mil ocho cientos cuarenta ante mi Rosario Rodriguez Juez 2º de paz de dicha ciudad. los testigos de mi assistencia con quienes actuo en la forma Ordinaria y los instrumentales que al fin nombrare parecio personalmente el S. Coronel Don Nicolas Gutierrez actual residente en la misma Ciudad a quien doy fee conosco y dijo; que teniendo en el Departamento de la Alta Sierra varios intereses de su propiedad y de la Testamentaria del finado Sor General D. Josè Riguerora de que es Albacea depositario no pudiendo por si administrarlos por hallarse en actual servicio en la Carrera de las Armas; Otorga que por el presente da y confiere todo su poder cumplido amplio Bastante cuanto en derecho se necesario mas pueda y deba Valer à Don Francº Riguerora residente en dho departamento para que se presentando su misma persona Dros y acciones como asi mismo la parte de dha testamentaria administre arriende ò enajene à su arbitrio todas las existencias que halla en el Rancho de los Alamitos con su respectivo utio y la Viña que existe en S. Gabriel; para que liquide cuentas con los individuos que hayan manejado dhos intereses les embargue sus alcances si los tubiere ò los apremie al pago si resistieren demolos; para que liquidey cobre judicial ò extrajudicialmente todas las deudas activas que resulten en aquel Departamento en favor de la referida testamentaria; pagando igualmte las pasivas que aparescan y que legalmte sean acreditadas; para que en el caso de vender aquellos intereses en el todo o en parte estienda y otorgue las escrituras publicas o documentos que sean necesarios; para que se presente ante qualquiera tribunales superiores è inferiores demande ò conteste à los demandores con arreglo

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75-

à las actualidades del juicio; para que haya
pedimentos. citaciones, protestas, alegaciones
9 ones oposiciones, contradicciones, ejecuciones
mejoras, continuadas las Sentencias hasta
su final conclusion; para que presente
escritos escrituras, informaciones probanzas
testigos y otros documentos que de qual na
corregdo turaleza necesite, sacandolos del quien pue
da y deba darlos; para que diga autos in
locutorios y sentencias definitivas consenta
lo favorable y de lo Adverso apele y suplique
para que recluse peces se aparte de todo litis
segun le convenga ò siga à delante en
tuiendo los demas. Actos procedimientos
Agencias y diligencias que judicial o-
Estrajudicialmente importen à su dere
cho; pues para todo lo arriba ò incidente
Doc: H. H. à la Administracion, anexo ò Dependencia
Nº 1 continuado los y à Citados interesados le confiere este
poder especial tan cumplido como se re
290 SD quiese menester sin limitacion alguna y
PAGE 72 con facultad de substituir lo en otra
persona previo permiso y consentimiento
x del Otorgante revocando substitutos y nom
bren otros quedandose entienda y colume
4 como echo por el mismo poderdante cuan=
to el mencionado Don Francisco Iglesias
haga en su nombre y como apoderado suyo
estando pasando y respondiendo por todo
corregdo cuanto en virtud de este especial poder
ejecute, pues todo lo da por firme y valedero
como si el mismo lo hiciese. Y para mayor
validacion Obliga el Otorgante su persona
bienes presentes y futuros, sometiendose
con ellos al fuero y jurisdiccion de todos
los tribunales q.e de sus causas pueden
y deben conocer para que à su cumplimi
ento lo compelan y apremien por todo rigor
legal como por sentencia pasada en autori=
dad de cosa juzgada, consentida y
no apelada; renuncia su fuero, domicilio
72 y vecindad, la Ley (en cum veneris)
con todas las demas que hemga en su favor
y defensa, con la general renuncia con

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de todos ellos y la del derecho en forma.
Asi lo Otorgo firmando conmigo y los de Assis
tencia. siendo instrumentales Don Ventura
Alvarado, Dn Juan Enciso y Don Secundino
Tirado presentes y vecinos Doy fee.
Rosalio Rodriguez # Assa: Francisco Guzman
Assistencia - Francisco Aguirre. tachado
p: No. Vale.

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San Sebastian Julio 15 de 1842.
Sor Don Francisco Figueroa: mi querido
apfado y amigo como aprecia V en mi ante
rior que le dirijo por la Clarita le acom=
paño el poder Juridico y la Escritura
del Rancho para que le obre como mejor
le paresca procurando siempre sacar
las Ventajas posibles en favor de los herede
ros por lo que ya me acaba el señor Cer te=
ñeda creyendo seguramente este Señor
que V y yo tenemos la Culpa de que los
asuntos de la testamentaria no se hallan
concluido y de que los intereses de los A
=lamitos hallan sufrido el demerito que
V. nos anuncia. &c
Nicolas Gutierrez:
Angeles Julio 8 de 1842.
Certifico yo el Juez de 1a instancia de la
ciudad de los Angeles que el antecedte.
poder esta fielmente sacado de su Ori
ginal que presento D. Francisco Fi=
gueroa. Igualmente se saco el primer
parafo de la Carta de Don Nicolas Gu
tierrez que es el que habla de los Alamitos
Lo que autorizo y firme con los de Assis
tencia segun derecho:
Manuel Dominguez.
Assa Assa
Ygnacio Coronel # Reymundo Alanis.

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6 En la Ciudad de los Angeles del Depar
tamento de las Californias à los doce dias
del mes de julio de mil ocho cientos cuaren
ta y dos, ante mi Manuel Dominguez Jues
correg.do 1o. de paz y de 1a instancia de esta referi
da Ciudad y su demarcacion y por ante
mis testigos de assistencia en diversos

77

actuo à falta de Escribano publico à mas de los instrumentales que al fin se nominaren comparecio Don Francisco Seguerola de esta vecindad à quien doy fee conosco y dijo: que en virtud de ser segundo Albacea de la testamentaria del finado General Don Josè Seguerola y del poder que ha presentado en devida forma en union de los Cartafha quince de Julio de mil ochocientos cuarenta cuya carta es del primer Albacea; corriendo ambos documentos agregados en la Cabeza de la presente Escritura. A nombre de su poderdante de los herederos del Finado General Don Josè Seguerola, de sus subsesores y de quien de ellos hubiese titulo Voz y Causa en cualquiera manera, vende y da en Venta real y enagenacion perpetua por juro de heredad para siempre jamas al Sor Don Abel Steamo vecino de esta Ciudad y a los suyos el Terreno conocido con el nombre de los Alamitos que se compone de cinco solares de ganado mayor situado à Chillas del Norte en la comprencion de esta municipalidad, cuyo Terreno les pertenece à los herederos del finado general Seguerola: siendo sus linderos por el Norte con los Coyotes por el sur con la mar del Oriente con las Bolsas y al Occidente con los Reyes habiendo comprado el Terreno el finado General à Don Josè Nieto y consta de la Escritura que se entrego à Don Abel Steamo correspondiendoles hoy à los herederos del finado, en posesion y propiedad segun la Escritura indicada; declarando à nombre de su poderdante y los nominados herederos de Seguerola que este Terreno no se halla vendido enagenado ni empeñado y que esta libre de tributo, memoria capellania, Vinculo patronato fianza y de otro gravamen real perpetua temporal especial, general tacito y espreso y como tal se lo Vende con todas las entradas, salidas, pastos, abrevaderos.

Corregdo

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& montes, Vegas, dehesas, aguajes, perros fapi=
cas, estensivi usos costumbres, Regalias ser
vidumbres y demas cosas anexas que ha
tenido tiene y le pertenecen segun dho; por
la Cantidad de mil Quinientos pesos;
Entendo en el Contrato y en pago separado
Corregdo. el tomar la señal y el fierro de hemas y las
existencias de la manera siguiente:
290 SD
PAGE 75 Bacas paridas, chichihuas à seis pesos
cada una, idem las horras à seis pesos
idem de vodeo paridas à cinco pesos cada
una idem las horras à cinco pesos toritos
un peso, bueyes cinco pesos los Cabestros cua
tro pesos, breños de año un peso, bacquillas
de año arriba y dos à tres años à dos pesos
toros de un año arriba dos pesos, caballos
mansos sin tacha à ocho pesos idem
con alguna tacha pero de buen servicio
cuatro pesos, idem de medio servicio
doce Reales, potros capones à tres pesos;
caballos padres à cinco pesos, yeguas pa
ridas à dos pesos potrancas à doce Reales
muletos à cuatro pesos, cuatro Reales,
un manadero Veinte y cinco pesos, Car
nero doce Reales, borregas y borregos pa
q dres à un peso, puercos a dos pesos, Caba
llos de fabrienda à seis pesos;
Igualmente se han Valuado en la Can
tidad de dos Cientos Setenta y nueve pesos
cuatro Reales, una Olla grande de fierro
un Cazo de Cobre, una Careta de rayos y una
Corregdo de palo Viejo una Vanca, una mesa un Mo
75 lino, un Cajon de Carreta, tres barriles Viejos
de acarrear agua una Escabina con fusil
quebrado cinco pares de Cordeles, cuatro
malacates, cuatro pares de Hgeras de
Frasquilar, tres cinceles, cinco barrenos dos
escoplos dos descarnadores quince cuños
dos servichos mutiles, un Cajon con me
dia cinco diez y ocho vegas de omado, tres
puntas de Arado tres picos doce azadones
dos palas retan, de fierro Viejo cuatro a
chas una tenazas, ocho limas tres manil
los un tornillo dos prezetas de Yaguas

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un Bueque dos barcas de Trenio cuatro
perros de hierro, un baul usado, seis puertas
de casa cuatro yugos aperados un panocho
tes malacates. Cshangeras cinco limtas
de carpintera, tres trozches dos arrobas de
Acero un formon una Cuchilla de Carpinte-
ria cuatro tornos dos telares a bradas diez
y ocho Vigas labradas, un casito de Cobe
queradas. Los perros de hierro, vigas y pun
tas que pertenecen à la finca no se les pone
Valor y si hay algun otra cosa que no este
puesto en la lista el Otorgante convendra
con el comprador el precio en que se venda
Del Terreno y lo que importen sus existencias
hara el pago Don Abel Stearns. en cotas por
=mas.

Primero. Entregara à Dn Josè Antonio
Aguirè la cantidad de dos mil cincuenta
y seis pesos siete Reales en sebos y cueros
los sebos à doce reales arroba y los cueros a
Dos pesos cada uno puestos en Dn Pedro
la mitad que son mil veinte y ocho pesos
tres y medio Reales dara en el termino de
seis meses contados desde el dia que se
posesione de la finca y interes y la otra
mitad en todo el año de mil ochocientos
cuarenta y tres.

Igualmente pagarà à Dn Eulogio Ochoa
la cantidad de mil cuatrocientos ochen
11 ta y tres pesos en sebos y cueros el sebo à
Doce Reales y los cueros à dos pesos cada
uno puestos en Dom pedro; pero sera este
pago en el termino de dos años contados
desde el dia en que el contratante re ci
ba la posesion de la finca. Asi mismo de
lo que resultare sobrante segun los precios
de la finca y existencias de la hara pago
à Dn Fremdacio Higuera en todo el año
de mil ochocientos cuarenta y tres en
sebo à doce Reales en Dom pedro ò a ca
torce reales en Mazatlan; pero en respecto
76 al sebo embarcado sera libre el compra
dor de toda responsibilidad luego que el
capitan o sobrecargo del bueque donde

Doc: H. Hist
1. continued

correg da

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se embarque este efecto a cuse el recibo. La entrega de los Alamitos y sus anexos seran en Agosto ò Septiembre venideros del presente año. Del precio convenido en esta Escritura se da por satisfecho el otorgante en vista de Obligacion q. por separado ha echo el Comprador para cumplir al tiempo pactado.

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Que por tanto renuncia la esepcion que en este asunto pudiera oponer por no constar de presente la ley nueve titulo uno parte
12 cinco formalisa à favor del comprador la mas firme y eficaz carta de pago que à su seguridad conduzca y asi mismo declara que el justo precio y verdadero valor del repetido terreno es el puesto en esta Es-
Correg.do =critura que no vale mas ni hallo quien tanto le halla dado por ello y si mas vale ò valer pueda del Exceso en poca ò mucha suma (à nombre de los herederos del finado Gral hace à favor del comprador y de sus herederos y subsesores, gracia y donacion pura perfecta mera è irrevocable en sanidad con insinuacion y demas firmesas legales renuncia la ley Dos titulo uno novisima recopilacion que trata de los contratos de Venta, trueque y de Otros en que hay lecion en mas ò menos de la mitad del justo precio y los cuatro años que prefina para pedir su recision ò suplemento à su justo valor los que da por pasados como si efectivamente lo estubiesen. Y desde hoy en adelante para siempre se desapodera, desiste quita y aparta à los herederos del finado Gral
77 13 Don José Figueroa y à sus subsesores del dominio ò propiedad posecion titulo Voz recurso y otro cualesquiera derecho que le competa al enunciado terreno y demas como Albacea y apoderado que
Correg do es, lo sede renuncia y traspasa con las acciones Reales y personales utiles mistas directas y ejecutivas en el comprador o en quien la suya represente, para

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que lo posea, goce cambie enajene use y
disponga de ella à su eleccion como cosa
suya adquerida con legitima y justo titulo
Le confiere poder irrevocable con libre fran
cas y general administracion y constituye
procurador, actor en su propia causa para
que de su autoridad o judicialmente en
Doc: H. H. Nº 1. continued
Rey se apodere del nominado terreno y
del tome y prenda la real tenencia y
posecion que por dere cho le competen y pena
que no necesite tomarla me pide que le de
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PAGE 78
copia autorizada de esta escritura con
la cual sin otro Acto de Aprehencion ha
14 de servirse haberla tomado, aprendido y
Kasperidose de ella y en el interin se constitu
ye el como apoderado y segundo Albacea
corrected. y los hijos del finado Señor General, sus inqui
nos herederos y precarios poseedores en le-
forma. Y se obliga el Otorgante à que
dicho terreno sera cierto seguro y efectivo al
comprador y nadie le inquietara ni mo
vera pleito sobre su propiedad posecion
goze y disfrute sin contra ello apenencia
gravamen alguno y si se le inquietare
moviere ó apareciere, luego que el Otorgan
te y los herederos del finado gral sean
vos sean requeridos conforme à dere cho
saldran à la defensa y lo seguiran à sus
espensas en todas instancias y tribunales
hasta ejecutoriarlos y dejar al comprador
y à los suyos en libre uso quieta y pacifica
posecion y no pudiendo en seguida le
daran Otro igual en Valor fabrica ca
tio renta y comodidades y en su defecto
le restituiran la cantidad que ha de-
15. embolsado, las mejoras utiles precisas y
voluntarias que à la razon tengan el ma
yor valor y estimacion que con el tiempo
adquieran y de todas las costos gastos
78 intereses ó menoscabos que se le siguie-
x ren e rroguen para todo lo cual desde
corrected. ha de poder ejecutar solo en virtud de
esta Escritura y juramento del que la
posea ó de quien le represente en quien

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difiere su importe y le releva de otra prueva. Y à la firmeza y Validacion de todo lo referido obliga el Otorgante su persona y bienes havidos y por haber y con ellos se somete al fuero y jurisdiccion de los señores Jueces y Justicias que de este negocio puedan y deven conocer conforme à derecho para que le compelan y apremien por toda Via ejecutiva, como si fuese en sentencia difinitiva de Jues competente pasada en autoridad de cosa jusgada consentida y no Apelada, renunciando su fuero domicilio, vecindad, las leyes de su fabor y defensa con la general del derecho

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16 enforma en cuyo testimonio asi lo Otorgo y firmo conmigo y los de Asista siendo los instrumentales los Ciudadanos Vicente Sanchez, Felipe Valenzuela y Casildo Aguilar presentes y vecinos: Actuando en este papel comun por falta del sellado en el lugar. Doy feè

Figueroa

Manl. Dominguez # Francisco ~~Dominguez~~
Asa Asa
Ygnacio Coronel # Raymundo Alanis.
Instimd. Instrumental
Vicente Sanchez # Felipe Valenzuela
Instrumental - Casildo Aguilar.

Nota. Se agrego à la Escritura antecedente que las bacas no deven entregarse paridas sino horras todas (rubricado)

Concuerda con su Original à que me remito y se halla en el libro de Instrumentos publicos de este año del que se saco fiel y legalmente en diez y seis fojas utiles de papel comun por falta de sellado corrigendose y confrontandose en devida forma

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En testimonio de Verdad
Manl. Dominguez.

Asa Asa
Ygo. Coronel # Franco. B. Alvarado

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Doc: H. H.
No 1.
continued

Sello primero
Habilitado provicional mte. por la recepto
ria del pueblo de los Angeles para los años
de mil Ocho cientos Treinta y cuatro y mil
ocho cientos treinta y cinco.
M. Figueroa Gov.

En el pueblo de Ntra Sra de los Angeles à
treinta de Junio de mil Ocho cientos treinta
y cuatro ante mi el Alcalde Constitucional
juez de primera instancia que actua por
receptoria à falta de Escribano publico
compareció Dn José Nieto natural y
vecino del Rancho de Sta Gertrudis de
esta municipalidad y dijo; que por si y
en nombre de sus hijos, herederos, sucesores y
de quien de ellos hubiere titulo, Voz y causa
en qualesquiera manera, vende hay da en
Venta Real y enagenacion perpetua por
juro de heredad para siempre jamas al
Sor Gral de Brigada Dn José Figueroa
ave cindado en Monterey y à los suyos el
terreno conocido con el Nombre de los Ala
mitos situado ha Orilla del mar en la
comprencion desta misma municipali
dad, cuyo terreno le pertenece en posesion
y propiedad y se compone de seis sitios de
ganado mayor lindado por el Norte con los
Coyotes por el Sur, con la Mar, al Oriente
con las bolzas y al Occidente con los Ter=
renos, que concedido por el Gobierno al
poblador: Manuel Nieto que prenda da di
cha concesion al otorgante à Veinte y siete
de Julio del año proximo pasado de mil
ocho-cientos treinta y tres por cuyo titulo
le corresponde en posesion y propiedad
el cual declara y asegura, no tenerlo ven
=dido ni enajenado, ni empeñado y que esta
libre de tributo, memoria capellania Vin
culo patronato prenda y de otro grevamen
real perpetuo, temporal especial general
tacito y espresso y como tal de lo vendido
con todas las Entradas, salidas, pastos
abrevaderos montes, Vegas de heredos aguajes
pabricas cuanto estension, usos costumbres

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Regalias servidumbres y demas cosas anexas
que ha tenido tiene y le pertenece segun de-
-recho por quinientos pesos que tiene enhega
dos y pasaron à su poder real y efectivam.te
en moneda de plata usual y corriente que
en todos, los importaron de cuya enhega
y recivo se da por satisfecho el espresado -
Juan josè Nieto que empresa à haberlos re ci
bidos como pagado de ellos à su voluntad
que por tanto renuncia la escepcion que pu
diera aponer por no contar de presente
la ley nueve titulo uno parte cinco; formaliza
à favor del comprador la mas firme y efi-
caz carta de pago que à su seguridad con
duzca; y asi mismo declara que el justo
precio y verdadero valor del referido terreno
son los quinientos pesos, que no vale mas
ni cabe quien tanto le haya dado por ello
y si mas vale ò valer pueda; del exceso
en poco o mucho suma hace favor del com
prador y de sus herederos y sucesores gra
cia y donacion pura perfecta irrevocable
en validad con insinuacion y demas pro-
mesas legales y renuncia la ley dos titulo
uno libro diez nueva recopilacion que
trata de los contratos de Venta trueque
y de otros en que hay lesion en mas ò menos
de la Mitad del justo precio y los quatro
años que prefine para pedir su rescision
ò suplemento à su justo valor los que da
por pasados como si efectivamente los tuvie
ren. Y desde hoy en adelante para siem
pre se desapodera de este quita y aparte
à sus herederos y sucesores del dominio
ò propiedad posesion, titulo voz recurso y
otro qualquier derecho que le competa al
enunciado teniendo lo por de renuncia y pasa
con las acciones reales y personales
utiles mistas directas y executivas en el
comprador y en quien la suya represente
para que la posea, goce, cambie enajene
use y disponga de ella à su eleccion como
de cosa propia adquirida y justo titulo. Le confie
re poder irrevocable con libre para y

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general Administracion y en su tiempo
mo en dicho acto en su propia causa; para
que de su autoridad ó judicialmente
entre y se apodere del nominado terreno
y del tome y prenda la real tenencia y
posesion que por derecho le compete y
para que no necesite tomarla me pida
que le de copia autorizada de esta Escri
tura en la cual sin otro acto de aprehension
hade servirle haverla tomado, aprendido
y tenido y en el interin se
entituye su inquilino tenedor y pre
cario poseedor en legal forma. Y se o=
bliga á que dicho terreno sera cierta se
gura y efectiva al comprador y nadie
le inquietara ni moverá pleito sobre su po
sesion goce y disfrute ni contra dho
apareciera gravamen alguno y si se le inquietase
moviese ó apareciere luego que el otorgante
y sus herederos y sucesores serán requeridos con
forme á derecho saldran á su defensa y lo
seguiran á sus espensas en todas instancias
y tribunales hasta ejecutoriado y dejar al
comprador y á los suyos en libre uso, quieta
y pacifica posesion y no pudiendo conse
guirlo le devolverán igual en valor de
fabrica, sitio, renta y comodidades y en su
defecto le restituiran la cantidad que ha
desembolsado las mejoras utiles precisas
y voluntarias que á la razon tenga el mayor
valor y estimacion que con el tiempo adquie
ra y de todas las costas, gastos intereses ó
menoscabos que se le siguieren é irrogaren
por todo lo qual se les ha de poder ejecutar
solo en virtud de esta Escritura y jura
mento. del que la posea ó de quien le
represente en quien difiere su importe
y le releva de otra prueba y á la Observancia
de todo lo referido obliga su persona y bienes
habidos y por haber renuncia á las leyes
de su favor y defensa con la general del
derecho en forma; y confiere amplio poder
á los señores jueces que de este negocio
deben conocer conforme á derecho para

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Doc. A. D. N° 1. continued

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que le apremien à su cumplimiento como por sentencia difinitiva de juez competente pasada en autoridad de cosa juzgada y consentida que por tal lo recibe y lo firmó conmigo y los de mi asistencia siendo testigos instrumentales Antonio M.ª Osio y D.ⁿ Roberto Pardo de esta vecindad. Entre R.ˢ = mejilimo Vale. in clusio no Vale

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Concuerda con su Original que queda protocolado en el archivo de mi cargo y consta de dos fojas utiles el qual se sacó fiel y legalmente correjido y enmendado en el pueblo de los Angeles à veinte de junio de mil ochocientos treinta y cuatro agregandose este pliego del papel comun p.ʳ no haber del q.ᵉ corresponde lo q.ᵉ autorise y firme con los testigos de mi asist.ª segun dho de que doy fee.

Asa José Perez. Asa
Man.ˡ Araga # Vicente Moraga

Angeles Octubre 14 de 1850.

Los documentos precedentes fueron entregados para su registro por el señor D. Abel Stearns à las seis de la tarde del dia once del corriente. Quedan estampados en el libro primero desde vuelta de fojas senta hasta la setenta y cinco y despues de hecha la anotacion en el indice respectivo se devuelva al mismo Señor Stearns

(gelo) Ignacio del Valle

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Derechos de registro inclusas las anotaciones treinta y siete p.ˢ

Filed in Office Nov.ʳ 8th 1852
Geo: Fisher Secry

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Year 1850 — October 11th.

Documents in evidence of the lawful acquisition of the Rancho de las Alamitos by Don Abel Stearns

Translation of Deed to Abel Stearns, Power of Attorney, etc. being doc. No. 1. dep.

In the city of Concordia or Sebastian in the department of Sinaloa on the third day of the month of July one thousand eight hundred and forty. Before me Rosalio Rodriguez 2d. Justice of the Place of said city and my attesting witnesses with whom I act in ordinary form and the instrumental witness to be named below, appeared personally Coronel Don Nicolas Gutierrez actual resident in said city whom I attest that I know, and stated; — That having in the Department of Alta California several concerns of his ownership and testamentary execution of the deceased General D. José Figueroa, whose depositary executor he is and not being able he, himself, to administrate it on account of being in actual military service, he commits by these presents to give and confer all his power, fully and completely, in as much as law may require unto Don Francisco Figueroa, resident in said department, so that in representing his very person, rights and causes of action as well as the party to said testamentary execution himself, he may administrate, lease, or alienate at his own discretion all the possessions to be found on the Rancho de los Alamitos, together with the sitio itself and the vineyard existing in S. Gabriel; that he liquidate accounts with the individuals that have managed said concerns; that he cover the balance in their favor, if any such should be, or that he enforce the payment if they be debtors, that he liquidate

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and recover judicially or extra judicially all the active debts which may result in that department in favor of said testator, paying likewise all the passive debts that may appear, and that they be lawfully receipted, that in case of selling out those concerns either wholly or partly, there be made out and granted the necessary judicial deeds or documents; that he present himself before whichsoever superior or inferior tribunal, complaining of the debtors in accordance with the rules of law; that he make petitions, summons, prayers, allegations, objections, contradictions, declarations, appeals continuing the recovery of any money up to the conclusion of the process. that he present ~~himself~~ instruments, deeds, reports, proofs, witnesses and other documents of a similar nature that may be necessary procuring them from whomsoever that may or ought to give them; that he may intervene decrees and definitive sentences; to consent to the favorable ones and to appeal the adverse ones, to challenge judges, to withdraw from any liligation as he may think fit or to proceed on, continuing all the other acts, petitions, agencies and proceedings that may concern his right either judicially or extra judicially; so that for everything pertaining and incident to the administration, leasing or sale of the above recited concerns, he is granted this especial power of attorney so complete as need be, without any limitation and with the power to substitute some other person after a previous permission from and knowledge of the grantor, to make substitutes and appoint others, it meaning to be understood and considered as if done by the principal himself whatever the said Don Francisco Figueroa may do in his name and as his attorney, he

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being to concur and answer to any thing that by virtue of this especial power of attorney he may execute, as he admits it as firm and valid as if he himself did it — And for a greater validity, the grantor binds his person, present and future goods, submitting himself thereto to the forum and jurisdiction of all the tribunals that of his causes may and ought to take cognizance, so that they may compel and restrict him to its fulfilment with all lawful rigour, as if by a sentence passed in authority of a verdict consented and not appealed, he waives his forum, domicil and place of residence, the law about determining place of residence, together with all the rest that might be in his favor and defence, with a general renunciation of all of them and that about the formalities at law — Thus he granted, signing with me and my assistants the said instrumental witness being Don Ventura Alvarado, Don Juan Enciso and Don Secundino Prado, who were present and are residents — I attest

Rosalio Rodriguez.

Ass.
Francisco Guirian
Erasure of "pr" not valid —

Ass.
Francisco Aguirre.

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San Sebastian July 15th 1842.

Mr Don Francisco Figueroa —

My dear help mate and Friend!

As I informed you in my last which I forwarded to you by the blanks, I hereby accompany the juridical power of attorney and the deed to the rancho that you may act as may appear best to you, trying always to derive the greatest advantage possible in favor of the heirs, wherefore I am honored by Mr Castanada, this gentleman believing firmly that you and I are to blame for

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that the affairs of the testator are not yet concluded and that the concern about Las Ulamitas have suffered the demand that you announce to us, etc.

Nicolas Gutierrez.

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Angeles July 8th 1842.

I, the Justice of the 1st Instance in the city of Los Angeles, certify:— That the foregoing power of attorney is faithfully drawn from its original presented by D. Francisco Figueroa. The 1st paragraph of the letter from Don Nicolas Gutierrez speaking of Las Ulamitas was also copied, which I certify and subscribe with the assistants according to law.

Man. Dominguez.

ass.
Ignacio Coronel. Raymundo Ulamis.

In the city of Los Angeles in the department of both Californias on the 12th day of July 1842 before me Manuel Dominguez, 1st Justice of the Peace and of the 1st Instance of said city and its limits and before my attesting witnesses with whom I act as delegate Judge for want of a Notary Public besides the instrumental witnesses to be named below, appeared Don Francisco Figueroa of this district, whom I attest that I know and stated:— That in view of being second testamentary executor of General D. José Figueroa, deceased, and of the power of attorney which he has presented in due form jointly with a letter dated 13th of July 1840, which letter is from the first testamentary executor, both documents being attached hereto at the head of this present instrument.

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In the name of his principal, the heirs of the deceased General Don José Figueroa, his successors and whomsoever of

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them that should have title, vote, cause in whatever manner, he sells and give over in real sale and perpetual alienation by right of succession forever unto Don Abel Steams domiciled in this city and to his assigns, the land known by the name of Las Alamitos, comprising six square leagues situate on the sea shore within the limits of this municipality, which land belongs to the heirs of General Figuera deceased, its boundaries being Northerly on Los Cayudes, Southerly on the sea, Easterly on Las Bolsas, and Westerly on Los Bartolos the deceased General having bought the land of Juan Jose Nieto, which appears from the deed that was delivered to D. Abel Steams, belonging at present to the heirs of the deceased by possession and in ownership according to the deed mentioned, declaring in the name of his principal and the appointed heirs of Figuera, that this land is not sold, alienated or pawned and that it is free from any taxes, suit, benefice, intail, patronage, bond or any other encumbrance, be it real, perpetual, temporal, especial, general, tacit or expressed, and as such it is sold together with all the ways and means of ingress and egress, pastures, watering places, woods, open grounds, grazing meadows, streams, rents, houses, habitations, uses, customs, easements, servitudes and other things pertaining thereunto which it has had, has or belongs thereunto according to law, for the consideration of one thousand five hundred dollars, entering into the contract and the separate payment the taking of the mark and the brand iron and the movables in the following manner-

Milk cows at 6 dollars each, also three with young ones at 6 dol. the horned ones at 5 dollars, also the young ones at 5 dollars, small bulls at 4 dol. oxen at 5 dol. the wild oxen at 4 dol.—

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bullocks one year dd 1 dol. heifers one yearor
more up to two or three year dd at 2 dol:—
bulls one year and above at 2 dol. tame horses
without fault at 8 dollars, those with some
fault but of good service 4 dd. those of middle
service at 12 shillings, castrated colts at 3 dol.
stallions at 5 dd. mares with young ones 2
dd. fillies at 12 shillings, unbroken mules
at 4 dollars and 4 ths a flock of Jack asses
at 2 5 dd, sheep at 12 shillings lambs and
male sheep at one dollar, hogs at 2 dol. adul-
terated hens at 6 dol—

They have likewise valued
a large pot of iron, a copper pan, a car with wheels
and one with an dd axle, a bench, a table, a
mill, a waggon box, three dd bands for the
transportation of water, a carabine, a broken
gun, five pairs of cards, four pairs of shear-
ing scissors, five gimlocks, two brooms &c
&c—

(Here follows in the original a list
of a number of curious things, which the
translator thinks can be of no consequence
in this translation)
at the sum of 279 dollars— The brand
irons, beams and doors belonging to the
house have not been valued, and if there
is any other thing not put in the list the
grantor will agree with the purchaser on
the price at which it is to be sold— For the
land and as regards the appurtenances there-
to, Don Abel Stearns will make the pay-
ment in this form—

First he will deliver to
Don Ini Antonio Aguirre the sum of 2058
dollars 7 shillings in suet and hides; the
suet at 12 shillings an aroba, at the hides
at 2 dollars each brought to S. Pedro—
The half which is 128 dollars 3½ ths he will
give in the space of 6 months reckoned from
the day he is possessed of the estate and the

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other half in the course of the year 1843 —
He likewise will pay to D. Eulogio Celis
the sum of 1483 dollars in suit and hides
the suit at 12 shillings and the hides at
2 dollars each brought to San Pedro but
this payment shall be in the space of two
years reckoned from the day on which the
contractor receives the possession of the estate
In like manner if there should result to be
any surplus he will pay for it according to
the price of the estate and appurtenances
to Dn Francisco Figueroa in the course
of the year 1843, in suit at 12 shillings
delivered in San Pedro, or at 14 shillings
in Masatlan, but respecting the suit shipped the purchaser shall be free from all re-
sponsibility as soon as the Captain or Supercargo of the ship when the article is shipped acknowledge the receipt thereof.
The delivery of los Alamitos and its appurtenances shall be in August or September next.
The price agreed on in this deed, the grantor acknowledges to have been satisfied for, in view of the separate obligations on the part of the purchaser, to be complied with at the time agreed upon. That therefore he ~~waives~~ waives the exception that he might take on this head on the ground that the law 9. title 13. part 5. has not been read in his presence —

He makes the firmest and most efficient receipt in favor of the purchaser which may be conducive to his security, and he likewise declares that the just price and true value of the aforesaid land is that fixed in this deed, and that it is not worth more, nor could be find any body who would have given him so much for it, and if it is or can be worth more he makes / in the name of the heirs of the deceased General / a clear, perfect, complete, and irrevocable gift

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and donation of the excess whether it be a small or a large sum in favor of the purchaser and his heirs and successors, which he does in sound mind, with acknowledgment to the Judge and other legal formalities he renounces the law 2d. title 1st. in the new recopilation, which treats of contracts of sale, exchange, as also all others in which there is prescribed damages in more or less than the moiety of the just price and the four years prescribed to demand its rescission or the supplement to the just value, which laws he admits as out of force as if they actually so were— And from this day henceforward forever he dispossesses himself, divests, quits and withdraws from the heirs of the deceased General Don José Figueroa and of his successors of the dominion, ownership, possession, title, rate, recourse, and whichsoever other right may have to the said land and the other things.

And testamentary executor and attorney which he is, he grants, devises and transfers it together with all real, personal, civil, ecclesiastical, direct and executive causes of action unto the purchaser or whomsoever representing him, that he may possess, enjoy, exchange, alienate, use and dispose thereof at his choice, as a thing of his own acquired with legitimate and just title— He invests him with irrevocable power for free, unimpeded and general administration and he constitutes him prosecuting attorney in his own cause, so that by his own authority or by judicial proceedings he may enter and possess himself of the said land and thereof to take and seize the real tenancy and possession rightfully among him, and that he shall not need take it he asks me to give him a certified copy of this writing, wherewith without any other act of seizure, it is to be

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admitted having been taken, seized and transferred, and in the mean time he constitutes
him attorney and second testamentary executor and the son of the deceased General, his
tenant, occupant at will in legal form —
And the said grantor binds himself that said
land shall be certain, sure and effectual unto
the purchaser, and nobody shall disturb him
upon his ownership, possession, enjoyment &
fruition, nor shall there against it appear
any encumbrance, and if he should be dis-
turbed, sued or there appear any encumbrance
as soon as the grantor and the heirs of Gen-
eral Figueira deceased may be required con-
formable to law, they shall stand forth in
his defence and followed it up at their ex-
pense in all instances and tribunals till
obtaining a judgment in his favor and
leave the purchaser and his assigns in
free use, quiet and peaceable possession and
not being able to obtain it, they shall give
him some other equivalent in money, bui-
ding, land, rent or commodity, and in de-
fault thereof, they shall restore him the
sum he has disbursed, the productive im-
provements, whether involuntary or volunta-
ry that at the time may have the highest
value and estimate, and all the costs,
expenses, interests or deteriorations, conse-
quent thereon and incurred, all of which
he is to be enabled to execute solely in
virtue of this deed and the oath of him
who may possess it or who may represent
him, to whom he yields its import and
relieves him from any other proof. And
for the affirmation and validity of all the
foregoing, the grantor binds his person and
present & future goods and thereunto
submits himself to the forum and juris-
diction of the judges and justices who of
this matter may and ought to take

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cognizance conformable to law, so that they may compel and constrict him by all executive ways and means, as if it were on a definitive sentence of a competent judge, passed on authority of a verdict confessed and not appealed, waiving his forum, domicil, place of residence, the laws in his favor and defend together with the formal disabilities of law; in testimony of having so granted he subscribed with me and the assistants, the instrumental witness being the citizens Vicente Sanchez, Felipe Valenzuela and Basilio Aguilar, who were present and are residents, its being made out on this common paper for want of stamped paper in this place. I attest it.

Manuel Domingnez.

Francisco Figueroa.

ass.

ass.

Ignacio Conrel. Raymundo Alanis.

ass. instr.

instr.

Vicente Sanchez. Felipe Basilio Aguilar.

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The foregoing deed was tied together, that the leaves must not be separated, but all remain together as they are numbered.

Concurdat with the original to which I refer and which is to be found in the book of public instruments for this year, from which it was drawn faithfully and lawfully on 16 available folios of common paper for want of stamped paper, being correct and compared in due form. In witness my hand.

Manl. Domingnez

ass.

ass.

Ignacio Conrel. Francisco Alvarado—

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[Stamp]

In the Pueblo of our Lady de los Angeles on the 30th June 1834, before me the Constitutional Alcalde and Judge of the 1st Instance acting as delegate Judge for want of a Notary Publick, appeard Juan Jose Neto, native and resident of the Rancho of Sta Gertrudes in this municipality, who stated;— That for himself and in the name of his sons, heirs, successors and whomsoever of them should have title, vote and cause in whatever manner, he sells and gives over in real sale and perpetual alienation by right of succession forever, unto Brigadier General D. José Figuera, domiciled in Monterey, and to his assigns the tract of land known by the name of Las Manitos situate on the sea shore within the limits of this municipality, which land belongs to him by possession and ownership and emphitic 6 square leagues. It borders Northerly on Las Coyotes, Southerly on the sea, Easterly on Las Cabras, and Westerly on Las Manitos. It was granted by the government to the seller Manuel Neto, said concession having been confirmed unto the grantor on the 26th of July in the year 1833 last, by which title it belongs to him by possession and ownership, which land he declares and assures not to have sold, alienated or pawned, and that it is free of any taxes lien, benefice, entail, bond or any other encumbrance, be it real, perpetual, temporal, especial, general, tacit or expressed, and as such he sells it together with all the ways and means of ingress or egress, pastures, watering places, woods, open grounds, grazing meadows, streams, timber, rents, tolentias, uses, customs, easements, servitudes and other things appertaining thereunto according to law— for $00

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dollars, which have been delivered and passed over in his real possession and in current usual silver money the amount of which has been counted, the delivery and receipt whereof the said Juan José Nieto acknowledges and confesses to have received as payment therefore to his satisfaction That therefore he waives the exceptions he might take on the ground that the law 9. title 1st. part 5th has not been read in his presence. He makes in favor of the purchaser the most firm and efficient receipt to be conducive to his security, and he likewise declares that the just price and true value of the said land is the 500 dollars; that it is not worth more nor could be found anybody who would give him so much for it, and if it is or may be worth more, he makes in favor of the purchaser and his heirs and successors a full, perfect and irrevocable gift and donation of the excess, whether it be a small or large sum, which he does in sound mind, with acknowledgement to the judge and other lawful affirmations and he waives the law 2d title 1st book 10th in the new recopilation, which treats of sale exchange, as also all the others in which there may be fixed damages in more or less than the moiety of the just price and the four years prescribed in which to demand its rescision or the supplement to the just value, which law he admits as out of force, as if they actually so were.

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And from this day hereforward forever he dispossesses himself, divests, quits and withdraws from his heirs and successors the dominion, domainship, possession, title, vote, recourse and whatever other right is owning him to said land. He cedes, demises and transfers it together with any real, personal, available, ecclesiastical, civil, direct and

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executive causes of action unto the purchaser or his representatives. That he may possess, enjoy, exchange, alienate, use and dispose thereof at his choice as a thing of his own acquired with legitimate and just title. He invests him with an irrevocable power for true, unrestricted and general administration and constitutes him procuring attorney in his own cause that by his own authority or by judicial procedings he may enter and possess himself of the said land and thereof take and seize the real tenancy and possession lawfully owing him, and that he shall not need to asked it, he asks me to give him a certified copy of this deed, whereby and without any other act of seizure, it is to be admitted having been taken, seized and transferred and in the mean time he constitutes him his tenant and occupant at will in lawful form. And he binds himself that said land shall be certain, sure and of free deed unto the purchaser and nobody shall disturb him or see him or his possession, ownership, enjoyment and fruition, nor shall there against it appear any encumbrance, and if he should be disturbed, and or there appear any encumbrance, as soon as the grantee or his heirs and assigns be required conformable to law, they shall stand forth in his defence and follow it up at their expense in all instances and tribunals till obtaining a judgment in his favor and lay the purchaser or his assigns in free and quiet and peaceable possession and not being able to obtain this, they shall give him some other equivalent in money, house, site, rent or commodity and in default thereof restore him the sum he has disbursed, the productive improvements, whether involuntary or voluntary, which at the time may have the highest value and estimate acquired in

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come of time, and all the costs, expenditures, intirests, & deteriorations consequent thereon and incured by him, all of which he is to be enabled to recover solely in virtue of this writing, and the oath of him who shall possess it or represent him, to whom he submits its import and he relieves him from the obligation, And for the observance of all the foregoing he binds his person, present and future goods, he waives the laws in his favor and defense, together with the formal disabilities of law; and he insists the judges who ought to take cognizance of this matter, conformable to law, with full power that they may constitute him to its fulfilment be by a definitive sentence of a competent judge passed in authority of a verdict confessed which he awaits de Jure, and he subscribes with me and my assistants, the instrumental witness being Antonio Ma Osio and Don Roberto Rhodes of this district. Interlining of "inquilini" is good inclusive not.

Concurrent with the original recorded in the archives in my charge and consists of two available folios which were faithfully and lawfully drawn, corrected, amended in the Pueblo of Los Angeles on the 30th of June 1834, attaching this sheet of common paper not having the corresponding stamp the one, which I certify and subscribe with my attesting witness— I attest &.

José Ruiz.

ass
Man. Arraga. Vicente Moraga.

Angeles October 14th 1850.

The foregoing documents were delivered for record by D. Abel Stearns at 6 o'clock in the evening on the 11 instant— They

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have been recorded in book 1. from the re-
cord of fol 60 to 75, and after having made
an annotation in the respective index,
it was returned to said Steams.

Ignacio del Valle. (seal)

Fees of recording including the annotation
$36

Filed in Office March 27th 1854.
Geo: Fisher,
Recy.

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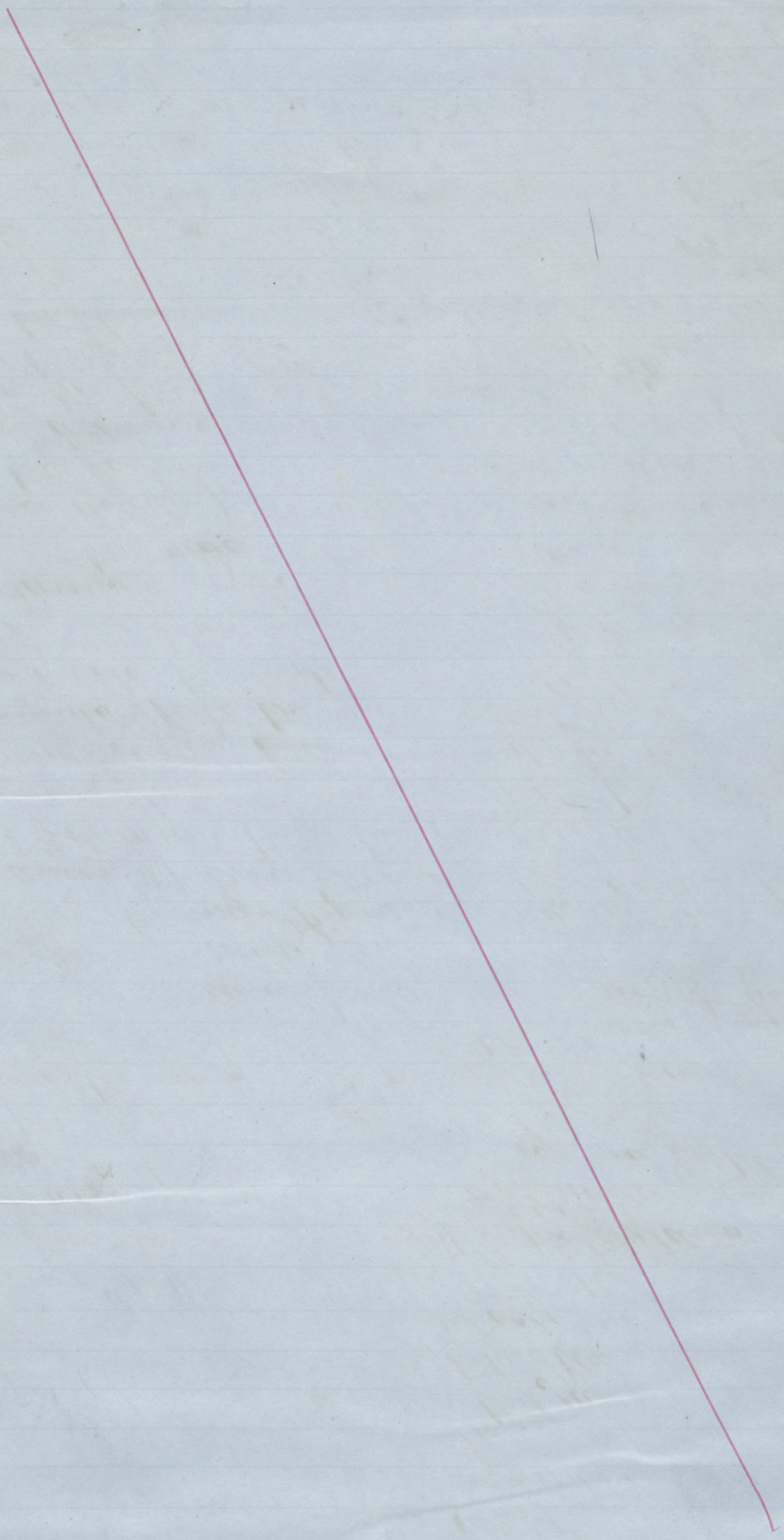
1.112



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Abel Stearns
vs
The United States.

For the place called Alamitos in Los Angeles County, containing six square leagues of land.

Opinion of the Board delivered by Comr Felch.

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The land claimed in this case is a part of the premises known as the "Nieto Tract" which was for many years occupied under a claim of right, by Manuel Nieto. After his death the premises were occupied by his children and heirs at law. In 1833 an application was made to the Governor Jose Figueroa, for title to the land to be made to their occupants in severalty, according to a map which was presented with the petition to the Governor representing the several portions which were to be assigned to each. In accordance with this petition Governor Figueroa made his decree of concession at San Diego on the 27th July 1833 declaring them the owners of the premises as follows: Juan José Nieto the places called Coyotes, Alamitos, and Palo Alto, Doña Manuela Nieto the place called Bemitos, Doña Josefa Cota, the widow of Don Antonio Maria Nieto, the place called Santa Gertrudes; Doña Catarina Ruiz the widow of Don José Antonio Nieto, the place called Las Bolsas. The same decree directs judicial possession to be given to the parties as above specified, and orders that a certified copy of the decree be given to the grantees to secure their respective rights until the formal title can be issued to each after the Governor should return to Monterey the capital. This is followed by another decree of the same Governor, dated Monterey December 21. 1833, directing the issuing of the title in accordance with the former order. This decree was so far carried into effect as to issue four grants in due form on the 22d day of May 1834, to the several parties interested according to the division of the premises above

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specified, excepting that the grant to Juan José Nieto cover only that portion of the land assigned to him which was known by the name of Los Coyotes. As to that part of his portion of the premises which is designated as Alamitos, and which is claimed in this case it is not mentioned in the grant to him, nor is there any direct evidence in the case that a separate grant was issued to him for it.

The delivery of documentary evidence of his rights to a grantee we have regarded as the legitimate and proper commencement of his property in premises claimed by him. The case before us is peculiar in its character. It was a division of property long held in possession by the family of the grantee, and although the new concession was the foundation of the right of the premises named in the decree above mentioned, but one Expediente was formed and one decree of concession made. This clearly was intended as a division of the whole property among the persons named and the whole but one transaction embracing however the four grants. Under the decree of July 27 the Alamitos was decreed to be the property of Juan José Nieto. The evidence of the rights of the several grantees named in it was by its terms declared to be a copy of that decree which was directed to be issued. A copy thus issued under this authority as evidence of the concession to the grantee would be sufficient to establish an equitable right to the land assigned to them respectively.

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The difficulty in the case is however that there is no direct evidence of the delivery either of such copy or of a grant of the Alamitos to said Juan José Nieto. But on a careful examination of the whole case we are of opinion that the circumstances are such as to raise an irresistable presumption that the delivery of one or both

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of them must have been had.

The owners of the transaction be-
for Governor Figuera and the carrying out of
his decree by issuing grants in accordance
with its terms to the four persons named
in it and for all the other portions of the
land, render it exceedingly improbable that
the evidence relating to this portion was
omitted. The possession of the Alamitos
by Juan José Nieto and his grantees from
the time of the decree above mentioned to
the present, corroborates strongly this pre-
sumption.

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The title of the present claimant
is deduced from said Juan José Nieto through
a conveyance made to the latter by Governor
Figuera, which bears date June 30 1834 -
a little more than one month after the
grants made on said division to the four
persons named in the decree were issued.
In this deed from Juan José to Figuera
express reference is made to the decree of
July 27 1833 as the foundation of the
title of the grantor. It cannot be believed
that Figuera should make this purchase
with the knowledge which he had of all the
facts, unless the proper documentary evi-
dence of his grantors title had been duly
delivered. If it had not been so Figuera
had but to direct the necessary document
to be prepared and to affix his signature
to it, in order to perfect the title. If it had
not previously been done it must be pre-
sumed it was then perfected.

All the facts in the case tend to
show the perfecting of the equitable title
of all the parties to the decree of July
27 and to the whole premises which were
assigned to each.

Figuera died in the summer or
fall of 1835 and his papers went into the
hands of Nicolas Gutierrez who succeeded

him as Governor. The latter was very soon expelled from the country taking with him the papers of Figueroa. He never returned, but died in the State of Sinaloa in Mexico. None of the papers of Figueroa were ever returned to California. Under the customs in relation to conveyances which here prevailed all the papers in the hands of Juan José Nieto concerning the Alamitos would be handed over to Figueroa when the conveyance was made to the latter. That the proper documentary evidence of the equitable title to the premises was in the hands of the former and thus delivered over is looked on as conclusive by all the circumstances of the case; and proof of the disposition of his effects on the death of Figueroa sufficiently accounts for their non production here—

The title of the present claimant rests on the concession to said Nieto, the deed above mentioned to Figueroa, ~~to said claimant~~ and a conveyance from Francisco Figueroa to said claimant, executed July 12 1842. Attached to this conveyance is a power of Attorney from Nicolas Gutierres executed in Sinaloa on the third day of July 1840 authorizing said Francisco Figueroa among other things to sell the Alamitos and other estate of the deceased, whose testamentary and depositary Executor he is

From the deposition of José Castro it appears that Governor Figueroa left a will by which his Executors were authorized to sell the real and personal estate for the payment of debts, that the estate was insolvent, and that the will contained a clause making his brother Francisco sole heir to the property remaining after the payment of the debts. The will was taken away by Gutierres and never returned to California —

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PAGE 102

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5/404

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The conveyance from Francisco Figuera to the Claimant sounds by its terms designed to convey all the rights which were within his control under the authority of the testamentary executor given in the will, and all his and right as hinduary legatee, and it must be regarded as sufficient to sustain the claim of the granted to the land described in it.

A decree of confirmation will be entered.

Filed in Office Feb. 13, 1855.

Geo: Fisher.

Secy.

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Decree of Confirmation

Abel Steams.
vs
The United States.

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said petitioner is valid & it is therefore decreed that the same be confirmed.

The land of which confirmation is hereby made is known by the name of Los Alamitos and is situated in Los Angeles County being the same land formerly occupied by said Figueroa and now in possession of said petitioner, and is bounded and described as follows, to wit; Bounded on the North by the Rancho of Coyotes, on the South by the Pacific Ocean on the East by the Rancho Los Bolsas and on the West by that of Sirentos; agreeably to the map of the same which is on file in this case and to which reference is to be had for the same; containing six square leagues of land a little more or less.

Alpheus Felch. } Commissioners.
R. Aug. Thompson. }

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Filed in Office Feb. 13, 1855.
Geo: Fisher.
Secy.

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PAGE 103A

It appearing to the Satisfaction of the Board that the Land hereby adjudicated is situated in the Southern District of California, It is hereby ordered that two Transcripts of the proceedings, and of the decision in this Case and of the Papers and Evidence upon which the same are founded be made out and duly certified by the Secretary, One of which transcripts shall be filed with the Clerk of the United States District Court for the Southern Judicial District of California and the Other transmitted to the Attorney General of the United States

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Office of the Board of Commissioners,
To ascertain and settle the Private Land Claims in the State of California.

I, George Fisher — Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing One hundred Eight — pages, numbered from 1 to 108, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. 404 on the Docket of the said Board, wherein Abel Stearns is —

the Claimant against the United States, for the place known by the name of "Alamitos" —

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this Tenth — day of August A. D. 1855, and of the Independence of the United States of America the ~~seventy~~-eighth.

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L. 290

U. S. DISTRICT COURT,

Fourteen District of California.

No. 290.

THE UNITED STATES,

vs.

Abel Stearns

"Alamitos" 290

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 404.

Filed, Oct. 4th 1855

J. C. Parr
Clerk.

L. 290

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United States District Court for
the Southern District of California.

290 SD
PAGE 104-A

Heirs of Domingo Carrillo,
appellants
vs.
The United States,
appellees,

Notice of intention to prosecute
the Appeal from the decision
of the Board of U.S. Land
Commissioners.

The above named appellants, claimants of the one half of the land known as "Las Vírgenes" situate in the Southern District of California, hereby give notice of their intention to prosecute an appeal from the decision of the Board of Commissioners rendered in their claim for the said land which was presented to the said Board of Commissioners and by them rejected. Their claim being that which is numbered on the Docket of the said Board of Commissioners No 508, the Transcript whereof as filed in this Office is numbered No 256.

Hallett, Peachy, & Billings.
Attorneys for Appellants.

No 256

U. S. Dist Court,
Southern Dist of California

Heirs of Domingo Carrillo,
Appellants.

— vs. —

The United States,
Appellees.

Appeal Notice.

Filed March 16th 1855
J. E. Carr
Clk.

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PAGE 105

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Office of the Attorney General of the United States,

Washington, 10. October, 1855.

404 / "Alamitos"

Abel Stearns, Claimant.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 27th day of August, 1855, the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Caleb Cushing

Attorney General.

No. 290.

U. S. Dist Court.

South. Dist of Cal.

The United States. applt

vs.

Abel Stearns.

Appeal Notice.

Filed Nov 28th 1853.

C. E. Lan. Clk.

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

Abel Stearns
Appellee
vs
The United States
Appellant

Case No. 290

Transcript No. 404

"Los Alamitos"

290 SD
PAGE 108

In this Case it being suggested to the Court by S. R. Scott, Attorney for the Appellee, that the Transcript of the Record of the United States Board of Land Commissioners, is imperfect, in this to wit;

That the Map of the Land, mentioned in the Petition of Claimant, marked E., and referred to in the Decree of said Board, does not appear in said Transcript.

That the following documents, filed before said Board in other Cases and made by Stipulation (see pp 41 & 42) a part of the evidence in this case, do not appear in said Transcript; to wit, from Case No. 351, "Cerritos", Documents A B & C. annexed to Deposition of Abel Stearns; from Case No. 402. "Las Bolsas". Documents F F No 1 and F F No 2., - from Case No 339, "Santa Gertrudis", Documents F F No 1 & F F No 2., from Case No. 400, "Coyotes", the Title and Act of Judicial possession.

That in certain of the Spanish Documents in said Transcript, the following errors and omissions occur, to wit

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Page 5, line 33. word omitted

Page 51 last line. $ should be fanegas.
" 56 line 29. In marginal order, words "hasta llegar" omitted.
" 65 " 39 Omission & error
" 66 " 18 "Cabritos" should be "Cabrestos".
" 74 " 32 "Dandose" " " "Dendoves"
" 74 " last. "Demarcando" " " "Demandando"
" 75 " 24 "Substitutos" " " "Substitutos".
" 79 " 3 Omission
" 81 last line but 4. "se le siguieren errogogaron" should be "se le siguieren y irrogaren"

It is therefore by the Court, Ordered; the District Attorney of the United States, being notified and consenting thereto, that the original transcript be returned by the Clerk of this Court to the office of the Secretary of said Board, in order that the same may be amended.

Case No. 290.

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

Abel Stearns
Appellee
ads
The United States
Appellant

Order to return transcript

Filed Dec 22d 1855.
J. C. Cain Clk

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A. R. Scott.

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

CITY AND COUNTY OF LOS ANGELES--STATE OF CALIFORNIA.

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PAGE 110

Abel Stearns vs. Appellee
as
The United States, Appellant

Docket No. 290.

Transcript No. 404,

TO THE HON. ISAAC S. K. OGIER, JUDGE:

The Petition of Pacificus Ord, *a resident of said City, County, and State, Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court, in the name and behalf of the United States, represents as follows: That heretofore, to wit: on or about the* 21st *day of* October A. D. 1852, Abel Stearns

presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, when sitting as a Board, claiming a tract of land called Alamitos

in the County of Los Angeles *State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to. That thereafter, to wit: on or about the* 13th *day of* February A. D 1855, *the said Commissioners confirmed, by final decision, the said claim of said petitioner. That thereafter, to wit: on or about the* 4th *day of* October A. D. 1855, *a duly certified transcript of the proceedings and decision of the said Commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the Office of the Clerk of the District Court of the United States for the Southern District of California, and marked No.* 404; *reference to which it is prayed may be had and made part of this petition. That on or about the* 27th *day of* August A. D. 1855, *the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said Commissioners in said cause, and the papers and*

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evidence on which said decision was founded. That thereafter, to wit: on the 20th day of November A. D. 1855, the said Attorney-General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the Clerk of said District Court of the United States, that the appeal in said cause from the said decision of the said Commissioners, in the District Court of the United States for the Southern District of California, would be prosecuted by the United States. Your petitioner further represents, that the land claimed, as aforesaid, is situate in the Southern District of California, and within the jurisdiction of this Honorable Court. Your petitioner further represents and insists, that the said claim is invalid; and the said decision of said Commissioners is erroneous, and ought to be reviewed, reversed and set aside, for many errors and imperfections of law and evidence, apparent in said certified transcript of the proceedings and decisions of said Commissioners in said cause, filed and appealed from as aforesaid. And your petitioner denies all and singular, each and every allegation in the said petition of said claimant, presented as aforesaid to said Commissioners. And your petitioner further denies that the said claimant has any valid right or title to said land claimed as aforesaid, or any part thereof.

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PAGE 111

And no sufficient proof having been made of the allegations in said petition to said Commissioners, or in support of the said claim, no decision confirming the same should have been made by said Commissioners; but the

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said claim should have been rejected by them. And the said claimant, having no valid right or title derived from the Spanish or Mexican Governments, to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to the United States, by virtue of conquest, and the Treaty of peace, friendship, limits and settlement, between the United States and the Republic of Mexico, made at the City of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the Act of Congress, entitled "An Act to ascertain and settle the Private Land "Claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimant, or his attorney may be served with a copy of this petition; and that this Honorable Court will review the said decision of said Commissioners, and reverse the same; and decide on the validity of the ~~same~~ said claim, and decree the alleged title to be invalid: with costs and general relief.

P. Ord

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

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No. 290.

Filed this 5th January AD 1857

C Sims clk

J. H. Coleman

Dep

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UNITED STATES OF AMERICA,
Southern District of California, } SS.

The President of the United States,

TO

Abel Stearns

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Greeting:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you in the District Court of the United States, in and for the Southern District of California, on the 5th day of January, in the year of our Lord one thousand eight hundred and fifty-seven, at the City and County of Los Angeles, in said District, by

D. Ord U.S. Atty praying
Said Court to review the decision of the United
State Board of Land Commissioners of the
13th February 1855 confirming your
Claim to the Lands Called
"Alamitos"

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 11th day of January A. D. 1857.

J. Sims CLERK.

J. H. Coleman Dep

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Marshals Costs
Copying Summ — 50
Serving same — 3 —
" Petition — 3 —
$6.50

No. 290

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

Abel Stearns appellee
ads
The United States
appellant

Filed on return this 20th of January 1857 C Sims clk
J H Coleman Dept

SUMMONS.

Received January 19th 1857
Edward Hunter
U. S. Marshal.
A W M S Goodman Depty

290 SD
PAGE 115

I served this Summons, together with a certified copy of the Petition, upon Abel Stearns personally by delivering to him a true Copy of same

at Los Angeles in the Southern District of California, on the 20 day of Jany A. D. 1857.

Sworn to and subscribed before me, this 20th January 1857
C Sims Clerk.
J H Coleman
Dept

Edward Hunter
U. S. Marshal.
A W M S Goodman
Depty

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

Abel Stearns, Appellee, vs. The United States, Appellants

Case No. 290 "Los Alamitos" Transcript 404

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And now comes the Appellee, Abel Stearns, by J. R. Scott, his attorney, and for answer to the Petition for Review filed herein by the Appellants, says,

That his title to the land called "Alamitos" claimed in this Case is good and valid,

Wherefore the Appellee prays the judgment of this Hon Court, that the decision of the United States Board of Land Commissioners may be affirmed, and his title to said land decreed to be valid and for his costs herein expended, and such other or further and general relief as shall be agreeable to Equity and good Conscience, or the nature of his Case shall require,

J. R. Scott
Attorney For Applee

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Case 290.
U. S. Dist. Court.

Abel Stearns
Appellee
Acts
The U. States
Appt.

Answer

Filed this 23 January
A D 1857 C Sinnickx
Jr D H Coleman
Dep

290 SD
PAGE 117

J. R. Scott.

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

Pac Steam
Whaling
Co
vs
The United States
Appellants

Case 290.
Los Alamitos
Transcript 404

290 SD
PAGE 118

It is hereby stipulated between the parties that the map filed in the case of Ramon Yorba et al Appellees vs The United States Appellants, (page 19. of Transcript) ~~No 208~~ on the Docket of this Court, shall be considered in evidence in the above cause; and that a copy thereof to be made by the Clerk shall be filed herein nunc pro tunc, ~~as it~~ when completed.

F. Olney
Dibble
J. P. Scott
Atty for Appellee

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Abel Shearer
Appellee
and
The United States
Appellants

Stipulation

Filed July 23rd 1857
Wood
Clk

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

December Term 1856

Abel Stearns, Appellee, vs. The United States, Appellants

Case No. 290

Los Alamitos

Transcript 404

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This cause coming on to be heard on appeal from the Decision of the United States Board of Land Commissioners to ascertain and settle the private land claims in the State of California, under an Act of Congress, approved March 3d 1851, on a Manuscript of the Proceedings and Decision of said Board, and of the papers and Evidence upon which said decision was founded; and it appearing to the Court that said Manuscript and the Notice of Appeal have been duly filed according to law, and Counsel for the respective parties having been heard;

It is ordered, adjudged and decreed, that the Decision of said Board of Commissioners be, and the same hereby is affirmed;

And it is further adjudged and decreed that the Claim of the Appellee in this case is good and valid and the same is hereby confirmed to him as follows;

The lands of which confirmation is hereby made, are situate in the County of Los Angeles and known by the name of "Los Alamitos", being a part of the

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land originally granted to Manuel Nieto by Governor Pedro Fages, in or about the year 1784, and which said Grant was recognized and confirmed by the Mexican Government by the Decree of date July 27. 1833 made by Governor José Figueroa on the Petition of Luciano Grijalva, presented on behalf of the heirs of the said Manuel Nieto, and contained in the Espediente filed in this Case.

Reference for the boundaries of said tract of "Los Alamitos" being had to the said Petition of Luciano Grijalva and to the map accompanying the same, to wit, on the South the Sea, on the west the Rancho called Los Cerritos, on the north the Ranchos called Los Cerritos and Los Coyotes and on the East the Rancho called Las Bolsas.

Isaac S. K. Ogier
U S Dist Judge

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Case 290
In U. S. Dist Court

Abel Stearns
Appellee
ads
The U. States
Appellant

Decree

Filed Feb 23d 1857
[signature] Clk

Recorded in Page 234

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State of California
Southern District } ss

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Upon presenting to me the District Judge of the United States for the Southern District of California the foregoing Retition, and it appearing to me therefrom, that the lands therein described are situated in the aforesaid Southern District; and on application to me by Sloan & Hartman Solicitors for the foregoing Retitioner Manuel Maria Figueroa, it is ordered by me that the hearing of the application for the Injunction prayed for in the Retition aforesaid, be set for the 9th day of June A.D. 1857 before me in open Court at the City of Monterey in the State and District aforesaid at 11 o'clock A.M. of said day or as soon thereafter as the same can be heard. And it is further ordered by me that a copy of the Retition aforesaid, together with a copy of this order, be served upon the said Abel Stearns at least thirty days before the time appointed for hearing the same.

Given under my hand at Chambers in the City of Los Angeles this 8th day of May A.D. 1857

Ogier
U S Dist Judge

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I served the within Petition and order on Abel Stearns in person by giving him a certified Copy of the Same at the City of Los Angeles Southern Dist of Cal'a on the 8th day of May A.D. 1854

J. H. Coleman

Sworn & subd to before
me this 8th day of May A.D. 1854

Spinks
Clk

No. 390.

In the United States District Court
Southern District.

The United States
Appellants
vs
Abel Stearns
Appellee.

Petition of Manuel Marin Figueroa for determination and Appendix

Filed this 11th day of May 1854
Cullen Clk
By J. H. Coleman D.C.

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I do hereby appoint James H Colman a
to sue petition for an injunction in
the case of the United States vs
Abel Stearns - and at Chambers
in the city of Los Angeles on the
8th day of May 1857

James H McOgin
U S Dist Judge

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PAGE 124

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No 290

Filed this 8th day
1857 A. Spies Clk
J. H. Hathaway
Dep

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

Abel Stearns
Appellee
vs
The United States
Appellant

Case No. 290
"Los Alamitos"
Transcript 404

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In the matter of the Petition of Manuel Maria Figueroa, for an Injunction, etc.

And now comes the above named Appellee and Claimant, Abel Stearns, by R. R. Scott, his attorney, and demurs to the Petition of Manuel Maria Figueroa, filed in this cause, and for cause says;

That said Petition does not set forth facts sufficient to entitle said Petitioner to be heard, or to constitute a ground of action on which the relief prayed for can be granted, in this, to-wit;

The said Petition does not set forth that there is now pending in any Court whatsoever any action at Law or at Equity wherein the title of this Appellee and Respondent to the lands called "Los Alamitos", claimed in this case, is contested by the Petitioner or any person or persons

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on his behalf, nor does said Petition allege that such an action is about to be instituted; nor does the Petition allege that said Petitioner, or any person or persons on his behalf, ever filed a petition before the United States Board of Land Commissioners to ascertain and settle the private land claims in the State of California, praying for a confirmation of the title of said Petitioner to said lands; nor does the Petition allege that the Petitioner or any person or persons on his behalf, ever interpleaded or intervened, or in any way gave notice of the claim of Petitioner to said lands, in this case, while the same was pending, either before said Board, or before this Court; and that therefore said Petition does not set forth that the title of this Respondent to said lands is contested by the Petitioner, within the Spirit and intent of an Act of Congress, entitled, "an Act to ascertain and settle the private land claims in the State of California" approved March 3d 1851.

Wherefore this Respondent prays that he be not required to answer said Petition further, and that the same be dismissed and for his costs herein expended

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J. R. Scott
Attorney for Respondent

United States of America
State of California, Los Angeles County. } ss

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James H. Lander,
being duly sworn, says, that he has served the foregoing and annexed Demurrer, as follows: That on the 18th day May 1857 he deposited in the Post office of the City of Los Angeles, a copy thereof, prepaid, addressed, "Messrs Hartman & Boam, Counsellors at Law, San Francisco, California, they being the Solicitors of Petitioner, of record, & such being their reputed residence;" and also, by leaving with the Clerk of the above entitled Court, at Los Angeles on May 18th 1857 a Copy of said demurrer, addressed to said Solicitors for Petitioner, for delivery to them

James H. Lander

Sworn to & Subscribed
before me this 18th Day
of May 1857.

C Ernest
J

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Case No 290
In the U. S. Dist Court South'n
District of California

Joel Stearns
Appellee
vs
The United States
Appellants

Demurrer to Petition of
Wm McFerguson

Filed this 18th day
of May 1855
J. Ford
Clk

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PAGE 129

J. R. Scott

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

Side Steamer Case 290.
290 SD
PAGE 130 and
"Los Alamitos"
The United States
Claimants Transcript 404

Notice having been given by the Attorney General of the United States that the appeal to the Supreme Court in this case will not be prosecuted by the United States, and a stipulation having been entered into between the District Attorney of the United States and the attorney of the Claimant, that the former order of this Court granting an appeal herein to the Supreme Court, may be vacated, and that the Decree of this Court heretofore entered in this Cause, may, by order of this Court, be made final;

It is ordered, That the order of this Court heretofore made in this Cause on the 24th day of February AD 1857 granting an Appeal to the Supreme Court from the Decree of Confirmation of this Court filed on the 23d day of February AD. 1857, be and hereby is vacated, and that the Claimant have leave to proceed

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under said Decree as under a final Decree.

Thus done & signed in open Court this 4th day of June 1857

Isaac S. K. Ogier
U S Dis Judge

Case No 290
U. S. Dist. Court, So. District

Paul Sainsevain
Appellee
ads
The United States
Appellants

Order vacating appeal

Filed 4 June 57
C. Sims
Dep. Clk

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

United States
vs
Abel Stearns

Case No 290
Transcript No 404

In pursuance of a notice from the Attorney General of the United States hereunto annexed it is hereby Stipulated and agreed that by consent of parties an order of this Court may be entered ~~of record~~ in this Cause vacating the order of appeal heretofore granted in this Cause; and that the claimant have to proceed under the decree of this Court heretofore rendered in his favor as a final Decree.

J H Scott
Atty for Claimant

P. Ord. Dist Atty.

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No. 290.

Abel Stearns
Appellee
vs
The U. States
Appellants

Statutation

Filed 4 June 57
Dep. Clerk

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PAGE 134

California Land Claims
Attorney General's Office
2 Febry. 1857

Sir:

In the case of the claim of Abel Stearns, confirmed to the claimant by the Commissioners, case no. four hundred and four, (404) appeal will not be prosecuted by the United States.

I am
Respectfully.
Cushing

Alexander Bell Esq
U. S. Attorney,
Los Angeles

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Attorney Genls. Notice

Filed 4 June 57
A.S. Taylor
Dpt Clerk

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

Abel Stearns
Applt & Claimt
by
The United States
Applt & Deft.

No. 290
Los Alamitos
Transcript. 404

It being suggested to the Court that the survey of the land claimed in this case, made under final decree, and approved by the U.S. Surveyor General for California does not conform to said decree and is erroneous, and that the survey will be to the injury of the party applicant, the above named Claimant, on application of J. H. Landis, attorney for Claimant;

It is ordered, That the said Surveyor General returns to this Court the plat of said survey and that the Claimant be allowed twenty days, from and after the return thereof, to file exceptions thereto;

And it is further ordered, That a certified copy of this order be served upon the said Surveyor General for his information.

No 290.

U.S. Dist Court, Sn Dist of Cala

Abel Stearns

vs

The United States

Order to return survey

Filed Feby. 20/1860
G L [illegible] clk
pr John O Wheeler Dep

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

Abel Stearns
claimant
and
The United States
appellant

Case No. 290
"Los Alamitos"
Transcript No. 404

Now comes the above named party claimant, Abel Stearns, by J. R. Scott & Blanchard, his attorneys, and suggests that the survey of the lands called "Los Alamitos", claimed in this case, made under final decree, and approved by the United States Surveyor General for California, does not conform to said decree, and is erroneous, and that the said party claimant will be injured thereby;

And therefore prays for an order of this Hon Court, or Judge thereof, for the return of the plat of said survey into Court for its further action.

James H. Saunders
Atty

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U S Dist Ct. Ga. Dist.

Abel Stearns

vs

The United States

Motion to return Survey

Filed February 13th 1861

L. L. Mix

Clerk

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J R Scott

J W Lander

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

Abel, Stearns
appl^nt & claim^t
vs
The United States
Appel^t & Deft

No. 290
Los Alamitos
Transcript 404

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

on application of I. H. Lander attorney for Claimant

it is ordered that the said Surveyor General return to this Court the plat of said survey, and that the Claimant be allowed

~~be allowed~~ twenty days, from and after the return thereof, to file exceptions thereto; and it is further ordered that a certified copy of this order be served upon the said Surveyor General for his information.

I. S. K. OGIER, U. S. District Judge.

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

I, C. Sims, Clerk of the United States District Court for the Southern District of California, do hereby certiy that the above and foregoing is a full true and correct copy of the original order, made and entered on the 20 day of February 1861, in said case, No. 290 on the docket of said Court, wherein Abel Stearns is claimant against the United States, as appears of record in my office.

In witness whereof I herewith set my hand and affix the seal of said Court this the 20th day of February 1861.

G. L. Mix Clerk.
By John O Whalen Depty

UNITED STATES OF AMERICA,
SOUTHERN DISTRICT OF CALIFORNIA.

THE PRESIDENT OF THE UNITED STATES,

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

You are hereby notified that the United States District Court, for the Southern District of California, at the December Term of said Court, 1860, in case No. 290 on the docket of said Court, wherein Abel Stearns - is claimant against the United States, made and caused to be entered an order, of which the above and foregoing is a certified copy herewith transmitted to you for your information, and you are hereby required to take notice of the same.

Witness the Hon. ISAAC S. K. OGIER, Judge of the United States District Court, for the Southern District of California, this the 20th day of February 1861.

Attest my hand and the seal of said Court the day and year last above written

G. L. Mix, Clerk.
By John O Whalen Depty

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No. 290

U. S. Dist. Court. 8th
Dist of Calª

Abel Stearns
vs
The United States

Order to Return Survey

Filed March 4th 1861
Geo. Gunnell Clk
By John D. Whelan Deputy

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San Francisco Feby 26 1861

I hereby certify that I have this day made personal service of this order on J. W. Mandeville U.S Surveyor Genl for California by leaving a certified Copy of the same at his office

James C Pennie U.S
Marshal Southern
District of Calª
per A. W. Buchanan
Deputy

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In The United States District Court, in
& for the Southern Dist. of California,

No 290.

Abel Stearns
Claimant & Appellee
vs
The United States
Defendant & Appellant

Las Alamitos

Transcript 404

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Now comes the Claimant herein, Abel Stearns, by A. R. Scott and James H Lander, his attorneys, and excepts to the Survey of the lands of "Las Alamitos", claimed and confirmed in this case, made and approved by the U. S. Surveyor General for California, and the plat whereof has been by order of Court filed in the Clerk's office of the Court by said Surveyor General, for further action of the Court and for cause of exception shows & avers;

That he excepts and objects to the following lines and extension boundaries represented in said plat; to wit, The extension line numbered (36) Thirty six, running from the easternmost point of said plat, (marked "Tunas") being Station 36 of said Survey, to the point marked "Sycamore" in the northern line of said plat, being Station 37 thereof; on the north or north East side of said plat, 534 Chains, course,

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North 70 1/2° West, or South 70 1/2° East;

And in lieu and stead thereof, the Claimant offers and claims the following as the true external boundary of said lands of "Las Alamitos", Lines Claimed;

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Commencing at the aforesaid point, marked "Sycamore", on said plat of "Las Alamitos", and which point is the dividing point between the exterior lines of said plat on the north, numbered 36 and 37;

Thence northerly, along a water course, as or near the edge of which said "Sycamore" stands, following the sinuosities of said water course, (which said water course was the western boundary of the Rancho de Las Coyotes, in the survey of said Las Coyotes, made by said Surveyor General, hereinafter referred to,) as far as the point on said water course, which is claimed as the southwestern corner of the said Las Coyotes Rancho, by the Claimants of said Las Coyotes in their exceptions filed to the Survey of said Las Coyotes, in Case No 372 on the Docket of this Court; reaching on said water course to at or near the point (a little more or less) numbered and marked Station 106 on the aforesaid plat of Survey of said "Las Coyotes," filed by the

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Said Surveyor General in said case 72° 3/4.

The said line from said "Sycamore" to the said amended southeast corner of "Los Coyotes" as hereby claimed, being as follows; according to the information and belief of Claimant.

(1st)	N. 31° W.	1. 16/100 chains	N 73 1/4° E.	7	chains
(2nd)	N. 2° W.	12 " do	N 33 1/2° E.	10	" do
(&c)	N. 9 1/2° E.	3 " do	N 47° E.	7	" do
	N 29 1/4° E.	5 " do	N 58° E.	4	" do
	N. 51 1/2° E.	2 " do	N. 30 3/4° E.	5	" do
	N. 10 3/4° E.	2 " do	N. 42° E.	6	" do
	N. 31 3/4° E.	9 " do	N. 20° E.	10	" do
	N. 44 1/2° E.	4 " do	N 11 1/4° E.	9	" do
	N. 15 1/2° E.	3 " do	S 78 1/4° E.	4	" do
	N. 42 1/4° E.	7 " do	N 67 1/2° E.	2	" do
	N 27 1/2° E.	2 " do	N 6° E.	3	" do
	N. 42 1/4° E.	4 " do	N. 47 1/4° E.	4	" do
	N. 73 1/4° E.	3 " do	N. 29 1/4° E.	4	" do
	N. 33 3/4° E.	7 " do	N. 11 1/4° E.	11	" do
	N. 45 3/4° E.	9 " do	N. 4 1/2 W.	5	" do
	N. 30° E.	4 " do	N. 18 1/4° E.	6	" do
	N. 58 3/4° E.	3 " do	N. 47 1/4° E.	6	" do
	N. 45 3/4° E.	6 " do			

The said courses and distances being taken from the said Surveyor General's plat of said "Los Coyotes", whereon Claimant fixes his information and belief as to the same, believing the same to be correct;

Said amended line running from

Station numbered 141 on said "Coyotes" survey, to Station 136, or thereabout, a little more or less, in reversed numerical order;

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Thence, along said annexed line of the "Las Coyotes", as specified in the aforesaid exceptions in the said case 372, course South 70 1/2° East, to the point where the said claimed and annexed line of "Las Coyotes", according to said "Las Coyotes" exceptions, strikes and intersects the eastern line of "Las Coyotes" as marked and designated on the approved plat of the said Surveyor General, of said Coyotes, now on file in said case No. 372.

Thence, along the dividing line between said "Las Coyotes" and the Rancho of "Las Bolsas", as marked and designated on the approved plats of survey of said lands, respectively, filed by said Surveyor General in their several cases in this Court, course South 6° 37' West, as far as the south-eastern point or corner of said Surveyor Generals approved plat of said "Las Coyotes", marked thereon Station 143;

Thence, along the south line of said Surveyor Generals' approved plats of said "Las Coyotes", course South 89° 20' West, distance 229 15/100 chains, to the dividing line between the Ranchos of "Las Alamitos" and "Las Bolsas", being the

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point, Station 36 as marked on the

point, Station 36 as marked on the plat of Los Alamitos or "Tunas", Station 142 on said "Coyotes" Survey, and Station 5 on the plat of the Survey of "Las Bolsas" filed in Court by said Surveyor General.

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And the Claimant refers to and shows to the Court, the Exceptions of Claimants (46) in Case No 372, wherein Ramon Rico et al. are Claimants in this Court for said land of "Los Coyotes", to the approved Survey of the Surveyor General aforesaid of said lands;

Also the (~~approved~~) plat of said approved survey on file in this Court in said Case No 372;

And also the plat of the Survey of the Rancho or lands called "Las Bolsas", approved by said Surveyor, and returned by him into Court, and now on file in Case No 208, wherein Ramon Yorba et al. are Claimants.

And the Claimant herewith further files as a part of, and explanatory hereof, a plat showing the aforesaid amendments claimed by him, and whereby it will appear, that he claims the tract of land marked thereon "A", in addition to the lands of "Los Alamitos", as included and surveyed in said plat of the Surveyor General filed herein; the said tract "A" being that part of the Rancho of "Los Coyotes", as surveyed by said Surveyor

General, which lies South of the division line between "Las Coyotes" and "Los Alamitos", which was agreed on by and between the owners of said two Ranchos by deed of agreement between of date September 13th 1853, which Claimant here shows to the Court.

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James H Lander
of Claimt Counsel.

United States of America
Southern Dist of California
Los Angeles County. } ss.

James H. Lander, being duly sworn, deposes and says, That he is an attorney for the Claimant herein, that he has read the foregoing exceptions and knows the contents thereof, and the same is true of his own knowledge, except the matters therein stated on information and belief, and as to those matters he believes them to be true.

James H. Lander

Sworn to & subscribed before me
this 16th day April 1861
G L Mix Clk
by John D Whelan Deputy

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No 290.
U. S. Dist. Court. South
Dist of Cal.

Abel Stearns
vs
The U. States

Exceptions of Claimt
to Survey

Filed 16th April 1861
Wm Minor Clk
by John D Wheeler Dpty

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J R Scott
J H Lander

Received the within Apl 22nd A.D. 1861
Personally served the within upon the U.S. Attorney
U.S. District Southern Dist of Cal by delivering to
him a true copy of the within April 22nd
A.D. 1861 in the Southern District of California
State of California.

James C. Pennie U.S. Marshal
by A. Burns Deputy

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

The United States vs Abel Stearns	No 290 Los Alamitos Transcript 404
The United States vs Ramon Gorba et al	No 208 Los Bolsas Manuscript 402
The United States vs Andres Pico et al	No 372 Los Coyotes Transcript 400
The United States vs Josepa Mountalva et al	No 374 Temascal Manuscript 414

Abel Stearns Esq

Sir

You will please take notice that we decline further notice, that we decline further service as Attorneys of Claimants in the above suits, and you will therefore provide yourself with other Counsel in you discretion

The above cases are set for the first Monday in June next at Monterey

Yours respectfully

(Signed) Scott & Conder

Los Angeles

April 10 1863

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United States of America
South'n Dist of California } ss

Charles A Ayers being duly sworn says, that he delivered a Copy of the within Notice personally to Abel Stearns, at the City & County of Los Angeles, on the 24th day of April A.D. 1863

Subscribed & sworn to & subscribed before me this 15th day of April 1863
J. K. Ramirez
Notary Public and ex officio Commissioner for the Southern District of California

Charles A Ayers

Filed June 1st 1863
Wm. A. Wheeler Clk

U. S. of America } ss
S. Dist Calo

I Wm. A. Wheeler Clk of S. Dist Court S. Dist Calo hereby Certify the above to be a true Copy of the Original as filed in my Office in Case No 344 Jose Montalvo vs the United States

In Witness my hand & Seal of said Court this 1st June A.D. 1863
Wm. A. Wheeler
Clk of S. Dist Court Calo

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No. 290

U. S. Dist Court

South Dist Cala

Abel Stearns

appellee

vs

The United States

appellt

Withdrawal of attys

Filed June 1st 1863

John Wheeler

Clk

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In the District Court for the
Southern District of California
June Term
1863

No
290. Abel Stearns,
for Alamitos, on Survey.

And now comes the claimant,
in the above stated, and for exception
to the official survey in the
above stated, files the following in
addition to those filed on the
22d December 1860. Inst.
That the Survey does not set extend
on the map to the sea according
to the title and decree of
Confirmation, especially, between
points marked Nine and
Nineteen on said map and
also between twenty six and
twenty nine.

P. E. Leonard
for Claimant

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Abstracts

A. Stearns

v

U. States

Amended Exceptions
to Survey

Filed June 3. 1863
John D. Wheeler
Clk

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This Indenture made this 13th day of September A.D. 1859, between Francisco Ortega, and Francisca Ribas, his wife, and Pio Pico, parties of the first part, and Abel Stearns party of the second part, all resident of the County of Los Angeles, witnesseth:

That whereas the said Francisca Ribas, wife of Francisco Ortega, and the said Andreas Pico, are owners in fee together with the said Abel Stearns of the tract of land situate in the County of Los Angeles State of California, known as the Rancho of "Los Coyotes" and the said Abel Stearns is owner of a certain other tract of land, known as the Rancho of "Los Alamitos", also situate in said County, and bounding said Los Coyotes on the South; the owners of both said Ranchos claiming under the same grantor, and predecessor, to wit; Juan Jose Nieto, now deceased: the owners of said Rancho of Los Coyotes through Juan B. Leandry, and the owner of said Rancho of Los Alamitos through the representatives of Jose Figueroa deceased, and whereas the said parties hereto are desirous of agreeing and settling upon the boundary between said Ranchos, so that the same may be definitely and forever determined, Now therefore in Consideration of the premises, and for the further Consideration hereinafter expressed, it is mutually agreed and Covenanted between the parties hereto, that the Southern line of the Rancho of Los Coyotes, where the same adjoins the Rancho of Los

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Alamitos" shall be a line drawn east and west, parallel to the dividing line between said two Ranchos, as designated in the Survey of "Los Coyotes" Executed by Henry Hancock in 1857, and located so as to Contain within said new Southern boundary, and the other lines of said "Los Coyotes" neither more nor less, but Eighty (80) Eleven Sitios, or Square leagues of land: and the Parties of the first part, for the Consideration aforesaid do hereby grant, bargain, sell and Convey, unto the party of the second part, his heirs and assigns forever, all the right title, interest, Claim and demand whatsoever that they have or may have by reason of their said Ownership in "Los Coyotes" or in and to all Lands lying South of the said new line above Settled and fixed upon.

And for the Consideration of the foregoing, and for the further Consideration of one dollar to him in hand paid, the receipt whereof is hereby acknowledged, the party of the second part, for himself, his heirs, executors, administrators and his Successors in said Rancho of Los Alamitos doth hereby Covenant and agree, to and with the parties of the first part, their heirs and Successors in said Rancho of "Los Coyotes," that upon the issuance of a Patent by the Federal Government of the Rancho of "Los Coyotes" aforesaid, the party of the second

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part, his heirs, or successors aforesaid will
execute and deliver to the said Pio Pico
and to said Francisca Ybibes de Ofampo
their heirs or successors as aforesaid, good
and valid Deeds of Conveyance, conveying to
them all such part of the Rancho of Los
Alamitos, as may fall to the north of a
line to be drawn parallel to the line above
settled upon, and located, so as to reduce
the quantity of land in "Los Alamitos"
to exactly six square leagues of land, not
overflowed by the sea at ordinary high
water - such Conveyances to be made
to the said Pio Pico, and Francisca Ybibes
de Ofampo, their heirs, or Successors, so as
to vest title in them, in the same proportions
and shares, in which they shall at the date
of the execution and delivery of such Convey-
ances, hold title in the Rancho of "Los
Coyotes". The party of the second part reserving
to himself, his heirs or successors, the same
share in in the lands so to be set off from
Los Alamitos, as he or they may at that
time hold in the Rancho of Los Coyotes"

In Witness whereof the parties have hereunto
set their hands and seals, the day
and year at the beginning.

Witness
Narciso Botello

Francisco Ofampo (seal)
Francisca Y. de Ofampo (seal)
her mark
Pio Pico (seal)
Abel Stearns (seal)

No #372

U. S. Dist Court
South Dist Calif

Abel Stearns
vs
The United States

Indenture, between
O. Capuspo et ux
Pico
Stearns &c

Filed June 5th 1863
John W. Wheeler
Clk

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This Indenture made this 13th day of September A D 1859. Francisco. O. Campo: and Francisca Ortibas his wife and Pio Pico parties of the first part and Abel Stearns party of the second part. All residents of "Los Angeles" County: Witnesseth;

That whereas the said Francisco Ortibas. wife of Francisco. O. Campo. and the said Andreas Pico are owners in fee together with the said Abel Stearns of the tract of land situate in the County of "Los Angeles" State of California known as the Rancho of "Los Coyotes" and the said Abel Stearns is owner of a certain other tract of land known as the Rancho of "Los Alamitos" also situate in said County and bounding said "Los Coyotes" on the South, the owners of both said Ranchos claiming under the same grantor and predecessor, to wit: Juan Jose Nieto now deceased the owners of said Rancho of "Los. Coyotes" through Juan. B. Leandry and the owner of said Rancho of "Los Alamitos" through the representatives of Jose Figueroa deceased and whereas the said parties hereto are desirous of agreeing and settling upon the boundary between said Ranchos so that the same may be definately and forever determined

Now therefore in consideration hereinafter expressed it is mutually agreed and covenanted between the parties hereto that the Southern line of the Rancho of "Los Coyotes" where the same adjoins the Rancho of "Los Alamitos" shall be a line drawn East and

West parallel to the dividing line between said two Ranchos as designated in the survey of "Los Coyotes" executed by Henry Hancock in 1837 and located so as to contain within said new Southern boundary and the other lines of said "Los Coyotes" neither more nor less but exactly (11) Eleven Sitios or square leagues of land and the parties of the first part for the consideration aforesaid do hereby grant, bargain sell and convey unto the party of the second part his heirs, assigns, forever, all the right title interest, claim and demand whatsoever that they have or may have by reason of said Ownerships in "Los Coyotes" of in and to all lands lying South of said new line above settled and fixed upon

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And for the consideration of the foregoing and for the further consideration of One dollar to him in his hand paid the receipt whereof is hereby acknowledged, the party of the second part for himself, his heirs executors, Administrators and his Successors in said Rancho of "Los Alamitos" doth hereby Covenant and agree to and with the parties of the first part their heirs and Successors in said Rancho of "Los Coyotes" that upon the issuance of a Patent by the Federal Government of the Rancho of "Los Coyotes" aforesaid the party of the second part his heirs or successors aforesaid will execute and deliver to the said Pio Pico and to the said Francisca Ybibas, de. O. Campo their heirs or successors as aforesaid, good and valid Deeds of Conveyance, Conveying to them all such part

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of the Rancho of "Los Alamitos as may fall to the North of a line to be drawn parallel to the line above settled upon, and located, so as to reduce the quantity of land in "Los Alamitos" to exactly six square leagues of land not overflowed by the Sea at ordinary high water such conveyances to be made to the said Pio Pico, and Francisca, Ubibas, de. O. Campo their heirs or successors, so as to vest tittle on them in the same proportions and shares in which they shall at the date of the execution and delivery of such conveyances hold title in the Rancho of "Los Coyotes; The party of the second part reserving to himself his heirs or successors, the same share in the lands so to be set off from "Los Alamitos" as he or they may at that time hold in the Rancho of "Los Coyotes

In Witness whereof the parties have hereunto set their hands and seals the day and year at the begining

Witness,
Hancock
Botello

Francisco O Campo (Seal)
Francisca A her + mark O Campo (Seal)
Pio Pico (Seal)
Abel Stearns (Seal)

Filed June 5th 1863
John Wheeler Clk

United States of America
Southern Dist of California } ss

I John S Wheeler
Clerk of the United States District Court, Southern
District of California, hereby Certify the above &
foregoing to be a full true and Correct Copy of the
Original on file in my Office in Case No 342 Abel
Stearns vs The United States.

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Witness my hand & Seal affixed
Court this 8th day June A.D. 1863
John S Wheeler Clk
U.S. Dist Ct S. Dist Cala

No 290

U S Dist Court

South Dist Georgia

Abel Stearns

vs

The United States

Agreement

Filed June 5 1863

John D Whitley

Clk

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United States District Court Southern District
California

Abel Stearns } No 290
vs
The United States } Los Angeles

Testimony of Antonio de la Torre taken
in Open Court this 5th day of June A.D. 1863.

James A. Lander duly sworn as Interpreter

Antonio de la Torre, being duly sworn
testifies and says. — In answer to Questions
by V. E. Howard Atty for Claimt. as follows
viz:—

Quest. What is your name age residence
& occupation

Ans. Name as above, 43 years of age
Resident of Monterey & am a Shoemaker

Ques — Did you ever reside in Los Angeles
County,

Ans Yes I have

Quest

Are you acquainted with the Ranchos of Alamitos & Las Bolsas

Ans Yes I do. by personal knowledge I have been on them.

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Quest. Look at the Map in Case B72 or Deseno in said Transcript. Where those Ranchos are represented & say whether you are acquainted with the places there described as Esteros, and describe their Character

Ans. I do know them and am acquainted with the places thus marked. The point map to the Westward and on the Alamitos Forks as represented on the Map. at high tide the Water enters the forks. at low tide they are left mud flats. I myself have crossed one of these forks on horse-back. The Creek is not wide. it is narrow. Where I crossed it was about 8 Varas Wide.

The Second Estero and the most easterly one on the Alamitos is also entered by the tide and is covered with tules — a tule Swamp

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At low tide this estero is left like the other one, muddy. —

The most westerly Estero in the Bolsas, is the entrance to a small lake and further up stood the old House of Joaquin Ruiz between two Settle Ponds, this is in the tract Called Bolsa Chica.

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The tide entered this estero also but very slightly, the Water is nearly fresh

The second Estero in the Bolsas being the Easterly one is a tule swamp and runs up near a large bald hill. I Cannot say Whether the tide enters this Estero or not as I have never been at the mouth of it, I have been about the head of it in passing from the Bolsas house to the Alamitos House. —

Quest. Look at the Plat of Survey of the Alamitos in Case 290 U.S. Dist Court, and say Whether there any Bays in the front of said Rancho as laid down on said map

Ans. No there are no Bays, only small Creeks as I have already testified

Ques Are the Bays thus represented, navigable

Ans. A vessel cannot enter - I consider that they are not Navigable, as they are very narrow, I do not know how deep they are a small boat might go in at high Water. — at low Water the Creeks are a mudbed with but very little Water, and only a very narrow Channel in the middle

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Ques. Look at the Official Map in 208, but Count being Plat of the Balsas and say if you know a locality represented thereon as bitter Water Lake

Ans. I take that to be identical with a ~~Little~~ Point that we called a Cienega or marsh and the Water of which at high tide might be brackish

Ques Is there any grass on that Cienega

Ans. Along the North Eastern edge I have seen Zacate

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Ques How is the Cienega at low tide

Ans I dont know. I have passed by & looking for horses and have noticed the rise in the Water, and the Lake I have mentioned

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Ques Is it navigable for Boats &c

Ans I do not Know

Ques How wide is this Quenya or bitter Water

Ans. I have never payed attention enough to it to judge & cannot tell

Swp & Examined by Pl's Dat atty

Ques How broad is the most Westerly Estero that you have described in the Alamitos

Ans. Where I have crossed, & where it forked it was about 8 varas I crossed one fork

Ques Where it is the widest. How wide is that Estero

Ans I Can't tell. I only Know where I crossed myself

It at a half a mile in the widest place

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I think not

How broad is it where enters the Ocean

Dont Know never been there

Is it open to the Ocean. Does it Connect with the Ocean —

Ans. Yes the Sea enters

As near as you can state. How broad is it where the Sea enters —

Ans I Cant say as I never was at the Mouth have seen it from a distance

How do you know that a large sized Boat cannot enter that Estuary if you have never been at the mouth

Ans. I do not know but they Could enter,

Is there always Water in it, or is it sometimes dry

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Ans. Where I passed it, it has water Sometimes & sometimes not, below, I do not know. There is Considerable grass in that Estero called (Cotedero) Sword grass

Which is the largest of the 4 Esteros

Ans The most Easterly one of all on the Bolsas Ranch

How Wide is that Estero on the Widest part

Ans This not very wide - of the Clear Water Where I saw it say 8 yards - I have never been down to the mouth of it

How near did you go to the mouth of it

Ans Within about a mile

What season of the Year did You see this place

Ans Lune 1846

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Does any Vegetation grow between this Lake you speak of and the sea is there any Vegetation

There is Tule there, on both sides of the Channel

Well how wide is the Water at the Mouth between the Tules

I have never been there & cannot tell

How near have you been to the mouth of the Ertens

Ans. I have been within a League of it

Could you see the Mouth from the place known as the Rincon

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No I could not, on account of the high

~~Grass~~ Tule

Ques Were there any other obstructions

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Ans. I dont know of any other.

Ques. ~~When~~ How near was you to the Mouth of the Estuary. When you were at the Rancho

Ans When I was there I suppose I was about a Mile

Re Examination

Did you ever see a boat of any class come from the Sea and enter these Estuaries. or up in any of them

I have never seen a boat enter or in them

How long have you known these Ranchos

Ans For Years I was accustomed to be on these Ranchos in Collecting animals at the roads

Cross Examn

Ques Is the population very sparse in those Ranchos – when you knew them

and Very few people were living in those Ranchos then

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Sworn to & subscribed before me this 5th day June 1863

Antonio de Coronel

John S. Hager

No 290

U. S. Dist Court
South. Dist Iowa

Abel Stearns
v
United States

Dep of Towne
taken in Open Court

Filed June 5, 1863
John D Dohuler Clk

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In the District Court of the United States for the Southern District of California
June Term 1863

Abel Stearns, appellee
vs
The United States appellant

No 290

Now on this 5th day of June the above stated cause coming on for hearing on the return of survey of the lands claimed in this case, being Rancho "Alamitos", situated in the County of Los Angeles, District aforesaid, and it being shewn to the satisfaction of the Court that a plat of the survey of said lands made and approved by J.W. Mandeville United States Surveyor General for California, was filed in this Court under it's own order on the 2d day of April A.D. 1861 and was excepted to by Claimant, as appears by written exceptions filed by leave of Court on the 16th day of April A.D. 1861, And due proof having been made of the various publications and notices in such cases provided by the rules of Court, and the acts of Congress, Concerning the returned surveys in California, and especially the Act approved June 14th 1860 entitled an act to amend an act entitled an act to define and regulate the jurisdiction of the District Courts of the United States in California in regard to the survey and location of Confirmed Private Land Claims" And the Claimant appearing by

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his Attorney V. E Howard. And the United States in opposition to the Exceptions by P C Whiting Esq U. S. Dist Atty. the Court proceeded to hear the proofs and allegations of the parties and having fully considered the same;

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It is Ordered adjudged and decreed, that the Exceptions of Claimants to the lines of said plat of Survey returned, and in said Exceptions specified be sustained and allowed.

And it is further Ordered, adjudged And decreed that the additional Exceptions filed by leave of the Court on the 3rd of June 1863. that the survey does not extend on the plat of Survey to the Sea according to the title and decree of Confirmation, especially, between points marked Nine and Nineteen on said plat, and also between twenty six and twenty Nine on said plat. be sustained and allowed.

And it is further, Ordered, adjudged and decreed, that the said plat of survey together with a certified Copy of said Exceptions, and a Certified Copy of the agreement of Francisco Campo, Francisco Ocampo, Pio Pico, and Abel Stearns, dated 13th day of September AD 1859 And a Certified Copy of this Decree be transmitted to the United States Surveyor General of California for his information.

This Decree is rendered and signed

in open Court this 9th day of June 1863

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

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No. 290

U. S. Dist Court

South Dak Calv

Abel Stearns

appe

vs

The United States

apptt

Decree 9th

Filed June 9th 1863

Sam D Wheaton

Clk

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U. S. District Attorney's Office,
Southern District of California,
B. C. WHITING, U. S. ATTORNEY.

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Monterey, 17th August 1863

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

The United States
Appellants
vs
Abel Stearns
Appellee

No 290 DC
"Los Alimitos"

To the said Abel Stearns or his Attorney.

You will take notice that on the 31st day of August A.D. 1863, at 11 o'clock A.M. of that day, or as soon thereafter as the same can be heard; at the U.S. Court House, in the City of Monterey; the said United States will move the said Court for a rehearing in said cause. Said motion will be made on the records and files in said cause and affidavits to be filed therein.

B. C. Whiting
U.S. Dist Atty
By A.D.C.

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Served the foregoing "Notice" on Volney E. Howard Esq. Claimants Att'y. at Los Angeles by personally delivering to him a true copy of the same on the 22nd day of Aug. 1863.

Henry D. Barrows
U.S. Marshal

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No 290

U.S. District Court
Southern Dist of Cal[a]

The United States
vs
Abel Stearns

Notice of Motion
for a rehearing

Filed Aug[t] 27, 1863
John Wheeler
Clk

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U. S. District Attorney's Office,
Southern District of California,
B. C. WHITING, U. S. ATTORNEY.

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Monterey, 17th August 1863

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

The United States,
Appellants
vs
Abel Stearns
Appellee

No 290 D&
"Los Alamitos"

To the said Abel Stearns, or his Attorney.

You will take notice, that on the 31st day of August A.D. 1863, at 11 o'clock A.M. of that day, or as soon thereafter as the same can be heard, at the U.S. Dist. Court House in the City of Monterey, the said United States will move the aforesaid Court for a rehearing in said cause. Said motion will be made on the records and files in said cause and affidavits to be filed therein

B. C. Whiting. U.S. Dist. Atty.
By D. A. W.

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U. S. Marshals Office.
Northern District of California

I do hereby ~~certify~~ certify that I received the within Notice of motion for a rehearing" on the 24th day of August A.D. 1863 and on the same day personally served the same on the said Abel Stearns at the city of San Francisco by delivering to him a copy thereof

San Francisco
August 24th 1863

Charles W. Kane
U. S. Marshal
For the Northern Dist. Calif.

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№ 290

U.S. District Court
Southern Dist of Cal[a]

The United States
vs
Abel Stearns

Notice of motion
for a rehearing

Filed Aug[t] 27, 1863
John W. Whelan
Clk

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

The United States
Appellants
vs.
Abel Stearns
Appellee

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

The Claimant in the above entitled cause respectfully shows to this Court that on the 24th of August 1863 he was served at San Francisco with a notice of motion for a rehearing in said cause to be made on the 31st inst. unaccompanied by any affidavit or statement of the grounds of the motion.

That the Counsel for Claimant resides in Los Angeles, and that it is impossible on said notice to procure his attendance in this Court on the day named.

That all the questions have been fully argued and submitted to this Court by the Counsel for both parties, after several years time for preparation.

That the original decree calls for the sea as the Southern boundary, which is the one attempted to be disputed, and that it is impossible that anything can be shown on a rehearing to alter the decision of this Court.

That the motion for a rehearing is

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purely vexatious and only calculated to cause additional delay and expense to the Claimant

already onerous, and not to subserve the ends of justice.

Whereupon the Claimant prays that said motion may be denied

San Francisco August 26th 1863.

Abel Stearns

No. 290

U. S. Dist Court

South Dist Cala

Abel Stearns

v.

United States

Answer of Claimant

to Motion for New Trial

Filed Sept 1st 1863

John Adams

Clk

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

The United States
vs
Abel Stearns
} No 290

Now comes the United States by R. L. Whiting
U.S. Dist Atty, and moves the Court for a
continuance of the ~~ab~~ motion for a rehearing
of the above entitled cause, until the next
term of this Honorable Court; and in support
of said motion, ~~would~~ respectfully offers the
affidavit hereunto attached.

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

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

The United States } No 290.
vs
Abel Stearns } On return of Survey.

Isaac Hartman, special Counsel for the United States in land cases in the Southern District of California, by appointment from the Attorney General; upon his oath says: That on or about the 14th day of August A.D. 1863, when at the City of Monterey on official business, his attention was called to this case in the proceedings in the exceptions of the Claimant to the final Survey, and the order of the Court therein. On an examination of the proceedings, affiant became satisfied that the same had been procured by false evidence and misrepresentation to the Court. Affiant immediately filed a motion for a rehearing in the case, and caused a Notice of the hearing of the same to be filed upon said Claimant. Affiant also immediately wrote to Henry Hancock Esq. the U.S. Deputy Surveyor who made the official Survey in this case, and in due course of mail, received from said Hancock the letter hereunto attached in reply.

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that receiving the affidavit of said Hancock as this affiant had expected, affiant proceeded to Los Angeles about the 10th day of August A.D. 1863, for the purpose of procuring the affidavits of said Hancock, and other parties cognizant of the facts, but owing to the pressing official duties of said Hancock and the absence of other parties, affiant was unable to procure the said affidavits during his stay at Los Angeles.

Affiant further states that only a few days since, he was informed by the Clerk that the plat of the official survey in the case had been returned to the Surveyor Gen'ls Office, and he says that sufficient time has not elapsed to procure the return of the same or a copy thereof.

He further says, that he expects that the said United States will be fully ready for the hearing of the motion herein, by the next term of this Court: and that this affidavit is not made for delay, but for the purpose of justice. And further affiant saith not.

Subscribed & sworn to before me
this 21st day of October A.D. 1863

John D. Wheeler
U.S. Dist. Court Clerk Dist. of Cal.

Isaac Hartman

Camp Drum
near San Pedro Cal
August 23d 1863

I. Isaac Hartman Esq

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Dear Sir

Yours of the 17th inst came duly to hand Since my duties under the provisions of Sec 7 of the act of Congress of the 17th of July 1862 relative to claims in the Survey are somewhat pressing just now I can not well go to Los Angeles as requested by you to make affidavit concerning the inlets of the ranchos "Los Alimitos" "La Bolsa Chica" and "Las Bolsas" I was acting under oath when I executed the surveys of them now known to the Dept of Public Lands and the Coast and the Inlets of the sea exist as shown on the

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maps As is the land at the bottom of the Ocean overflowed land so is the land covered by them; and in no other way I do not know the soundings but do well know that old Gulteman Stearns has long ere now talked of the Inlet of the "Alimitos" as one which might well rival the inner harbor here of San Pedro The maps show the contours of the inlets I cannot testify as to their capacity without sounding them I am now here over two weeks and have not yet had an opportunity of visiting town

Respectfully
Yours &c
Henry Hancock

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No 290

U S Dist Court
South'n Dist La

The United States
vs
Abel Stearns

Motion for continuance
of motion for rehearing
and Affidavit of J Hartman.

Filed Oct 21, 1863
John S Whalen
Clk

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United States District Court South'n Dist Cal'a

Abel Stearns appe No 290

ads

The United States appl't.

To Abel Stearns or his Atty.

Greeting

Take Notice. That in pursuance of an order of our District Court of the United States for the Southern District of California of date the 21st Oct. A.D. 1863. The Motion for rehearing in the above cause is continued until the 1st day of the next term of this Court.

In test my hand & the seal of said Court affixed at Monterey this 21st day of October A.D. 1863

John D Hoke

Clk U.S. Dist Ct So Dist Cal'a

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Served the within on V. E. Howard Esq atty of Appelle by personally delivering to him a true Copy of the same in the city of Los Angeles on the 24th day of Nov. 1863.

H. D. Barrows

U.S. Marshal

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No 290

U. S. Dist Court

South'n Dist Cala

Abel Stearns

v

The United States

Notice of hearing

Filed Feb 28 1855

John Wheeler Clk

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In the United States Dist Court in and for the Southern Dist of Calª

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Abel Stearns
vs
The United States } No 290

Henry Hancock now in the service of the United States and of the California Volunteers former resident of Los Angeles makes oath and states that he executed the final survey of the rancho called "Los Alimitas" claimed in the above entitled cause as a U. S. Deputy Surveyor under the instructions of the U. S. Sur. Genl for California That there are on the Southern boundary of said rancho certain inlets from the ocean which are arms of the sea and that one of them is of sufficient extent to constitute a capacious harbor for shipping, provided the soundings are of a depth which would admit of the same, that as to the soundings of the said bay he has had no opportunity of knowing how deep they may be; but is positive that the inlets of the sea on the Southern boundary of the said rancho Los Alimitos are never separated or in any way segregated from the sea but exist permanently from year to year neither being disconnected by extreme low water nor long

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continued periodical storms and that in the execution of the survey of the said rancho of Los Alimitos the line of the southern boundary was run along the high water mark of the water of the Pacific Ocean and connected therewith as before stated to wit, being the high water mark of the inlets of the same that in the Office of the United States Surveyor Genl objection was made to the number of courses ~~made~~ and that in some instances the said number of courses was lessened under the direction of the U.S. Surv. Genl. whereby the line along the high water mark was in some instances so modified as to cross over the water of some of the indentations of the inner bays

Henry Hancock

Sworn and subscribed before me this 18th day of March A.D. 1864

George B. Vanderlip Deputy Clerk of the United States Dis Courts for the Southern District of California

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No. 290
Abel Stearns
vs.
The United States
"Los Alamitos"

On Survey
Deposition of Henry
Hancock Esq.

Filed in Court
on this 18th day of
March 1864
Jno. O. Wheeler Clerk
by Geo. B. Van Dorn
Dep. Clerk

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

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Abel Stearns
vs
The United States
} No 290
"Alamitos"

Now on this 22d day of ~~March~~ August 1864
heretofore
the above entitled cause came on
for hearing on a new trial and
upon the return of Survey of
the land claimed by the Plff in
this cause being the Rancho "los
Alamitos" situated in the County
of Los Angeles in said District and
it being shown that the plat of
the Survey of said lands made
and approved by J. M. Wandeville
U.S. Surveyor General for Calf.
was filed in this Court on the
2d day of April 1861
and was Excepted to by claimant
Exceptions filed Apl 16, 1861 and amended as appears by ~~Exceptions~~ Exceptions
filed by leave of Court on the
third day of June 1863, and due
proof having been made that
the publications & notices in such

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cases provided by the rules of this
Court and the acts of Congress
concerning the returned Survey
in California and especially by
the act approved June 14, 1860
Entitled An act to Amend an act
Entitled An act to define and
regulate the Jurisdiction of the
District Courts of the United States
in California in regard to the
Survey and location of confirmed
private land claims and the
Claimant appearing by Volney E.
Howard his Attorney, and the United
States appearing by B. C. Whiting
U.S. Dist Attorney in opposition
to the Exceptions, the Court proceeded
to hear the proofs and allegations
of the parties and having fully
considered the same it is ordered
adjudged and decreed that the
Decree heretofore entered in this
cause to wit on the 5th day of
June 1863 sustaining Claimants
Exceptions to said Survey be So
Changed and Modified as to
overrule the Amended Exceptions
filed on the 3d day of June 1863

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court, "that the survey does not extend on the Map, to the Sea, according to the title and decree of confirmation, Especially, between points Marked Nine and Nineteen on said Map; and also between twenty six and twenty Nine - And it is further ordered that the Exceptions of claimant filed on the 16th day of April 1861 be and the same are hereby Sustained, and a new survey is ordered in accordance herewith And it is further ordered that a certified copy of this decree be sent to the U.S. Surveyor General for his information - Made in Open Court this 22d day of August 1864

Fletcher M. Wright
Judge of Dist Ct of Dist Calif

No 290 -

Abel Stearns
vs
The United States

Decree -

No 290
U.S. Dist Court
South. Dist. Cal.

Abel Stearns
vs
The United States

Decree

Filed Aug. 22d 1864
John D. Schulte
Clk

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

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Abel Stearns
Als
The United States

Case No. 290
For "Alamitos"
Transcript No 1014

To the Hon Isaac S. K. Ogier. Judge of the District Court of the United States for the Southern District of California.
The Petition of Manuel. Maria. Figueroa a citizen of the Republic of Mexico respectfully showeth unto your Honr. that one José Figueroa the father of your Petitioner died on the 29th day of September A. D. 1835 at Monterey in Upper California, leaving your Petitioner his sole heir at law him surviving.

And your Petitioner further shows that on the 21st day of September A. D. 1833 the said José Figueroa the then legally constituted and acting Governor of the De=partment of the Californias, made a concession to one Juan José Nieto of a certain tract of land, situate in the present County of Los Angeles, State of California, the same being in the Southern Dis=trict of California known as the Rancho of "Alamitos" and contain=ing about six square leagues of land (six sitios Ganado Mayor) and which is more fully and particularly described in the act of concession aforesaid, and to which reference is here made, the same being now on file in the office of the Surveyor General of the United States for the State of California

Your Petitioner further shows that afterwards, and on the 20th day of June A. D. 1834 the said Juan José Nieto con=

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=veyed the aforesaid Rancho to the said José Figueroa by a good and sufficient deed of Conveyance now in the possession of your Petitioner, ready to be produced and proved, reference thereto being had will more fully and at large appear:

That in pursuance of said Conveyance the said José Figueroa went into possession of said premises and con=tinued to occupy, possess and enjoy the same by himself and his tenants up to the time of his death.

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And your Petitioner further shows that at the time of the death of your petitioners father as aforesaid, your Petitioner was an infant of the age of ten years, and resided at the City of Mexico, and where he has ever since continued to reside.

And your Petitioner further shows and alleges that after the death of the said José Figueroa, one Francisco Figueroa a brother and one Nicolas Gutierrez a brother-in-law of the said José, gave out and pretended that the said José Figueroa died leaving a will and that they the said Francisco and Nicolas were appointed Executors of said last Will and Testament of the said José Figueroa with full power and au=thority to sell and convey the real estate of which the said José Figueroa died seized.

And your Petitioner alleges that said pretended will, if any such there be, was never executed in due form of law, and has never been proved or admitted to probate and that the same contains no such power to sell or convey said real estate as given out and pretended by the said

Francisco and Nicolas, and that they nor either of them had any power to sell or convey said real estate; and on the contrary where=
=of your Petitioner avers that the Courts and Government of the De=
=partment of the Californias aforesaid, have expressly repudiated and negatived any such power to sell in the said Francisco and Nicolas or either of them, as claimed by them; and that they had no right, title, interest or claim to the same as devisees or otherwise.

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And your Petitioner further states on his informa=
=tion and belief, and alleges the fact to be, that after the death of your Petitioners' father, the said Francisco Higuera and Nicolas Gutierrez, falsely and fraudulently, and with intent to cheat and defraud your petitioner out of his just rights and legal inheritance pretended to sell and convey said Rancho to one Abel Stearns, who is now in the possession of the same. But your Petitioner alleges and charges the truth to be that the said Stearns took such Conveyance with a full and perfect knowledge of all the facts, and of the rights of your Petitioner in the premises.

And your Petiti=
oner further shows unto your Honor, that the said Stearns now falsely gives out and pretends that he is the owner of said Rancho, and claims the title to the same by virtue of the aforesaid con=
=veyance, made to him as aforesaid, and that subsequently to wit: on or about the 21st day of October A. D. 1852. he filed before the Board of Land Commissioners for the ascertaining and settling the private lands claims in the State of California, praying am=
=ong other things that the title of the said Rancho might be confirmed to him, the said Stearns. And that he the said Stearns combining and confederating with others has procured and pro=
=duced, and caused to be given before the said Board of Land,

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Commissioners false and fraudulent testimony touching the said alleged title to him, the said Steams, and has obtained a confirmation of the same to him, the said Steams.

And your Petitioner further saith, that the said cause has been duly ap=pealed by the United States to the District Court of the United States for the Southern District of California, and that the decision and decree of the aforesaid Board of Land Commissioners was by this Court affirmed on the 23 day of March A. D. 1857. as by ref=erence to said judgement and decree now remaining of record in said District Court of the United States will more fully and at-large appear

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Now therefore in consideration of the premises, your Petitioner prays your Honor to hear and determine this his Petition and all the several matters and things therein set forth and charged; and that he may be heard touching his alleged title, and introduce such evidence or proof touching the same as he may be advised and con=test the said alleged title of the said Steams, and that your Petitioner may be decreed to be the lawful owner of said Rancho.

And your Petitioner prays that upon the hearing of this Petition a Writ of Injunction may be granted by your Honor and issued out of and under the Seal of this Court, and directed to the said Abel Steams, and each and every persons claiming said Rancho or any part thereof, by, from, though or under him the said Steams, directed to said Steams and such persons so claiming under him commanding, enjoining and restraining them, and each of them under a certain penalty therein named from suing out or receiving a patent for the same until the title to said Rancho shall have been finally decided, and for such other and further relief in the premises as to this Hon. Court shall seem meet and proper

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and as shall be agreeable to equity and good conscience. And your Petitioner as in duty bound will ever pray &c by

Sloan & Hartman
Solicitors for
Manuel. Maria. Figueroa.

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State of California
County of San Francisco } ss

Isaac. Hartman being duly sworn upon his oath deposes and says. that he is one of the Attorneys of the above named Manuel. Maria. Figueroa. the foregoing Petitioner and is as well, or better acquainted with the facts in the foregoing Petition, than the said Petitioner himself. That said Petitioner is now absent from this State and is at present in the City of Mexico as deponent is informed and believes: that this deponent has heard read the foregoing Petition and knows the contents thereof, and that the same is true of this deponents own knowledge, except as to the matters therein stated to be on Petitioners information and belief and as to those matters this deponent verily believes the same to be true.

Isaac Hartman

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Sworn to and subscribed before me this 13th day of March A.D. 1857.

F. I. Thibault
Notary Public

In United States Dist Court, South-
ern Dist of California

Abel Stearns
Appellee
vs
The United States
Appellants

Case 290
Los Alamitos
Transcript 404

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In the matter of the Petition of
Juan M. Figueroa for Injunction

Brief of Contestant and Claimt

This Petition is filed under Section 13 of an Act of Congress entitled an Act of Congress entitled an Act of Congress to ascertain & settle the Private land Claims in the State of California approved March 3d 1851.

That section provides, "That if the title of the Claimant shall be contested by any other person" etc, the judge may hear the case and grant an injunction on the issuance of the Patent

It is submitted that the word "Contest", means a legal contesting of the Claimants title in some Court

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having competent jurisdiction of the same,

If the claim is contested as against the U. States, then before the Land Commission or in this Court; if as against the Claimant directly, then in a State Court or in a Circuit Court of the United States, this Court clearly having no jurisdiction to try the title as between the Petitioner and this Respondent, the Claimant in the case.

The Petition does not set forth that the Petitioner ever contested the title of this Respondent and Claimant, or of the United States, either before the late land Commission or before this Court, nor does it show that any Suit is pending either in the Circuit Court of the U. States or in any State Court having jurisdiction wherein the title ~~of~~ of this Respondent and Claimant to the lands in this case is contested by the Petitioner; nor does the Petition state any reason why such Suit has not been brought, nor even that such Suit is about to be, or intended to be brought,

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It is therefore submitted that the Petition is a nullity and sets forth no grounds on which an injunction could issue.

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Can it be for a moment supposed, that Congress ever intended to pass a Law, allowing an irresponsible third person to come in, to defeat the issuance of a Patent upon the decree of a competent Court, to the party entitled to the same, without showing that he contests the claim in some legal manner in some Court having jurisdiction?

Were such the case, it would be within the power of any person without legal process or suit to apply for and procure an injunction as prayed for in this matter, without bond or other responsibility, and thus work a serious if not an irremediable injury to the party injured.

It is submitted that this Act of Congress must be construed according to the rules of the common law, which would only allow an injunction during the pendency

cy of litigation (which is the "contest" intended in the Act;) and that, where the suit had been actually commenced or some good reason was shown why it had not been commenced, with an averment of intention to commence so soon as the alleged disability was removed.

Such is the doctrine of all the authorities on the subject.

It is therefore respectfully submitted that the demurrer should be sustained and the prayer of the Petitioner denied.

All of which is respectfully submitted

J R Scott
Atty for Respondent

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Abel Stearns
Petitioner
vs
U. S.
Defendants

Brief of Reasons on Petition for Confirmation.

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