CASE NO.
331
SOUTHERN DISTRICT

LAND ON THE SAN JOAQUIN RIVER GRANT

ROBERT B. NELEIGH
CLAIMANT

LAND CA SE 331 SD pgs. 270

MAR 2 1 1963

USE MICROFILM
INSTEAD OF ORIGINALS

TRANSCRIPT

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PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. 320.

Robt. B. Neligh CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Land on the San Joaquin River"

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 third day of September, 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 Robt. B. Neligh for the ~~Place named~~ land on the San Joaquin River was presented, and ordered to be filed and docketed with No. 320 and is as follows, to wit;

(Vide page 3 of this Transcript.)

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

San Francisco March 10th 1853.

In case no. 320. Robt. B. Neligh for land on the San Joaquin River, the deposition of L. D. Wilsonbaker, a witness in behalf of the claimant, taken before Commissioner Silvanus Hall, was filed;

(Vide page 4 of this Transcript.)

San Francisco Sept. 2nd 1853.

In the same case the deposition of J. D. Warner, a witness in behalf of the claimant, taken before Commissioner Thompson Campbell, was filed;

(Vide page 5 of this Transcript)

San Francisco February 22nd 1854.

In the same case the deposition of M. B. Lewis, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, with documents marked "A. L. no. 1. 2. 3 & 4" annexed hereto, was filed;

(Vide page 6 of this Transcript)

San Francisco March 31' 1854.

In the same case the deposition of Antonio Maria Pico, a witness in behalf of the Claimant, taken before Commissioner Peter Sott, was filed;

(Vide page 10 of this Transcript.)

San Francisco April 1' 1854.

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In the same case the deposition of Juan B. Alvarado, a witness in behalf of the Claimant, taken before Commissioner Peter Sott, was filed;

(Vide page 12 of this Transcript.)

San Francisco November 27 1854.

In the same case the Counsel for the Claimant filed the following papers as evidence in this Case to wit:

A. Exemplified copy of the Will of Bernard McKensie;

(Vide page 33 of this Transcript.)

B. Conveyance from Jose Castro and Modesto Castro to McKensie & Neleigh;

(Vide page 15 of this Transcript.)

C. Conveyance from Jane McKensie to Robt B. Neleigh;

(Vide page 25 of this Transcript.)

San Francisco November 25' 1854.

Case no. 320 was ordered to be placed at the foot of the 3d Class Cases on the Trial Docket.

San Francisco Dec. 19' 1854.

Case no. 320 was submitted under the Rule of 21' March 1854.

San Francisco May 8' 1855.

In the same case Commissioner S. B. Farwell delivered the Opinion of the Board confirming the claim;

(Vide page 45 of this Transcript.)

N. And the following order was made to wit

(Vide page 50 of this Transcript.)

3 Petition

To the Honorable the Board of United States Land Commissioners appointed to settle Private Land Claims in California

The Petition of Robert B. Neligh respectfully showeth that he is the Claimant of six leagues of land in Mariposa County being part of a tract of eleven leagues of land on the San Joaquin River whose measurement is to be commenced from the edge of the Snowy or Sierra Nevada Mountains following down stream,

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That the same was granted to Lieutenant Colonel Jose Castro by Governor Pio Pico on the 4th day of April A.D. 1846 by virtue of the colonization Laws of August 18th 1824 and the instructions and Regulations of November 21st 1828 and the various Laws of Mexico affecting Grants of Land in California

That on the 8th day of June A.D. 1849 the said Jose Castro and Nicolas Castro by deed conveyed unto your Petitioner and Bernard McKinzie six leagues of the said eleven leagues of Land with a covenant in said deed contained giving the privilege to said McKinzie and your Petitioner to make their selection of the aforesaid six leagues from any part of said Rancho that they may choose

That on the 8th day of April 1852 Jane McKinzie the widow of said Bernard McKinzie (he having previously died) conveyed by and unto your Petitioner all the right title and interest of said Bernard McKinzie in and to the said six leagues of land, said lands have not been surveyed by the United States Surveyor General,

There is no conflicting Claim to them known to your Petitioner the evidence upon which your Petitioner relies are the records of this Grant in the office of the Surveyor General of the United States for California original papers copies of which are herewith filed and to which your Petitioner prays leave to refer as part of this Petition for greater certainty and the testimony of witnesses to be produced before your Honorable Board

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Respectfully submitted for such action as the justice and nature of the Claim may require

E. O. Crosby
of Counsel

Filed in Office September 3rd 1852
Geo Fisher
Secretary

Recorded in Record of Petitions. Vol 1 P. 215. 216
George Fisher
Secretary

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Depo of L.D. Vinsonhaler

San Francisco March 10th 1853

On this day before Commissioner Heland Hall came L D Vinsonhaler a witness in behalf of the Claimant Robert B. Neligh Petition Number 320 and was duly sworn his Evidence being given in English

The United States associate Law Agent was present

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

My name L D Vinsonhaler my age is forty years and I reside in Mariposa County I came to California in 1846

I know the Rancho called San Joaquin It is in Mariposa County It is in both sides of the River San Joaquin and runs with the meandering of the River from the edge of the table mountain downward to the westward

The table mountain is at the foot of the snowy Mountain It was granted as I understand to General Jose Castro Castro took possession in the latter part of August or September 1849

and built a canal and had cattle there in the early part of the year 1850 I was at the place in October 1849 and found the place occupied as before stated

It has been occupied by him and those claiming under him ever since at the time of the taking possession of the land in 1849 the nearest settlement was at Mariposa Town 40 miles distant

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and it would have been unsafe in consequence of the hostility of the wild Indians to have attempted to occupy it earlier

L. D. Vinson Walker

Sworn and Subscribed before me

Heland Hale

Commissioner

Filed in Office March 10th 1853

Geo Fisher

Secretary

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Recorded in Evidence Vol 2 Page 641

Geo Fisher

Secretary

Depo of J. J. Warner

Office of Commissioners of Land Claims in California

This day came before Commissioner Thompson Campbell J J Warner a witness in behalf of Claimant Robert B. Wright Case Number 320 who after being duly sworn deposed as follows

What is your name age and place of residence

My name is J J Warner my age is forty five years and my place of residence is San Diego

Have you examined a paper now in the archives in the custody of the Surveyor General of the United States for California of which the paper now shown you and marked Exhibit A in this case purports to be a traced copy if yes state when you made such examination and on the names of Pio Pico Jose Matias Moreno and W M Hallock their genuine signatures and have you seen them all write

I Examined the said paper this morning in the Office of the Surveyor General I am acquainted with the signatures of the signers to the document and have seen them write and I believe them to be their genuine signatures

J. J. Warner

Law Agent present

Sworn and Subscribed before me this 2nd day of September A D 1853

Thompson Campbell Commissioner

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Filed in Office September 2nd 1853
Geo Fisher
Secretary

Recorded in Evidence B. Vol 3 Page 125
Geo Fisher
Secretary

Depo of
M. B. Lewis

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United States Land Commission
San Francisco Feb 22 1854

On this day before Commission Alphons Fitch came M. B. Lewis a witness in behalf of the Claimant Robert B. Neligh Case Number 320 who after being duly sworn deposed as follows

Questions by Mr Crosby attorney for Claimant

1 Question Please state your name age and place of residence

answer My name is M B. Lewis my age about forty eight years and I reside in Mariposa County in California

2 Question State if you know the Rancho of the River San Joaquin claimed by Robert B. Neligh the Claimant in this case if so state what you know of its location and boundaries

answer I know the Rancho mentioned It is located in Mariposa County and on the San Joaquin River which runs through it

And divides it nearly in the center surveyed the upper six leagues of the land embraced in said Rancho in the last days of March and the first days of April 1853 at that time was the Deputy County Surveyor of Mariposa County

3 Question Look on the document now here presented purporting to be a Map of the Land surveyed by you as above mentioned Marked Exhibit No 1 with the Initials A F and hereto attached and also on the document here presented purporting to be the field notes of said Survey Marked Exhibit Number 2 with the initials A F also hereto attached and state what they are

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Answer I have examined them
The first is a map made by me a few days
after the survey mentioned in the answer to the
second interrogatory

The map is made according
to said survey and the field notes taken at the
time and correctly delineates the location of the
land and the course of the San Joaquin
River

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The second document presented is the
field notes of said survey as made by me the
lines courses and distances and the meander-
ing of the San Joaquin River were actually run
and made by me and are correctly stated in
these field notes

The survey was made by me
at the request of Robert B. Neligh the Claimant
in this case

4 Question What Ground you
in the location and survey of the land

answer I was guided by a
certified copy of the original title and by the
instructions of Captain L. P. Vincenhaler who
professed to know the original location of it

I found
no difficulty in locating the land by the calls
of the title as appeared in the certified copy
which I had

The paper which is now presented
and which is marked Exhibit Number 3
with the initials A F attached to this Depo-
sition I believe to be the certified copy in the
Spanish Language which I had at the time

I used
an English Translation and I believe the paper
also here to attached marked Exhibit Number
4 with the initials A F to be the translation
which I then had in my hands and used in
making the survey

As soon as I examined
the title I knew that that was the ground
which it was located I could have located
the land by the calls of the patent without
the information given by Vincenhaler I am
well acquainted with that particular

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nation of the country and land at that time been acquainted with it over two years

Questions by Mr McKune Law Agent

1 Question Does the tract surveyed by you comprise a portion of the Gold mining District

answer It does Two or three miles of the land on the upper end of it and on the River is mining Land

2 Question Read from Exhibit No 4 above mentioned and used by you in the survey the calls from which you say you could have located the tract without the information given by Vincent Taylor

answer The following ends to wit On the banks of the River San Joaquin consisting of eleven leagues whose measurement is to be commenced from the edge of the snowy mountains following down stream,

and also the following ends in the conditions of the Grant to wit The land of which donation is made consists expressly of eleven sitios Ranges of large cattle on the banks of the River San Joaquin.

and its measurement shall commence from the edge of the senior Mounder, I consider these calls sufficient to locate the land as I surveyed it I should not have located it on both sides of the River (San Joaquin) if it had not been for the end banks (in the plural) in the Grant

3 Question Was there anything in particular to take you to the place marked in your map by the figure 1 as the starting point of your survey

answer I considered from the reading of the title that if there was any difference in the country about there that place had the performance Captain Vincent Taylor pointed that spot out to me as being the place which Leaster selected as the upper line He went to the spot and said line is about the place

that Castro had either showed him or intended his upper line to be I cannot say which expression he used

4 Question What determined you in your direction from station marked Number 1. on the map to station Number 2,

answer I determined that direction by running the line as near as I could parallel to the General course of the River as far down as station Number 2

5 Question What determined you in the length on the river of the location of the land

answer The length of the land was determined by the description in the Grant which I understood it to require it to be one league only in width

6 Question Why was not the extension or length of the land made at right angles to and across the River instead of being along its banks

answer For the reason that I understood the location of the land to be along the river one league in width and not across it

7 Question Do the mountains called the Sierra Nevada extend parallel with said River at each side of it and opposite your location of this land

answer Said Mountains and the broken hills do

8 Question How many English acres have you cultivated on a square league in the return and map of your survey

answer I think it is four thousand three hundred and forty acres

9 Question In your plat and survey did you regard eleven sitios mentioned in the Grant as equivalent to eleven square leagues

answer I did

M B Lewis

Subscribed and sworn to before me this

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twenty second of February 1854
Alpheus Felch
Commissioner
Filed in Office February 22nd 1854
Geo Fisher
Secretary
Recorded in Evidence B. Volume 3 Page 744
Geo Fisher
Secretary

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Depo of A. M. Pico

United States of America }
State of California ss }
San Francisco March 31. 1854
This day personally came before me Peter Lott a Commissioner for taking Testimony to be used before the Board of United States Land Commissioners in said State
Antonio Maria Pico witness in behalf of the claimant in Case Number 320 in which Robert B. Neligh is claimant
and the said Pico being duly sworn deposed in Spanish which was interpreted into English by the interpreter to said Board as follows to wit
The United States Law Agent being present
Questions by C. O. Crosby Esq attorney for claimant
1 Question What is your name age and present place of residence
answer My name is Antonio Maria Pico my age 44 years my residence San Jose Santa Clara County California
2 Question State if you know the Rancho of the River San Joaquin claimed by Robert B. Neligh in this Case if you state what you know of its location and boundaries
answer I do know the Rancho of the River San Joaquin & poker of It is in the River San Joaquin where the said river runs out of the Sierra Nevada in the margin of the Sierra
I was there in 1844 and Jose Castro the General told me the boundaries

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3 Question State what you know of the occupation of said Rancho of the River San Joaquin by Jose Castro

answer I was in the place in 1844 and Castro then had on it a house which he occupied himself with his servants he had cattle and horses

I know of four hundred head of cattle he had there which I sent him from San Jose he had also corals in the land

Cross Examined by United States Law Agent

1 Question Where did Jose Castros family reside at that time

answer His family lived in Monterey

2 Question How far up in the Mountains was this house from the plain and do the Sierra Nevada Mountains lie on each side of the Ranch the whole length of it

answer The house is near the margin of the River, in the plain a little below the Mountains Jose Castro told me when I was there that his land was on both sides of the River

Antonio Maria Pico

It is Stipulated between the Law Agent and E O Crosby Esq that this deposition may be read and considered as taken in Cordiner the same as if relation in Case Number 693 in which Jose Castro and others are Claimants

J H McKune
Law Agent

E O Crosby attorney for Claimants

Subscribed and sworn to by the above named witness before me on this 31st day of March A D 1854

Peter Lott Commissioner
for taking Testimony &c

Filed in Office March 31. 1854 Geo Fisher Secy
Recorded in Cordiner B. Vol 4 Page 141
Geo Fisher Secy

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Depo of
J. B. Alvarado
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United States of America }
State of California ss }

San Francisco April 1st 1854

This day personally came before Peter Lott a Commissioner for taking testimony to be used before the Board

Of United States Land Commissioners in said State Juan B. Alvarado witness in behalf of the Claimant in Case Number 320 on the Docket of said Board,

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In which Robert B. Neligh is Claimant and the said Juan B. Alvarado being duly sworn on oath deposed in Spanish which was interpreted into English by the interpreter to said Board as follows to wit

The United States Law agent is present

Questions by E O Crosby Esq attorney for Claimant

1 Question What is your name age and present residence

answer My name is Juan B. Alvarado my age forty five years my present residence Contra Costa County California

2 Question State if you know the Rancho of the River San Joaquin claimed to have been granted by Jose Castro in this Case if you state what you know of its location and boundaries

answer Merely know that the Rancho lies in the margin of the River San Joaquin but I do not know its boundaries

3 Question State what you know of the location of this Rancho by Jose Castro and by what authority

answer In 1844 Jose Castro was appointed by Micheltorena to go with some troops and occupy the margins of the River San Joaquin

This took place during the last six months of that year Jose Castro passed by my Rancho near Monterey being in his way for this purpose

and he confidentially showed to me his military instructions which he had from Minh-ethuna,

In a part thereof he promised to said Castro to Grant within eleven leagues of land wherever he should locate himself with the said Troops.

Stipulating to give him a title afterwards in remuneration for the military and civil sums which he had performed to the country

I afterwards learned that Castro established himself at a place of the mir San Joaquin erected houses built corals and had cattle there

and that soon after hurtiers from there by order of Minhethuna leaving the place this was in consequence of some political disturbances which occurred in the Department

4th Question State what were the public sums rendered the Mexican Government by General Jose Castro of which you have spoken in this deposition

answer since the year eighteen hundred and thirty four I think he was a member of the Territorial Deputation

He was next Political Chief ad interim of the Territory and afterwards held different military Offices up to the grade of Lieutenant Colonel.

Till he was Colonel Commandant of the Military forces at Monterey and finally General Commandant of the forces in California during the war with the United States

Cross Examined by United States Law Agent

1 Question Had said Castro a family if yea where did they reside

answer yes he had they lived at Monterey

2 Question where was his residence in Eighteen hundred and

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forty four Eighteen hundred and forty five and Eighteen hundred and forty six

Answer He was in the Rancho of San Joaquin in Eighteen hundred and forty four in the latter part of that year he was ordered by Micheltorena,

To evacuate that part of the country and he went where our his command was ordered his family was in Monterey he was moving about with the army

3 Question From whom did you learn Castro had established himself at San Joaquin

Answer It was altering very well known a great many persons were passing who spoke of the fact and it was now disputed I do not recollect who first mentioned it to me after Castro himself

4 Question In 1844, 1845 and 1846 did said Castro held by Grant from Government any other land and if you where and how much

Answer I do not recollect now distinctly whether he did or not this land in the San Joaquin was conceded by Micheltorena for Castro's former services to the country

From that concession by the usages and Laws Castro had a right to make the selection and settlement as he did

and acquired by doing so the right to demand a confirmation of his title from the Mexican Government

Juan B. Alvarado

Subscribed and sworn to before me in this 3rd day of April AD 1854 Peter Lott Commissioner
At the request of } for taking Testimony
the Law Agent and the counsel for the Claimant
I hereby certify that they have agreed that the foregoing deposition should be considered as taken & read in evidence also in case No 693 on the Docket
Peter Lott Commissioner &c
Filed in Office April 3 1854 Geo Fisher Secy

15 B
Deed

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Quit Claim Deed

Know all men by these presents that we Jose Castro of the jurisdiction of Monterey in upper California and Modesta the wife of the said Jose Castro in consideration of the sum of One thousand dollars to us in hand paid by Bernard McKinney and Robert B. Neligh on the Mochuny River in upper California

The receipt whereof we do hereby acknowledge have bargained sold and quit claimed and by these presents do bargain sell and quit claim unto the said Bernard McKinney and Robert B. Neligh and to their heirs and assigns forever all our right and each of our rights title interest claim and demand

Both at Law and Equity as well as in possession as in expectancy of in and to all that certain six leagues of the Rancho known as the Rancho of the River San Joaquin with the privilege of said Bernard McKinney and Robert B. Neligh making their selection of the aforesaid six leagues from any part of said Rancho that they may choose

Said Rancho consists of Eleven leagues and was granted by Pio Pico Governor of California to General Jose Castro on the fourth day of April A.D. one thousand eight hundred and forty six with all and singular the hereditaments and appurtenances thereunto belonging

In witness whereof we have hereunto set our hands and seals this eighth day of June A.D. one thousand eight hundred and forty nine

Jose Castro Seal

Modesta Castro Seal

Distrit and Town of
Monterey California Ss

I hereby certify that on the eighth day of June A.D. 1849 before me personally appeared Jose Castro and

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modesta his wife to me known to be the individual described in and who executed the within indenture and finally acknowledged the same to be their act and deed

and the said Modesta on a private examination by me apart from her husband and acknowledged that she executed the same freely and without any fear or compulsion of her husband

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Jabez Halleck
Commissioner of Deeds for
the District of Monterey
California

Monterey June 8th 1849

Recorded in my office in Monterey California this eighth day of June AD 1849 and the Record deposited in the office of the Secretary of State for California

Jabez Halleck
Notary Public
in and for the District of Monterey

Filed May 28th 1853 Saturday at 8½ O'clock A.M. and recorded at request of Captain Mason Baker

Book A folio 218
Edwd C Bell
Recorder Monterey Co
By Charles Gray Dep Recorder

Filed in Office November 22 1854
Geo Fisher
Secretary

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17 Exhibit No 2 A. E

Survey of six leagues of land for Robert B. Neligh and others situate on the Banks of San Joaquin River in the county of Mariposa being part of Eleven leagues of Land granted Jose Castro by Pio Pico Constitutional Governor of the Department of California at Los Angeles on the fourth day of April A D 1846 Beginning at an Oak 15 inches diameter blazed on four sides bearing from Fort Miller N 35 W 107 chains

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	Courses	Distances Chs Lks		Lines run to true Meridian variation 14°.35
Thence	W 27°00 W	129.00	To	Left Bank of San Joaquin timber oak land & mountainous
		133.54	"	Right " " " "
		134.15	"	1st Corner Post in a mound " " " "
				an Oak 30 in diam N 13°.30 W 1.37 and
				" " 20 " " N 43.00 W 2 chs 38 links
Thence	S 63°.00 W	8.00	"	Foot of high mountain .....
		210.43	"	2 Corner a post in a mound timber oak land unlevel
Thence	S 47°.00 W	127.46	"	Cotton wood creek 30 links wide runs East
		261.18	"	3 Corner a post in a mound timber oak
Thence	S 22°.00 W	332.63	"	4 Corner a mound and a post land level and good for small Grain .....
Thence	S 35°.00 W	240.00	"	5 Corner a post in a mound Land level and good for small Grain .....
Thence	S 40°.00 W	172.93	"	6 Corner Land best and good for small Grain
Thence	S 50°.00 E	141.23	"	Right bank of San Joaquin " " "
		145.81	"	Left Bank " " " " "
		214.64	"	7 Corner a post in a mound land level & rich
Thence	N 40°.00 W	188.13	"	8 Corner a post in a mound land level and good for small grain
Thence	N 35°.00 E	240.00	"	9th Corner a post in a mound Land level
Thence	N 21°.00 E	150°.66	"	Dry creek 35 links wide runs south west
		186°.03	"	Oak 30 in diam live tree .....
		276°.08	"	10. Corner a post in a mound land level and
Thence	N 40°.00 E	67.34	"	good for small Grain
		208.00	"	Large quartz Vein, Timber
		215.07	"	11. Corner a post in a mound land unlevel
Thence	N 63.00 E	126.24	"	timber oak Fort Miller Garden on a small branch
		210.43	"	12 Corner a post in a mound timber oak land very unlevel interspersed with small rich valley
Thence	N 27°.00 W	76.27	"	Beginning timber Oak Land Mountainous

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about half this Survey is river bottom and first rate land about half the upland is good for small grain all the bottom and a considerable portion of the upland is susceptible of irrigation Timber in the River bottom Oak cotton wood Sycamore and ash Vegetation Clover and Grass of various kinds affording seeds and roots which serve the Indians for food during summer and fall after which time they resort to the acorn which is abundant Finished this Survey April 2nd 1853

M B Lewis Deputy Surveyor Mr. Co

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Meanders of San Joaquin River down beginning in upper line left bank

	Courses	Chs Lks	34	Courses	Chs Lks		Courses	Chs Lks	
Time	S 11°. 00'. E	25. 13	35	S 47° 30' W	12. 60	68	S. 70°. 00 W	18. 04	Lower line
2	S 05. 00. W	32. 62	36	S 67. 30 W	27. 63	69	West		of this
3	S 17. 30. E	37. 50	37	S 29. 00 W	19. 24	70	S 33°. 00 W		Survey
4	S 01. 00. W	36. 26	38	S. 54 00 W	41. 69	71	S. 5. 00 W		
5	S 31. 30. W	8. 05	39	S 34. 00 E	11. 36	72	S. 68. 00 W		
6	S 35. 00. W	12. 21	40	S 08. 30 W	4. 76	73	N. 84. 00 W		
7	S 68. 00. W	37. 87	41	S 04. 00 E	7. 57	74			
8	S. 62. 00. W	9. 26	42	S 02. 00 W	21. 04				
9	S 82. 00. W	13. 38	43	S 03. 30 W	27. 36				
10	S 83. 30. W	9. 08	44	S 24. 00 W	10. 52				
11	N 65. 00. W	5. 96	45	S 38. 00 W	21. 88				
12	N 81. 00. W	10. 95	46	S 61. 00 W	10. 64				
13	N 88. 00. W	25. 13	47	N 61. 00 W	28. 19				
14	N 61 00. W	18. 94	48	S 63. 00 W	25. 89				
15	N 70. 30. W	24. 48	49	South	38. 69				
16	S 57. 00. W	24. 39	50	S 57. 00 W	80. 73				
17	S 26. 30. W	29. 33	51	S 40. 00 W	29. 59				
18	S 52. 00. W	26. 52	52	S 04. 30 E	22. 91				
19	S 40. 30. W	11. 36	53	S 20. 00 E	9. 55				
20	S 21. 00. W	8. 83	54	S 52. 00 E	21. 04				
21	S 31. 30. W	9. 26	55	S 01. 30 E	54. 78				
22	S 36. 30. W	23. 02	56	S 20. 00 W	12. 21				
23	S 40. 00. W	13. 05	57	S 44. 00 W	18. 52				
24	S 58. 00. W	9. 26	58	S 40. 00 W	11. 38				
25	S 50 00. W	75. 78	59	S 55. 00 W	37. 87				
26	S 33. 00. W	50. 52	60	S 38. 00 W	31. 44				
27	S 15. 00. W	57. 87	61	S 68. 30 W	44. 05				
28	S 06. 00. W	33. 04	62	S 05. 00 W	18. 68				
29	S 85. 00. E	21. 88	63	S 30. 00 W	35. 95				
30	S 42 00. E	9. 26	64	S 64. 00 E	15. 36				
31	S 23. 30. E	22. 13	65	S. 77. 00 E	28. 62				
32	S. 06 00. E	8 00	66	S. 25. 00 E	9. 05				
3	S 25. 00 W	8. 40	67	S. 37. 00 W	9. 34				

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V S D R

{Gobierno del Depart.º de Californias.} ~~Por Cuanto~~. Pio Pico Gobernador Constitucional del Departamento de Californias.

Por cuanto el teniente Coronel de Cab.ª D. José Castro, Ciudadano Mejicano há solicitado para su beneficio personal y el de su familia un terreno para criadero de ganados en las margenes del rio de San Joaquin, compuesto de once sitios que comenzarán á medirse desde la orilla de la Sierra Nevada rio abajo: practicadas previamente las averiguaciones q. han sido necesarias he venido por decreto de este dia en conceder al espresado Señor los once sitios q. pretende, declarandole la propiedad de ellos por las presentes letras de conformidad con la ley de 18 de Agosto de 1824, y reglamento de 21 de Nov.e de 1828 conforme á las facultades con que me hallo autorizado por el Supremo Gobierno á nombre de la Nacion, á reserva de la aprobacion de la Exma Asamblea Departamental y bajo las condiciones siguientes.

A. Espediente

Certified Copy of Grant from the Archives

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1.ª ... Podra cercarlos sin perjudicar las travesias caminos y servidumbres: los disfrutará libre y esclusivamente destinandolos al uso que sea conveniente.

2 S. D R.

2.ª Solicitará del Juez respectivo le dé la posesion Juridica en virtud de este despacho por el cual se le demarcarán los linderos con las respectivas mayoneras poniendo á mas de ellas algunos arboles frutales o de conocida utilidad.

3.º El terreno de que se hace donacion es puramente de once sitios de ganado mayor en las margenes del rio de San Joaquin y comensará su medicion desde la orilla de la Sierra Nevada. El Juez que diere la posesion lo hara medir conforme á ordenanza y á vista del diseño ó plano topografico que presentará el agraciado.

En consecuencia mando que teniendose el presente titulo por firme y valedero se tome razon de él en el libro a que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en la casa de Gobierno en la Ciudad de los Angeles, en papel comun por no haber sellado, á los cuatro dias del mes de Abril de mil ocho cientos cuarenta y seis.

3. S D R

Pio Pico. José Mathias Moreno.
Srio Intl.

Queda tomada razon de este Superior despacho en el libro respectivo.

Moreno.

Deposited in the Government archives this 8th day of June 1849 by Bernardo McKenzie.

Wm. Halleck.
Bvt Capt. Le Secry of State.

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

I Samuel D King, Surveyor Genl 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 do hereby certify that the writing on the three preceding and hereunto annexed pages of tracing paper numbered 1. 2. & 3. and each of which is verified by my initials (S.D.K) is truly copied from a document on file and forming part of the said archives in this Office.

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. this ninth day of July 1852.

Samuel D King
Surgr Gl. Cal.

Filed in Office. Sept. 3d 1852.

Geo. Fisher. Secy.

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Translation of Grant

Pio Pico Constitutional Governor of the Department of the Californias

L S Whereas the Lieutenant Colonel of Cavalry Don Jose Castro Mexican Citizen has Petitioned for the benefit of himself and his family for a tract of land for pasturing cattle on the bank of the river San Joaquin consisting of eleven leagues,

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Whose Measurement is to be commenced from the edge of the snowy mountains following down stream having previously made the necessary investigations I have by decree of this day granted to the said Senor the eleven Sitios he prays for,

Declaring to him the ownership thereof by these present letters in conformity with the Law of the 18th of August 1824 and the Regulations of 21st November 1828 in conformity with the powers with which I find myself invested by the Supreme Government in the name of the nation.

Under reservation of the approval of the Departmental Assembly and under the following conditions.

1st He may fence it without injury to the crossings highways and rights of way he may enjoy it fully and exclusively devoting it to the best cultivation or use which may be to his commune

2nd He shall request the Judge of that District to give him Juridical possession by notice of these presents who shall mark out the boundaries with the respective landmarks placing in addition to them some fruit trees or others of known utility

3rd The land of which donation is made consists expressly of eleven (Sitios) ranges of large cattle upon the banks of the river San Joaquin and its measurement shall commence from the edge of the Sierra Nevada

The Judge who may give the possession shall have it measured with entire observance of the ordinances and in view of the sketch or topographical plan which

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the grantee shall present In consequence whereof
Mar that the present title being held as prior
and valid be recorded in the corresponding book
and delivered to the party in interest for his protection
and other purposes

Given in the Government
house at the City of Los Angeles upon common
paper there being none stamped on the fourth
day of the month of April one thousand eight
hundred and forty six

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Pio Pico
Jose Matias Moreno
Secretary Pro Tem

Record has been taken of this Superior Patent
in the respective book

Filed in Office September 3rd 1852
Geo Fisher
Secretary

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Copy deed from McKenzie To Netigh

This Indenture made and entered into by and between Jane McKinzie of the City of New York of the first part and Robert B. Netigh of Santa Clara County California of the second part

Witnesseth that the party of the first part for and in consideration of the sum of ten hundred and twenty eight dollars to her in hand duly paid receipt whereof is hereby acknowledged,

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Have remised released and forever quit claimed unto the party of the second part his heirs executors and administrators forever and do by these presents remise release and forever quit claim unto the said second party all her right and interest in and to a certain tract or parcel of land

Lying and being situate on the River San Joaquin and known as the Rancho of the River San Joaquin containing an undivided half of six leagues formerly deeded from Jose Castro to Bernard McKinzie and Robert B. Netigh.

Together with all and singular the rights and privileges thereunto belonging or in any wise appertaining To Have and To Hold the same as fully as they were held by the party of the first part unto the party of the second part his heirs executors and administrators forever

Witness my hand and seal this eighth day of April A.D. 1852

Jane McKinzie L.S.

attest Frederic Hall
State of California
County of Santa Clara } SS

On this 8th day of April A.D. 1852 personally appeared before me a Notary Public in and for the said county,

Jane McKinzie known to me to be the person described in and who executed the foregoing instrument who acknowledged to me that she executed the same freely and voluntarily

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and for the uses and purposes therein mentioned
Intestimony whereof I have
hereunto set my hand and
affixed my Official Seal
at San José
Frederic Hall
Notary Public

Seal

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Filed in Office September 3rd 1857
Geo Fisher
County

25—

C
Deed

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This Indenture made and entered into by and between Jane McKinzie of the City of New York and State of New York of the first part and Robert B. Neligh of Santa Clara County California of the second part

Witnesseth that the party of the first part for and in consideration of the sum of two hundred and twenty eight dollars to him in hand duly paid receipt whereof is hereby acknowledged,

Have remised released and forever quit claimed unto the party of the second part his heirs executors and administrators forever and do by these presents remise release and forever quit claim unto the said second party,

All his right and interest in and to a certain tract or parcel of land lying and being situate on the river San Joaquin and known as the Rancho of the river San Joaquin containing one hundred and sixty acres more or less

together with all and singular the rights and privileges thereunto belonging or in anywise appertaining To have and to hold the same as fully as they have been held by the party of the first part unto the party of the second part his heirs executors and administrators forever

Witness my hand and seal this eighth day of April A D 1852

Jane McKinzie Seal

attest

Francis Hall

State of California }
County of Santa Clara } ss

On this 8th day of April A D 1852 personally appeared before me a notary public in and for the said County Jane McKinzie known to me to be the person described in and who executed the foregoing instrument who acknowledged

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to me that she executed the same freely and voluntarily and for the uses and purposes therein mentioned

Seal

Intestimony whereof I have hereunto set my hand and affixed my official seal at San Jose Frederic Hall
Notary Public

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Filed Saturday May 28th, 1853 at 8½ O'clock A M and Recorded at request of Captain Vansinkaler Book A folio 219
Edwd C Bell R. M. C
By Elias Gray
Deputy Recorder Monterey Co

Fees $2.25/100
Filed in Office November 22nd 1854
George Fisher
Secretary

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Copy deed from Jose Castro & wife To McKenzie and Neligh

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Quit Claim Deed

Know all men by these presents that we Jose Castro of the Jurisdiction of Monterey in upper California and Modesta the wife of the said Jose Castro in consideration of the sum of one thousand dollars to us in hand paid by Bernard McKenzie and Robert B. Neligh on the Mocking Bird in upper California

The receipt whereof we do hereby acknowledge have bargained sold and quit claim unto the said Bernard McKenzie and Robert B. Neligh and to their heirs and assigns from all our and each of our right title interest estate claim and demand,

Both at Law and in Equity as well as in possession as in expectancy of in and to all that certain six leagues of the Rancho known as the Rancho of the Rio San Joaquin,

With the privilege of the said Bernard McKenzie and Robert B. Neligh making their selection of the aforesaid six leagues from any part of said Rancho that they may choose,

Said Rancho consists of eleven leagues and was granted by Pio Pico Governor of California to General Jose Castro on the fourth day of April A.D. one thousand eight hundred and forty six with all and singular the hereditaments and appurtenances thereunto belonging

In witness whereof we have hereunto set our hands affixed our seals this eighth day of June A.D. one thousand eight hundred and forty nine

Jose Castro L S
Modesta Castro L S

District and Town of Monterey California } SS

Hereby certify that on this eighth day of June A.D. 1849 before me personally appeared Jose Castro and Modesta his wife to me known to be the individuals

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described in and who executed the within Instrument and duly acknowledged to me that he executed the same to be his act and deed and the said Augusta on private examination by me apart from her husband also acknowledged that she executed the same freely and without any fear or compulsion of her husband

Monterey June 8th 1849

John Wallace
Commissioner of deeds for
the district of Monterey California

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Recorded in my office Monterey California
this eighth day of June A.D. 1849 and the
Record deposited in the office of the Secretary
of State for California

John Wallace
Notary Public in and for
the District of Monterey

Filed in office September 3rd 1852
Geo Fisher
Secretary

1. 29

Pio Pico Gobernador Constitucional del Departamento de Californias.

Por cuanto el Teniente Corl de Cabª D. José Castro, Ciudadano Mejicano, ha solicitado para su beneficio personal y el de su familia un terreno para criadero de ganados en las margenes del Rio de S. Joaquin compuesto de once sitios que comenzaran á medirse desde la orilla de la Sierra Nevada, Rio abajo: practicadas previamente las averiguaciones que han sido necesarias hé venido por decreto de este dia en concederle el espresado Señor los once sitios que pretende: declarandole la propiedad de ellos por las presentes letras de conformidad con la ley de 18 de Agosto de 1824 y Reglamento de 21 de Novre de 1828. Conforme á las facultades con que me hallo autorizado por el Supremo Gobierno á nombre de la Nacion á reserva de la aprobacion de la Exma. Asamblea Departamental y bajo las condiciones siguientes.

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Exhibit No. 3 A.F.

1ª Podrá cercarlos sin perjudicar las travesias caminos y servidumbres: lo disfrutará libre y esclusivamente destinandolos al mejor cultivo y uso q. le sea conveniente.

2º Solicitará del Juez respectivo le dé la posesion juridica en virtud de este despacho por el cual se demarcarán los linderos con las respectivas mojoneras, poniendo á mas de ellas algunos arboles frutales ó de conocida utilidad.

3º El terreno de q. se hace donacion es puramente de once sitios de ganado mayor en las margenes del Rio de San Joaquin y comenzará su medicion desde la orilla de la Sierra Nevada. El Juez que diere la posecion lo hará medir conforme á ordenanza y á vista del diseño ó plano topografico que presentará el agraciado.

En consecuencia mando que teniendose el presente titulo por firme y valedero se tome razon de él en el libro a q. corresponde y se entregue al interesado para su resguardo y demas fines. Dado en la Casa de gobierno en la Ciudad de los Angeles en papel comun por no haber desellado á los cuatro dias del mes de Abril de mil ochocientos cuarenta y seis.

Sgd. Pio Pico. José Mathias Moreno.

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Queda tomada razon de este Superior despacho en el libro respectivo.

Igot. Moreno.

Deposited in the Government Archives this 8th day of June 1849 by Bernard McKenzie.

H W. Halleck.

Bt Capt. & Secy of State.

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I Certify that the foregoing is a true copy from the Records of this Office.

State Dept. Cal. Monterey. June 8th 1849.

H W Halleck.

Bt Capt & Secy of State.

Filed in Office Feby. 22. 1854.

Geo. Fisher Secy.

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Exhibit No 4 A F

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Pio Pico Constitutional Governor of the Department of the Californias

Gut Seal } Whereas the Lieutenant Colonel of Cavalry Don Jose Castro Mexican Citizen has petitioned for the benefit of himself and his family for a tract of land for pasturing cattle on the Banks of the River San Joaquin consisting of eleven leagues whose measurement is to be commenced from the edge of the Sierra Mountains following down stream

Having previously made the necessary investigations I have by decree of this day granted to the said Senor the eleven sitios he prays for declaring to him the ownership thereof by these present letters in conformity with the Law of the 18th of August 1824 and the regulations of 21st of November 1828.

In conformity with the powers with which I find myself invested by the Supreme Government in the name of the nation under a reservation of the approval of the Departmental Assembly and under the following conditions

1 He may fence it without injury to the cross roads high ways and rights of way he may enjoy it fully and exclusively devoting it to the best cultivation or use which may be to his commence

2, He shall request the judge of that District by virtue of these presents judicial possession who shall mark out the boundaries with the respective land marks placing in addition to them some fruit trees or others of known utility

3, The land of which donation is made consists expressly of eleven sitios range of large cattle upon the banks of the River San Joaquin and its measurement shall commence from the edge of the Sierra Nevada, The judge who may give the possession shall have it measured with entire observance of the ordinances and in view of the sketch or

Topographical plan which the grantee shall present

In consequence whereof Indenture the present title being held as firm and valid be recorded in the corresponding book and delivered to the party in interest for his protection and other purposes

Given in the Governors house at the City of Los Angeles upon common paper there being none stamped on the fourth day of the month of April one thousand eight hundred and forty six

Pio Pico
Jose Matias Moreno
Secretary Protem (Intn)

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Record has been taken of this superior Patent in the respective Book

Moreno

Filed in Office February 22nd 1854
Geo Fisher
Secretary

33 A

Will of B. McKenzie and Letters Testamentary Thereon

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Be it remembered that heretofore to wit on the fourteenth day of July in the year one thousand eight hundred and fifty one Jane McKenzie an Executrix named in the last will and Testament of Bernard McKenzie late of the county of New York deceased appeared in open court before Alexander W Bradford Surrogate of the county of New York and made application to have the said last will and Testament and a codicil thereto proved and in such application the Surrogate did ascertain by satisfactory evidence who were the sudow heirs and next of kin of said deceased and their respective residences

And some of them appearing to be minors having no general Guardian residing in the State of New York a special Guardian was appointed in due form of Law to take care of their interests in the matter of proving said will by an order duly entered for that purpose by said Surrogate and said Surrogate did thereupon issue a citation in due form of law directed to the said heirs and next of kin by their respective names stating their places of residence,

Requiring them to appear before said Surrogate at his office in the City of New York on the 28th day of July then instant to attend to the probate of said will and after wards to wit on the said twenty eighth day of July satisfactory evidence by affidavit was addressed and presented to said Surrogate of the service of the said citation in the mode prescribed by Law

And on that day no one appearing to oppose the Probate of said will such proceedings were thereupon had afterwards that said Surrogate took the proofs of said will hereinafter set forth and upon this twenty eighth day of July in the year one thousand eight hundred and fifty one he adjudged said will to be a valid will of real and personal estate and the proofs thereof to be sufficient which said last will and testament and proofs are as follows that is to say

The last will and Testament of Bernard McKenzie of the City of New York.

I Bernard McKenzie of the City County and State of New York do make publish and declare this my last will and testament in manner and form following that is to say

I give devise and bequeath unto my factor and mother Roger and ann McKenzie the use and occupation of the apartments in the premises belonging to me and which they now occupy to have hold and use the same free of rent for and during the time of their or either of their natural lives.

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And I do also give and bequeath unto my said Factor and mother annually the sum of two hundred dollars so long as they shall live and in case of the death of either of my said Factor or mother then my will is and I direct that the said sum of two hundred dollars shall be paid annually out of my Estate to the survivor of them so long as he or she shall live,

I do hereby direct and request that my sister Margaret so long as she shall live with my wife be supported out of my estate in such manner as to my said wife shall seem meet and proper I do hereby give devise and bequeath unto my Executrix hereinafter named all my real estate situate lying and being in the State of California which said real Estate,

I am now unable particularly to describe in Trust to Grant bargain sell and convey the same in fee simple and either at public or private sale and upon such terms and conditions as to my said Executrix shall deem to be most advantageous and for the best interest of my said estate and out of the proceeds arising from such sale or sales of said real estate to pay off and satisfy and discharge such mortgages liens or incumbrances which now exist or which may exist and be upon such real estate as I shall die seized or possessed of in the City of New York and in case any

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surplus shall remain after the payment satisfaction and discharge of such mortgages liens or incumbrances then my will is that such surplus shall be deemed to be and taken and considered as a part of the rest residue and remainder of my said Estate and to be distributed in such shares and proportions as I shall herein after dispose of.

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Such rest residue and remainder of my said Estate and as to all the rest residue and remainder of my said Estate both real and personal when so ever the same shall be situated after the payment of my just debts and funeral expenses I give devise and bequeath unto my beloved wife Jane and to my sons John Bernard James Thomas William Riley George Rodger and my daughters Mary Jane and Ann Eliza and to such other child or children that shall be born to me after my decease.

To them their heirs and assigns forever in equal proportions share and share alike and in case any or either of my said children shall die before attaining the age of twenty years and without bearing lawful issue then my will is that the share or portion of my said estate so given to such child or children as shall die as aforesaid shall go to and be divided among such of my children as shall survive and their heirs in equal proportions share and share alike.

And I do hereby declare that the provisions herein in this my will contained and made for my said wife is to be taken by her and accepted in lieu of her right of dower or third of in or to my said estate and every part thereof.

And I hereby commit the Guardian ship of all my children until they shall respectively attain the age of Twenty one years unto my said wife and do hereby declare that the expenses of the maintenance and education of my said children until they

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shall attain the age of ten and shall be paid and bonnent of the respective shares of my estate given to them respectively in and by this my will and I do hereby nominate constitute and appoint my behind wife Jane sole Executrix of this my last will and testament

Hereby revoking all other or former wills by me at any time made I declare this and this only to be my last will and testament

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In witness whereof I have hereunto set my hand and seal this second day of July in the year one thousand eight hundred and fifty one

B. McKenzie L.S.

The above Instrument was at the date thereof signed and sealed by the Testator Bernard McKenzie in our presence and he at the same time declared it to be his last will and Testament and we at his request and in his presence and in the presence of each other have subscribed our names hereto as attesting witnesses

John L Chase 147 Hammond Street New York City

Rodger McKenzie 10 Duane New York

George P. Nelson 97 West 13th Street New York City

In my last will signed by me July 2nd 1851 I the undersigned had forgotten to express my sentiments and will with regard to the religious education of my children.

I do therefore solemnly declare that it is my earnest request that all and any one of my children be brought up and well educated in the Holy Roman Catholic Religion,

To that effect I do hereby fully appoint my brother Thomas McKenzie Guardian of my children with full power to adopt the most Effectual measures in order to secure the desirable object of their timely catholic education by placing them in

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Catholic Colleges or other Catholic institutions of learning. If my children should be deprived of the advantage of a Catholic education my brother Thomas is earnestly required by me to do his duty of Penal Guardian over my children and devise proper means to secure to them the full benefit thereof

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In testimony whereof I signed while in the enjoyment of my full senses

Bernard his mark McKenzie LS July

4th 1851

John Cassidy Rodger McKenzie
John McKenzie Joseph D. Lutz

In the matter of proving the Last will and Testament of Bernard McKenzie deceased as a will of Real and personal Estate

Examination of witnesses sworn and examined in the above entitled matter County of New York to wit John L Cleare of the City of New York being duly sworn as a witness in the above entitled matter and examined on behalf of the applicant to prove said will says

I was well acquainted with Bernard McKenzie now deceased Thereon the said deceased before his death The subscription of the name of said deceased to the instrument now shown to me and offered for Probate as his last will and Testament and bearing date the second day of July in the year one thousand eight hundred and fifty one was made by the deceased at the City of New York,

In the presence of myself Rodger McKenzie George P. Nelson the other subscribing witnesses at the time of making such subscription the said decedent declared the said instrument so subscribed by him to be his last will and Testament and I thereupon signed my name as a witness at the end of said instrument at the request of said decedent and in his presence The said decedent at the time of so executing said instrument

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was upwards of the age of twenty one years and of sound mind, memory and understanding and not under any restraint or in any respect incompetent to devise real estate I also saw said Rodger McKenzie and George P. Nelson the attesting witnesses sign their names as witnesses at the end of said will and know that they did so at the request of said decedent and in his presence

John L Chase

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Sworn this 28th day of July 1857 before me Ann Bradford

In the matter of proving the last will and Testament of Bernard McKenzie deceased as a will of Real and personal Estate

Examinations of witnesses sworn and examined in the above entitled matter County of New York to wit,

Rodger McKenzie of the City of New York being duly sworn as a witness in the above entitled matter and examined in behalf of the applicant to prove said will says

I was well acquainted with Bernard McKenzie now deceased I know the above named decedent for many years before his death The subscription of the name of said decedent to the instrument now shown to me and offered for probate as his last will and Testament and bearing date the second day of July one thousand eight hundred and fifty one was made by the decedent at the City of New York in the presence of my self John L Chase and George P Nelson,

The other subscribing witnesses at the time of making such subscription the said decedent declared the said instrument so subscribed by him to be his last will and Testament and I thereupon signed my name as a witness at the end of said Instrument at the request of said decedent and in his presence The said decedent at the time of so executing said will was upwards of the age of twenty one years and of sound

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mind memory and understanding and not under any restraint or in any respect incompetent to devise real estate I also saw said John L Clearse and George P. Nelson the other attesting witnesses sign their names as witnesses at the end of said will and know that they did so at the request of said decedent and in his presence and I further state that the subscription of the names of said decedent to the Instrument now shown to me and offered for probate as a codicil to his last will and Testament

And bearing date the fourth day of July in the year one thousand eight hundred and fifty one was made by the decedent at the City of New York by making his mark in the presence of myself John McKenzie Joseph A Lutz and John Cassidy the other subscribing witnesses at the time of making such subscription the said decedent declared the said instrument so subscribed by him to be a codicil to said last Will and Testament,

And I thereupon signed my name as a witness at the end of said codicil to said will at the request of said decedent and in his presence, the said decedent at the time of so executing said Instrument was upward of the age of twenty one years and of sound mind memory and understanding and not under any restraint or in any respect incompetent to devise Real Estate

I also saw said John McKenzie Joseph A Lutz and John Cassidy the other attesting witnesses sign their names as witnesses at the end of said Codicil to said will and know that they did so at the request of said decedent and in his presence

Rodger McKenzie

Sworn this 28th day of July 1851 before me

A W Bradford

In the matter of proving the last will and testament of Bernard McKenzie deceased as a will of Real and personal Estate

Examinations of witnesses sworn and examined in the above entitled matter County of New York to wit

George P. Nelson of the City of New York being duly sworn as a witness in the above entitled matter and examined on behalf of the applicant to prove said will says:

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I was acquainted with Bernard McKinzie now deceased I know the above named decedent before his death the subscription of the name of said decedent to the instrument now shown to me and offered for probate as his last will and Testament and bearing date the second day of July in the year one thousand eight hundred and fifty one

Was made by the decedent at the City of New York in the presence of myself John L Cleaso and Rodger McKinzie the other subscribing witnesses at the time of making such subscription the said decedent declared the said Instrument so subscribed by him to be his last will and Testament and I thereupon signed my name as a witness at the end of said Instrument,

At the request of said decedent and in his presence this said decedent at the time of so executing said Instrument was upwards of the age of twenty one years and of sound mind memory and understanding and not under any restraint or in any respect incompetent to devise Real estate

I also saw said John L Cleaso and Rodger McKinzie the other attesting witnesses sign their names as witnesses at the end of said will and know that they did so at the request of said decedent and in his presence

George P. Nelson

Sworn this 28th day of July 1857 before me
A. W. Bradford

In the matter of proving the last will and Testament of Bernard McKinzie deceased as a will of Real and personal Estate,

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Examinations of witnesses sworn and examined in the above entitled matter County of New York to wit

John Cassidy of the City of New York being duly sworn as witness in the above entitled matter and examined in behalf of the applicant to prove said will says

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I was well acquainted with Bernard McKinzie now deceased I know the above named decedent for about eighteen months before his death The subscription of the name of said decedent to the instrument now shown to me and offered for probate as a codicil to his last will and Testament and bearing date the fourth day of July in the year one thousand eight hundred and fifty one,

Was made by the decedent at the City of New York by making his mark in the presence of myself Rodger McKinzie and Joseph A Lutz the other subscribing witnesses at the time of making such subscription the said decedent declared the said Instrument so subscribed by him,

To be a codicil to said last will and I thereupon signed my name as a witness at the end of said Instrument at the request of said decedent and in his presence the said decedent at the time of so executing said will was upwards of the age of twenty one years and of sound mind meaning and understanding and,

Not under any restraint or in any respect incompetent to devise real estate I also saw said John McKinzie Rodger McKinzie and Joseph A Lutz the other attesting witnesses sign their names as witnesses at the end of said codicil to said will and know that they did so at the request of said decedent and in his presence

John Cassidy

Sworn this 28th day of July 1851 before me
A. W. Bradford

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County of New York ss

Recorded the preceding last will and Testament and codicil of Bernard McKenzie deceased as well of Real and personal Estate together with the proofs and Examinations taken and had in the court of the Surrogate of the county of New York relating to said last will and Testament which Recorded is hereby signed and certified by me pursuant to the provisions of the revised statutes this twenty eighth day of July in the year of Our Lord one thousand eight hundred and fifty one

A. W. Bradford
Surrogate

The people of the state of New York By the Grace of God Free and Independent to all to whom these presents shall come or may concern Send Greeting

Know Ye That at the county of New York in the twenty eighth day of July in the year of Our Lord one thousand eight hundred and fifty one the Last will and Testament of Bernard McKenzie deceased was proved.

and is now approved and allowed by us and the said Bernard McKenzie being at or immediately previous to his death an inhabitant of the county of New York by reason whereof the proving and registering of said will,

and the granting administration of all and singular the goods chattels and credits of the said Testator and also the auditing allowing and final discharging the account thereof doth belong unto is the administration of all and singular the goods chattels and credits of the said deceased and any way concerning his will is granted unto Jane McKenzie of the City of New York the sole Executrix in the said will named she being first duly sworn faithfully and honestly to discharge the duties of such Executrix

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In Testimony whereof we have caused the seal of Office of our said Surrogate to be hereunto annexed witness A. W. Bradford Esquire surrogate of our said County at the City of New York the twenty eighth day of July in the year of Our Lord one thousand Eight hundred and fifty one and of Our Independence the Seventy sixth

L S

A. W. Bradford

State and County of New York
Surrogates Office SS

I Alexander W Bradford Surrogate of said County and acting as Clerk of the Surrogates Court do hereby certify that I have compared the foregoing copy of the last Will and Testament of Bernard McKenzie deceased and of the proof thereof and the letters Testamentary granted therein with the original Record thereof now remaining in this Office and have found the same to be a correct Transcript therefrom and of the whole of such original Record

In Testimony whereof I have hereunto set my hand and affixed my seal of Office this thirty day of April one Thousand eight hundred and fifty four and of our Independence the Seventy Eighth

Seal

A W Bradford
Surrogate

State and County of New York
Surrogates Court SS

I Alexander W. Bradford Surrogate of said County and presiding Magistrate of the Surrogates Court do hereby certify that the foregoing exemplification of the last will and Testament of Bernard McKenzie deceased and of the proofs thereof and of the letters Testamentary granted therein is authenticated in due form

In Testimony whereof I have

H H

hereunto set my hand and
affixed the Seal of the Surrogates
Court this tenth day of April
in the year of our Lord one thou-
sand eight hundred and fifty
four and of our Independence
the seventy eighth

Seal

A. H. Bradford
Surrogate

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Filed in Office November 22nd 1854
Geo Fidler
Secretary

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Opinion of the Board

Number 320
Robert B. Veligh
vs.
The United States

For a part of a place on the San Joaquin River embracing Eleven Leagues granted to Jose Castro Co of Mariposa

The Claimant in this case has offered in evidence in support of his claim a traced copy of a grant on file in the Archives of State for the above named land issued by Governor Pio Pico on the 4th day of April 1846 to Jose Castro

Also a deed of conveyance from the said Castro and wife for six leagues of the land to the said Claimant and one Bernard McKinzie dated the 8th day of June 1849 with the privilege of selecting the said six leagues from any part of the eleven leagues that they might choose

Also a deed from J. McKinzie wife of the said Bernard McKinzie dated on the 8th day of April 1852 for the half conveyed to the said McKinzie by the said Castro and wife

All of which said documents seem to be well authenticated, It also appears by the proofs in the case that subsequent to the making of the said deed by the said Castro and wife to the said McKinzie,

McKinzie departed this life leaving a will and in and by said will appointing his said wife his sole executrix with full and ample power to carry the land in manner and form as the same has been done

The Claimant has also filed notes of a survey of the part selected by him and a plat of the same and asks a confirmation corresponding thereto

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The description of the land given in the original Grant is entirely to vague and uncertain to enable us to determine whether the Survey and the plat presented by the Petitioner him is within the boundaries of the original Grant or not

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The Grant describes the land as commencing on the San Joaquin River at the foot of the Survey Mountains and running downstream and refers to a plat hereafter to be furnished

The Survey presented by the Petitioner and the accompanying plat exhibits lands lying on each side of the River with the River nearly in the center.

It is impossible for us to determine from the terms of the Grant which side of the River the land is to be located or whether on both sides or how wide or in what shape the land is located so as to enable us to decree a confirmation to any particular piece of land

Yet the Grant being deemed a valid one we think under the ruling of the Supreme Court of the United States in the late case of Fremont vs the United States the original Grantee has a vested interest in Eleven leagues of land some where on the San Joaquin River its measurement commencing at the base of the Survey Mountains and running downstream

In that case like the one now under consideration there was no map furnished to the Governor upon which to base the Grant and in that case like the present one the boundaries were vague and uncertain and also in that case like the present one there

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had been no juridical measurement and segregations under the provisions of the Mexican Land so as to give a fixed location to the land intended to be granted. Yet the Court say in that case that "some difficulty has been suggested as to the form of the survey."

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The Law directs that a survey shall be made and a plat returned of all claims confirmed by the Commissioners and as the lines of this land have not been fixed by the public authority their proper location may be a matter of some difficulty.

Under the Mexican Government the survey was to be made or approved by the Officer of the Government and the party was not at liberty to give what form he pleased to the Grant. This precaution was necessary in order to prevent the party from giving it such a form as would be inconvenient to the adjoining public domain and impair its value.

The right which the Mexican Government reserved to control this survey passed with all other public rights to the United States and the survey must now be made under the authority of the United States and in the form and divisions prescribed by law for surveys in California unit vacing the entire Grant in one tract.

On a careful investigation of the whole case and with reference to the decision of the Supreme Court above referred to we are of the opinion that Castro had by virtue of his aforesaid Grant a vested right in eleven leagues of land some where on the San Joaquin River its measurement to commence at the

base of the Snowy Mountains and running downstream and that by virtue of the deeds above referred to that interest has passed to the present Claimant to the extent of six square leagues

To be selected by him out of the eleven where the same shall hereafter be located by the proper officer and a decree of confirmation to that effect will be entered

(Confirmed)

Filed in Office May 8th 1855

Signed

Geo Fisher

Secretary

Recorded in Record of Decisions Volume 2 page 647

Signed

Geo Fisher

Secy

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Decree of Confirmation

Number 320
Robert B. Vilegh
vs
The United States

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In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said Petitioner is valid and it is therefore decreed that his application for a confirmation thereof be allowed.

The land of which confirmation is hereby made contains six square leagues embraced in a grant issued by Governor Pio Pico on the 4th day of April 1846 to Jose Castro and described in said grant as commencing at the foot or base of the snowy mountains on the San Joaquin River and running down said River.

To be selected by the said Petitioner from the said eleven leagues named in said Grant when the same shall be located by the proper Authority.

Reference being had to the said Grant

Wm Thompson

J B Farwell
Commissioners

Filed in Office May 8th 1855
Signed
Geo Fisher
Secy

Recorded in Record of Decisions Volume 2 page 649

Geo Fisher
Secretary

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and it appearing to the satisfaction of the Board that the land hereby appropriated is situated in the Southern District of California it is hereby ordered that the transcripts of the Proceedings and of the decision in this Case and of the papers and evidence upon which the same are founded

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Be made out and duly certified by the Secretary one of which transcripts shall be filed with the Clerk of the United States District Court for the Southern District of California and the other lectures written to the Attorney General of the U.S.

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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 Fifty — pages, numbered from 1 to 50, 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. 320 on the Docket of the said Board, wherein Robt. B. Neligh is —— the Claimant, against the United States, for the place known by the name of "Land in the San Joaquin River" ——

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

Geo. Fisher

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U. S. DISTRICT COURT,

Southern District of California.

No. 331.

THE UNITED STATES,

331

R. B. Veligh.

Land on the San Joaquin River

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 320.

Filed, Nov 24, 1855

J. E. Sam. Clk.

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Transcript
of the
Proceedings in Case No. 331.

Robert B Neligh — Claimant

vs

The United States — Defendants

for the place named

"Land on the San-Joaquin"

United States District Court, South Dist. Cal.

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Wills Dr

8th Question How many English acres have you Calculated on a square league in the return and map of your survey

Answer I think it is four thousand three hundred and forty acres

9th Question In your plat and survey did you regard Eleven sitios mentioned in the Grant as equivalent to Eleven square leagues

Answer I did

H. D. Lewis

Subscribed and sworn to before me this twenty second of February 1854

Alpheus Beleh
Commissioner

Filed in Office February 22nd 1854
Geo Fisher Secy

Recorded in Evidence B. Volume 3 page 744
Geo Fisher Secy

Depo of A. M. Rico

United States of America
State of California ss.

San Francisco March 31. 1854

This day personally came before me Peter Sate a Commissioner for taking testimony to be used before the Board of United State Land Commissioners in said State Antonio Maria Rico a witness in behalf of the Claimant in Case number 320 in which Robert B Neligh is the Claimant. And the said Rico being duly sworn deposed in Spanish, which was interpreted

in Spanish by the Interpreter to said Board as follows to wit;

The United States Law Agent being present

Questions by E. O. Crosby Esq for Claimant

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1st Question, What is your name age and present place of residence

Answer, My name is Antonio Maria Rico, my age 44 years, my residence San Jose. Santa Clara County California

2d question, - State if you know the Rancho San Joaquin Claimed by Robert B Neligh in this Case if yea state what you know of its location and boundaries,

Answer, I do know the Rancho of the river San Joaquin spoken of, It is in the River San Joaquin where the said river runs out of the Sierra Madre on the margin of the same, I was there in 1844 and Jose Castro the General told me the boundaries

3rd Question - State what you know of the occupation of said Rancho of the river San Joaquin by Jose Castro

Answer I was in the place in 1844 and Castro then had on it a house which he occupied himself with his servants, he had Cattle and horses, I know of four hundred head of Cattle he had there, which I sent him from San Jose he had also Corrals on the land

Cross Examined by United States Law Agent

1st Question, When did Jose Castros family reside at that time

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Answer — His family lived in Monterey.

2d Question, How far up in the mountains was this house from the plain, and do the Sierra Nevada mountains lie on each side of the rancho the whole length of it

Answer — The house is near the margin of the river, in the plain a little below the mountains, Jose Castro told me when I was there, that his land was on both sides of the river,

Antonio Maria Rico

It is stipulated between the law agent and E O Crosby Esq that this deposition may be read and considered as taken in evidence the same as if retaken in Case Number 693 in which Jose Castro and others are claimants

J H McKune. Law agent

E O Crosby attorney for Claimant

Subscribed and sworn to by the above named witness before me on this 31st day of March AD 1854

Peter H Lott Commissioner
for taking testimony &c

Filed in Office March 31st 1854

Geo Fisher Secy

Recorded in Evidence B. Vol 4. page 141

Geo Fisher Secy

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Depn of
J. B. Alvarado

United States of America
State of California } ss

San Francisco April 1st 1854

This day personally came before Peter Latt a Commissioner for taking testimony to be used before the Board of United States Land Commissioners in said state Juan B Alvarado a Witness in behalf of the Claimant in Case Number 320 on the Dockets of said Board in which Robert B Hetzel is Claimant, And the said Juan B Alvarado being duly sworn on oath deposed in Spanish. which was interpreted into English by the Interpreter to said Board as follows to wit

The United States Law Agent is present

Questions by E. Crosby Esq Attorney for Claimant

1st Question What is your name age and place of Residence

Answer My name is Juan B Alvarado, my age forty five years, my present residence Contra Costa County California

2d Question State if you know the Rancho of the River of San Joaquin Claimed to have been granted to Jose Castro in this Case, if yea State what you know of its location and boundaries

Answer I merely know that the Rancho lies on the margen of the River San Joaquin, but I do not know its boundaries

3d Question State what you know of the location of this Rancho by Jose Castro and by what

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1. as the starting point of your survey

Answer — I considered from the reading of the title that if there was any difference in the Country about there, that place had the preference. Captain Vinson-haler pointed that spot out to me as being the place which Castro solicited as the upper line, He went to the spot and said line is about the place that Castro had either showed him or intended his upper line to be I cannot say which expression he used

4th Question, What determined you in your direction from station marked Number 1. on the map to station Number 2.

Answer I determined that direction by running the line as near as I could parallel to the General Course of the river as far down as station Number 2,

5th Question What determined you in the length on the river of the location of the land

Answer — The length of the land was determined by the description in the Grant which I understood it to require it to be one league only in width

6th Question Why was not the extension or length of the land made at right angles to and across the river instead of being along its banks

Answer — For the reason that I understood the location of the land to be along the river one league in width and not across it

7th Question Do the Mountains called the Sierra Madre extend paralell with said river at each side of it and opposite your location of this land

Answer — Said mountains and the broken

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Calls of the patent without the information given by Vaisenhaler. I am well acquainted with that particular portion of the Country. And had at that time been acquainted with it over two Years

Questions by Mr McKune Law Agent

1st Question Does the tract Surveyed by you Comprise a portion of the Gold Mining District

Answer — It does. Two or three miles of the land on the ~~River~~ upper end of it and on the river is Mining land.

2d Question. Read from Exhibit No. 4 above mentioned and used by you in the Survey. the Calls from which you say you Could have located the tract with out the information given by Vaisenhaler

Answer — The following words to wit; On the banks of the river San Joaquin Consisting of Eleven leagues whose measurement is to be Commenced from the edge of the Snowy Mountains following down stream. And also the following words in the Conditions of the grant to wit; The land of which donation is made Consists Expressly of Eleven ~~leagues~~ Sitios Range of large Cattle on the banks of the river San Joaquin. And its measurement shall Commence from the edge of the Sierra Madre. I Consider the Calls sufficient to locate the land as I surveyed it I should not have located it on both sides of the river (San Joaquin) if it had not been for the word banks (in the plural) in the grant

3d Question. Was there Anything in Particular to take you to the place marked on your by the figure

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Answer — I have examined them, The first is a map made by me a few days after the survey mentioned in the answer to the second interrogatory, The map is made according to said survey and the field Notes taken at the time and correctly delineates the location of the land and the course of the San Joaquin River

The second document presented is the field Notes of said survey as made by me, the lines, Courses, And distances, and the meanderings of the San Joaquin River were actually run and made by me and are correctly stated in there Field Notes The survey was made by me at the request of Robert B Neligh the Claimant in this Case,

4th Question, What governed you in the location And survey of the land

Answer — I was governed by a certified Copy of the original title and by the instructions of Captain L D Vinsonhaler who professed to know the original location of it, I found no difficulty in locating the land by the Calls of the title as appeared in the certified Copy which I had, The paper which is now presented and which is marked Exhibit Number B With the initials A S. Attached to this Deposition I believe to be the certified Copy in the Spanish language which I had at the time, I used an English translation and I believe the paper also hereto attached Marked Exhibit number 4 With the initials A S. to be the translation which I then had in my hands and used in making the survey, As soon as I examined the title, I knew that that was the ground where it was located, I could have located the land by the

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Depo. of
M. B. Lewis

United State Land Commission

San Francisco Feb 22. 1854

On this day before Commissioner Alpheus Felch Came M B Lewis a Witness on behalf of the Claimant Robert B Neligh Case Number 328, Who after being duly sworn deposed as follows

Questions by Mr Gosby Attorney for Claimant

1st Question. Please state your age, Name and place of Residence

Answer — My name is M B Lewis, my age about forty eight years and I reside in Mariposa County in California

2d Question State if you know the Ranchs of the rancho San Joaquin Claimed by Robert B Neligh the Claimant in this Case, if so, State What you know of its location and boundaries

Answer — I know the Ranchs mentioned. It is located in Mariposa County, and on the San Joaquin River which runs through it, and divides it nearly in the Centre. I surveyed the upper six leagues of the land embraced in said Ranchs in the last days of March and the first days of April 1853. at that time I was the Deputy County Surveyor of Mariposa County.

3d Question. Look on the document now here presented purporting to be a map of the land surveyed by you, as above mentioned, Marked Exhibit No. 1. With the Initials A F. And hereto attached, And also on the document here presented purporting to be the field Notes of said survey marked Exhibit Number 2. with the initials A. F. also hereto attached and State What they are

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My name is I. I. Warner, my age is forty five Years and my place of residence is San Diego

Have you examined a paper now in the archives in the Custody of the Surveyor General of the United States for California of which the paper now shown you and marked Exhibit A, in this case purports to be a traced Copy. If Yea, state when you made such examination and are the names of Rio Rico Jose Matias Moreno and H W Halleck their genuine signatures, and have you seen them all write

I examined the said paper this morning in the office of the Surveyor General. I am acquainted with the signatures of the signers to the document, and have seen them write and I believe them to be their genuine signatures

I. I. Warner

Law Agent present

Sworn & subscribed to before me this 2nd day of September AD 1853

Thompson Campbell Commissioner

Filed in office September 2nd 1853

Geo Fisher Secy

Recorded in Evidence B. Vol 3. Page 125

Geo Fisher Secy

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The Table Mountain is at the foot of the Snowy Mountains. It was granted as I understand to General Jose Castro. Castro took possession in the latter part of August or September 1849 and built a Corral and had Cattle there in the Early part of the Year 1850. I was at the place in October 1849 and found the place occupied as before stated

It has been occupied by him and those claiming under him ever since at the time of the taking possession of the land in 1849. The nearest settlement was at Mariposa Town 40 Miles distant, and it would have been unsafe in consequence of the hostility of the Wild Indians to have attempted to occupy it earlier

L D. Vinsonhaler

Sworn and subscribed before me

Leland Hall
Commissioner

Filed in Office March 10th 1853

Geo Baker
Secy

Recorded in Evidence Vol 2, Page 641

Geo Baker Secy

Depn of
L. D. Warner

Office of Commissioners of Land Claims in California

This day came before Commissioners Thompson Campbell, L Warner a Witness in behalf of Claimant Robert B Neligh, Case Number 382, who after being duly sworn deposed as follows

Whats Your name age and place of residence

Which your petitioner prays leave to refer as part of this Petition for greater Certainty and the testimony of Witnesses to be produced before your Honorable Board respectfully submitted. for such action as the justice and nature of the Claim may require

E. O. Crosby
of Counsel

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Filed in Office September 3rd 1852
Geo Fisher Secy

Recorded in Record of Petitions Vol 1. P. 215-216
Geo Fisher Secy

San Francisco March 10th 1853

Dep. of
L. D. Vinsonhaler

On this day before Commissioners Leland Hall came L D Vinsonhaler a Witness in behalf of the Claimants Robert B Kelly Petition Number 320 and was duly sworn his evidence being given in English

The United States Prosecuting Law Agent was present

In answer to inquiries by Counsel for the Claimant the Witness testified as follows

My name is L D Vinsonhaler my age is forty Years and I reside in Mariposa County I came to California in 1846.

I know the Rancho Called San Joaquin. It is in Mariposa County. It is on both sides of the river San Joaquin and runs with the meanderings of the River from the edge of the table Mountain downward to the Westward

Petition

To the Honorable the Board of United States Land Commissioners appointed to settle Private Land Claims in California

The Petition of Robert D Kelly respectfully showeth. that he is the Claimant of six leagues of land in Mariposa County. being part of a tract of Eleven leagues of land on the San Joaquin River whose measurement is to be Commenced from the edge of the Survey or vista Madre mountains following down stream

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That the same was granted to Lieutenant Colonel Jose Castro by Governor Alvarado on the 24th day of April AD 1846 by virtue of the Colonization laws of August 18th 1824. and the instructions and regulations of November 21st 1828. and the various laws of Mexico affecting Grants of land in California

That on the 8th day of June AD 1849 the said Jose Castro and Modesta Castro Conveyed unto your Petitioner and Bernard McKenzie Six leagues of the said Eleven leagues of land with a Covenant in said ~~Document~~ deed contained giving the privilege to said McKenzie. and your Petitioner to make their selection of the aforesaid six leagues from any part of said Ranchos that they may choose

That on the 8th day of April 1852 Jane McKenzie the Widow of said Bernard McKenzie (he having previously died) Conveyed by and unto your Petitioner all the right title and interest of said Bernard McKenzie in and to the said six leagues of land. said lands have not been Surveyed by the United States Surveyor General

There is no Conflicting Claim to them known to your Petitioner. the Evidence upon which your Petitioner relies are the records of this Grant in the office of the Surveyor General of the United States for California. Original Papers Copies of which are herewith filed and to

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Case No 320 was submitted under the rule of
21 March 1854

San Francisco May 8, 1855

In the same Case Commissioner S B Farwell delivered
the opinion of the Board Confirming the Claim
(vide page 45 of this transcript)

And the following Order was made to wit
(vide page 50 of this transcript)

A Witness in behalf of the Claimant taken before Commissioner Alpheus Felch with Documents marked "A F" Nos 1. 2. 3. & 4. Annexed thereto Was filed
(vide page 6 of this Manuscript)

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San Francisco March 31. 1854
In the same Case the Deposition of Antonio Maria Pico a Witness in behalf of the Claimant taken before Commissioner Peter Latt. Was filed
(vide page 10 of this Manuscript)

San Francisco April 1. 1854
In the same Case the Deposition of Juan B Alvarado a Witness in behalf of the Claimant taken before Commissioner Peter Latt Was filed
(vide page 12 of this Manuscript)

San Francisco November 22 1854
In the same case the Counsel for the Claimant filed the following papers as evidence in this Case to wit
A Exemplified Copy of the Will of Bernard McKenzie
(vide page 33 of this Manuscript)
B Conveyance from Jose Castro and Modesta Castro to McKenzie and Neligh
(vide page 15 of this Manuscript)
C Conveyance from Jane McKenzie to Robt D Neligh
(vide page 25 of this Manuscript)

San Francisco November 28 1854
Case No 320 Was ordered to be placed at the foot of the B Class cases on the trial Docket

San Francisco Dec 19. 1854

Office of the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California

Be it remembered, that on this third day of September 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 of the City of San Francisco in the State aforesaid, in the United States of America the following proceedings were had to wit,

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The Petition of Robert B Neligh for land on the San Joaquin River was presented, and ordered to be filed and docketed with No 320 and is as follows, to wit,

(Vide page 3 of this transcript)

Upon which Petition the following subsequent proceedings were had in their Chronological Order to wit

San Francisco March 10, 1853

In Case No 320 Robt B Neligh for lands on the San Joaquin River, the deposition of L D Vinsonhaler a witness in behalf of the Claimant taken before Commissioner Hiland Hall, was filed

(Vide page 4 of this transcript)

San Francisco Sept 2d 1853

In the same Case the deposition of J J Warner a witness in behalf of the Claimant, taken before Commissioner Thompson Campbell was filed

(vide page 5 of this transcript)

San Francisco February 22, 1854

In the same Case the deposition of M B Lewis

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Transcript
of the
Proceedings in Case # No 320

Robert B Heligh — Claimant

vs

The United States — Defendant

In the Place Named

"Land on the San-Joaquin"

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1st Question. Had said Carlos a family. if Yes
Where did they reside

Answer — Yes he had, they lived at Monterey

2d Question. Where was his residence in Eighteen
Hundred and forty four, 1845 and 1846

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Answer — He was in the Rancho of San Joaquin
in 1844, in the latter part of that year he was ordered
by Micheltorena to evacuate that part of the Country

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Authority

Answer — In 1844 Jose Castro was appointed by Micheltorena to go with some troops and occupy the Margins of the river San Joaquin. this took place during the last 6 months of that Year. Jose Castro passed by my Rancho near Monterey being in his way for this purpose, and he confidentially showed to me his military instructions, which he had from Micheltorena. In a part thereof he promised to said Castro to grant to him eleven leagues of land wherever he should locate himself with the said troops. Stipulating to give him a Title afterwards in remuneration for the military and civil services which he had performed to the Country, I afterwards learned that Castro established himself at a place of the Rio San Joaquin, erected houses, built Corrals and had Cattle there, and that soon after he retired from there by order of Micheltorena leaving the place. this was in consequence of some political disturbances which occurred in the Department,

4th Question State what the public services rendered the Mexican Government by General Jose Castro of which you have spoken in this deposition

Answer — Since the Year Eighteen hundred and thirty four, I think he was a member of the Territorial Deputation. He was next Political Chief Ad interim of the Territory and afterwards held different Military offices up to the grade of Lieutenant Colonel, Till he was Colonel Commandant of the Military forces at Monterey, and finally General Commandant of the forces in California during the war with the United States

Jose Examined by United States Law Agent

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Office of the Attorney General of the United States,

Washington, 3. December, 1855.

320 — "Land on the San Joaquin River" —

Robert B. Kelleigh. 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 20th day of November 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. 331.

U. S. Dist. Court
South. Dist. California

Robt B Heligh
appellee
vs
The United States
appellants

Notice of appeal

Filed Feby 12th 1856.
J. E. Sawyer
Clk

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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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Robert B. Neligh, appellee
vs.
The United States, Appellant.

Docket No. 331.

Transcript No. 320.

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 3d day of September A. D. 1852, Robert B. Neligh

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~~ on San Joaquin River in the County of Mariposa 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 8th day of May — A. D 1855, the said Commissioners confirmed, by final decision, the said claim of said petitioner. That thereafter, to wit: on or about the 24th day of November 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. 320; reference to which it is prayed may be had and made part of this petition. That on or about the 20th day of November 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

evidence on which said decision was founded. That thereafter, to wit: on the 12th day of February — A. D. 1856, 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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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

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. 331.

Filed this 5th January 1857

C Sims clk

J. H. Coleman

dep

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United States District Court for the
Southern District of California

The United States
appellant
vs
Robert B Ashley
appellee

Docket No. 331.
Transcript No. 320.

Now comes the appellee and respondent in this cause and for answer to the petition of the appellant filed herein says It is true that the lands described in said petition and in said Transcript filed in this cause lie within the Southern District of California and within the jurisdiction of this court.

But this respondent denies that his said title is invalid and avers that the same is a good and valid title and ought to be confirmed and prays that the decision of said Board of Commissioners may be approved and his said title decreed a good and valid title.

E. O. Bradley Atty
Counsel for appellee &
Respondent.

No. 331.

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

The United States
appellant
vs

Robert B. Arligh
appellee

Answer —

Filed this 27 January 1857
C Sims clk
p. J H Coleman
Dep

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E. O. Crosby Atty
for appellee &c

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United States District Court for
Southern District of California

The United States
appellants
vs
Robert B. Neligh
appellee

Docket No. 331
Transt. No. 320

It is hereby stipulated that this cause be now submitted upon the papers in the case, upon condition that the final decree shall not be entered until the 2d Monday of December next - and further that if on or before that time the appellants shall discover ~~new~~ evidence, then this cause, upon motion, may be reopened -

E. O. Crosby Atty
Counsel for appellee.

P. Ord Dist Atty.

No. 331.

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

The United States.
appellant

vs

Robert B. Neligh
appellee

Stipulation to submit cause

Filed Jany 27th 1887

Chris
Clk

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United States of America, } SS.
SOUTHERN DISTRICT OF CALIFORNIA.

THE PRESIDENT OF THE UNITED STATES,

TO

Robert B. Neligh

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GREETING:

TAKE NOTICE, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of 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

P. Ord U.S. Atty praying said Court to review the decission of the U.S. Land Commissioners of the 8th day of May 1855 confirming your claim to the Land called the Land on

"San Joaquin"

and that you, and each of 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 that judgment by default will be taken against you, and each of you, and the prayer of the said petitioner will be granted, with costs.

In witness whereof, I have hereunto set my hand, and affixed the Seal of the said Court, this 27th day of January, in the year of our Lord, one thousand eight hundred and fifty-seven at Los Angeles aforesaid.

C. Sims
Clerk.
J. H. Coleman
Dep

No. 331

Marshals Cost
$ 6.00

UNITED STATES OF AMERICA,
SOUTHERN DISTRICT OF CALIFORNIA,
U. S. DISTRICT COURT.

Robert Neligh
ads
The United States
Vs. Apptt

Filed on return this 27th
of January 1857
C. Sims ck
J. H. Coleman
Dep

SUMMONS.

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I served this Summons, along with the proper copy of the Petition, upon E. C. Crosby atty for Appellee by delivering to him a true Copy of same

at Los Angeles, in the Southern District of California, on the 27th day of January, A. D. 1857.

Sworn to and subscribed before me, this 27th January 1857

C. Sims Clerk.
J. H. Coleman
Dep

Edward Hunter
U.S. Marshal.
Jr. M. L. Goodman
Depty

San Francisco April 2nd 1858

Semmes Esqr
Clerk of the United States Court
for the Southern District of California

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Sir,

Take notice that I have employed, Messrs. Volney E. Howard & Frederick A. Sawyer to represent me & my interest in the United States Court for the Southern District of California in the case No 331 on the Docket of said Court, of Robert B. Neleigh vs. the United States

Your Ovt. Sr.

James F. Stuart

No 331

No. 331

Summer Esqr
Clk of District Court
Southern District of California
Los Angeles

Filed this 6th April 1858
C Sims Clk
J H Coleman
Dep

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In the U. S. District Court for the Southern District of California.

No. 331.

Robert B. Neighly, Respondent
vs
The United States, Appellants.

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It is hereby agreed and stipulated by the Attornies of the respective parties herein, that the testimony of Pio Pico shall be taken, to be used in this action, in this Court, as a part of the proof therein, subject to all legal exceptions, except as to the manner of taking the same. The annexed deposition of Pio Pico, is the proof referred to in this stipulation.

P. Ord. U.S. Dist Atty.
By E J C Kewen. Acty Atty

Fredk A. Sawyer
attorney for Claimant

No. 331

U. S. District Court
S. Dist of California

Robert Neleigh
appellee
ads
The United States
appellants

Stipulation to take
Testimony

Filed April 8th 1858
C Sims clk
J H Coleman
dep

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Robert Neligh
appellee
vs
The United States
appellant

Case No. 331

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Deposition of Pio Pico

taken before C. SIMS, United States Commissioner for the District of California, at the United States Court House, in the City of Los Angeles, on Thursday, the 8th day of April A. D. 185 8, at 9 o'clock A. M., on said day, on behalf of the Claimant by the Stipulation of Parties to be used as testimony in a certain cause now pending in the U. S. District Court being Case No. 331, on the Docket of said Court, wherein The United States are appellants, and Robert Neligh is ~~are~~ appellees.

Present E. D. C. Kewen act'g U. S. Attorney in behalf of the appellants and T. A. Sawyer in behalf of appellees.

Pio Pico being duly sworn ~~say~~ sanseus

Quest What is your name, age and place of Residence?

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Ans My name is Pio Rico, I am 57 year of age and reside in the County of Los Angeles, State of California

Quest Have you ever occupied an Official station in California? and if so, what and in what years?

Ans I have occupied the station of Constitutional Governor in the years of 1845 and 1846 up to August of the latter year

Quest In what manner did you become Governor and were you ever recognized as such by the supreme government of Mexico, and if yes, By virtue of what proceeding or document and at what date?

Ans I became Governor in accordance with the Laws, - I was one of the trio submitted by the legislative body of California to the Supreme Mexican Government. from which I received

my appointment and entered upon the discharge of my duties as Constitutional Governor by virtue of a Communication from the Secretary of State of the Mexican Government

Question

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At what time did Governor Micheltorena abandon the office of Governor, and what office if any, did you occupy at that time, and how long after was it that you were named as one of the trio and received your appointment as Governor from the Supreme Govt.

Answer

It was in the beginning of the year 1845 — It might have been about February. I was at that time First Vocal of the Departmental Assembly. I was named as one of the Trio by the Assembly during the same year 1845 but I do not remember the month exactly; If I do not mistake it was in the month of May 1845 that I received my appointment as Governor from Mexico

Question

Was the First Vocal ex-officio Governor and did you act as such before receiving your appointment from the Supreme Government

Answer

I was. He was and I acted as such Governor until my appointment came

from Mexico

Question

Do you know Don Castro the present Governor of Lower California. if yes. how long have you known him and where have you known him. and has he occupied any public Capacities in California and in what years

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Answer

Yes. I know him, since the year 1828 - I have known him in Monterey He has occupied offices under the Government in Upper California. He has been a Deputy of the Legislative bodies. and has been the Military General Commanding the Department. He was discharging the duties of Genl. Commanding during the time I was Governor and held filled the same position previously when Juan B Alvarado was Governor — when I first knew him in 1828 he was a Deputy in the Legislative body from which time until August 1846 he was in the discharge of the duties of some office under the Mexican Government.

Question

What was the Salary allowed by law to the Commandante General

Answer

I do not know

Question Do you know any thing of a tract of land on the banks of the San Joaquin River Comprising about eleven leagues, Commencing from the edge of the Sierra Nevada and running down Stream

Answer I ~~do not know~~ am unacquainted with that Section of County, and have no recollections of that particular tract

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Question Do you remember making a grant to Jose Castro of a tract of land in that vicinity

Answer I do not recollect. as during my administration large numbers of Grants were made. and unless there was some particular Circumstance connected with some particular Grant. I cannot at this remote period bring to my mind any of the grants which were made by me

Question Did you ever make a grant without a petition for the land being first presented to you

Answer I believe that I did not

2 Do you know what has become of the

book of Records

Question

Was there a book of records kept in the year 1845 and 1846 in which the grants of land made by you were recorded

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Answer

There was

Question

Do you know where that book is. if not, where was it when you last saw it

Answer

I do not know, the last time I saw it was in the office of the Secretary of the Departmental Government.

Question

Were the petitions for land and other public papers kept in the same office

Answer

They were

Question

What became of the books, papers and documents of that office

answer

Under my direction and supervision they were packed in boxes a portion of which said boxes were removed from the office to a designated place. the remainder of the

boxes. from the want of time and Con=
=vinience were left remaining in the Ex=
=cutive buildings: on my return to the
Country in 1848. I learnt and was in
=formed and it was a matter of public notoriety that not only the documents
before refered to, but many of those of
the Municipal Govt. of Los Angeles
had been scattered about, lost and
destroyed. that, they had been, even,
used as paper for the making of Gun
Cartridges. from the ~~loss~~ destruction of which docu=
=ments I myself, have suffered heavy
pecuniary loss. as documents in which
I as a Citizen of California was deeply
interested, pecuniarily and which were in
the Office. have never been recovered

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Question

When were you last in the City of San Fran=
=cisco, and do you intend to return there,
and when

Answer

I was last there in 1854. and I have no
intentions, at present, of revisiting again
San Francisco

Pio Pico

Sworn to and
Subscribed before
me this 8th day of April AD 1858
C Sims
U.S. Comr.

I, C. Sims, of the City and County of Los Angeles, and State of California, Commissioner to take Affidavits and Bail, in civil case pending in the Courts of the United States, and Depositions under the Acts of Congress, approved September 24th, A. D. 1789, February 20th, A. D. 1812, and March 1st, A. D. 1812, by virtue of my office of Clerk of the United States Court of the Southern District of California, and by special appointment by the United States Circuit Court for the State and circuit of California, do hereby certify that the foregoing Depositions of Rio Rico was taken before me on the 8th day of April, A. D. 185 8, according to the Stipulation of the said parties at the United States District Court House, in the City of Los Angeles, and State of California, in behalf of the Claimant That the said Rio Rico was by me duly sworn according to law as a Witness in said cause in the caption of this Deposition mentioned, and after being so sworn, his Testimony was by me reduced to writing in his presence, and after having been by me carefully read to him, and by him corrected in every particular as he desired, was by him signed in my presence.

In witness whereof, I hereunto set my hand and private Seal, (having no Seal of Office,) this 8th day of April, A. D. 185 8

C. Columbus Sims

United States Commissioner.

for Southern Dist Calo

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No. 331

United States District Court for the Southern District of California.

Deposition of Pró Preó

Filed this 8th of April 1858

C Lewis Clk

J H Coleman Dep

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San Francisco April 2nd 1858

D. Ord Esqr

United States

district attorney of the Southern District of California

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Sir,

I have employed Messrs. Volney E. Howard & Frederick A. Sawyer to represent me & my interests in the United States District Court, for the Southern District of California in the case no 331. Robert B. Neleigh vs. the United States.

Your Obt 1t.

James F. Stuart

P. Ord Esqr

U. States District attorney

Southern District California

Los Angeles

Filed May 2d 1858

E. Sims Clk

J. H. Coleman

Dep

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no. 331 — Robert B. Neleigh vs. The United States } United States District Court for the Southern District of California

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Personally appeared James F. Stuart one of the parties in interest in the above entitled cause & makes oath & says, that since this case was submitted to the consideration of the Court, the Supreme Court of the United States as this affiant is advised and believes, has announced principles, in the case of Henry Cambuston, at variance with the doctrines of that Court previously promulged, as applicable to the grants of Land by the Mexican Government in the department of the Californias — especially with reference to the registration & recording of said grants, which are calculated to affect the rights of the claimants in this case under the proof now in the Record. affiant believes he will be able to supply the proof as to the issuance & registration of said grant, by the deposition of Pio Pico, José Matias Moreno and others and also by the same witnesses, proof of the existence of the Expediente — also the notoriety and genuineness of the Grant, and asks that the case may be remanded to the Docket for that purpose.

Sworn to & subscribed
April 2nd 1858
before me,
W. H. Chevers,
U. S. Commissioner
for the Districts of California.

James F. Stuart

No. 331

U. S. Dist Court
South.n Dist of Cal

Robert Neleigh
vs
The United States

Affidavit of J. F. Stuart

Filed this 14th June 1858
C. Sims Clk
J. H. Coleman
Dep

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San Francisco February 12th 1853.

On this day before Commissioner Hubbard Hall, came James L Ord a witness on behalf of the claimant Vicente Gomez. petition No 569. and was duly sworn, his evidence being given in English.

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The U. S. Associate Law Agent was present,

In answer to enquiries by Counsel for claimant, the witness testified as follows.

My name James L Ord, my age is twenty nine years & I reside at Monterey and am by profession a physician, I came to California as assistant surgeon in company F. of the third regiment of U. S. Artillery in January 1847. and I have since that time resided in Monterey.

In the latter part of said Month of January I commenced occupying a portion of the custom house at Monterey, one end of it I occupied with Capt W T Sherman of the Army as our quarters and the other end was occupied as a hospital and was under my charge. The center of the building was used as a depository for naval stores. In the room occupied as a hospital were spanish papers which I supposed were old custom house papers of no value. The papers were on shelves which had doors to them. Some of the doors had keys in them, but were not locked. The papers were not in charge of any one to my knowledge. My hospital steward asked me if they were of any value, & I told him I did not know that they were and some of them were used by him in putting up prescriptions for the sick. I used some myself as waste paper, when I first used them. I did not understand spanish and it was a month or two

before I found out they were of value. From seeing the papers afterwards in charge of Capt Halleck. I think some of those used were Expedientes I can not form an idea of the quantity of papers thus used. I do not recollect about seeing maps in the papers, Some of them had numbers on the outside. From January until May the papers were in such exposed condition. I left Monterey for a time about the first of May, when I returned in June the papers were not in the place in which they were when I went away.

In answer to questions by the associate Law Agent, the witness says he thinks Capt Halleck took charge of the papers when they were removed from the Custom House.

James L. Ord

Sworn and subscribed
before me

Hiland Hall.
Comr.

(Endorsed)

No 569.

Vicente Gomez, Pinole Grounds.

Depo of James L. Ord taken before Comr Hiland Hall.

Filed in office Febry 12, 1853.

Geo Fisher.
Secy

Recorded in Eo B. Vol 2. p 571. E. F. & G.

Geo Fisher
Secy.

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

I J W Mandeville Surveyor General of the United States for the state of California and as such having in my office and in my charge and custody the papers of the late Board of Commissioners to ascertain and settle private Land Claims in California, do hereby certify that the two preceeding pages exhibit a full, true and correct copy of an original paper, together with the endorsements thereon, as the same appears on file in case No 569., on the docket of said Board of Commissioners, on file in my office

In testimony whereof I have hereunto signed my name officially and affixed my seal of office, at the City of San Francisco, this 15th day of May AD 1858.

J. W. Mandeville
U.S. Sur Gen. Cal.

It is hereby stipulated that the foregoing copy of a deposition of Dr. James L. Ord, may be used in evidence on the part of Claimant, in case of Robert B. Nelson v The U States, now pending in the Dist Court of the U States of the Southern Dist of Cal No 331., subject to all legal objections, except as to form.

P. Ord U S Atty.

May 17th 1858

Wm R. S. Sawyer
for Claimant

No 331

United States
vs
Robt B. Neleigh

Deposition of
Dr Ord in case
of Morehead admt
vs.
United States

A certified copy

Filed this 15th June 1858
C Sims clk
J H Coleman
Dep

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State Dep.t of the Territory of
California,
Monterrey July 21.st 1848

Sir

Your letter and accompanying papers announcing the return of Don. Pio. Pico have been received. You will require Don Pio. to immediately report himself to you and to give his written parole of honor that he will take no part whatever in the exisiting war between the United States and Mexico either by bearing arms himself or by inducing others to do so or by giving the Mexicans any aid or assistance of whatever character. Should he refuse to give such parole he will be held as a prisoner of war. He must of course be treated with all the respect due to his rank and character but at the same time a strict watch must be kept upon his conduct

By order of the Governor
H. W. Halleck
Lieut of Eng.rs & Sec.y of State.

Col. J. D. Stevenson
Comdg. Los Angeles

Exhibit No. 1

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C	Chaves Guillo	Sacramto		36/418
	Cooper Juan B.R y	Pablo de la Guerra, Nicasio		420
	Castaneda Juan	Colote		432
	Chaves Antº	Pleyto		457
	Carrillo de Fitch, Mª Josefa y Guadalupe	Estudillo	Valle de las Palmas,	471
	— , — Anastacio	Cienequita		475
	Castilan Franco Jar	Valle de San Rafael		492
	Canedo Jose Mna	San Juan Capo		517
	Coronel Ygno	Canada de los Verdugos		528
	Colegio de N. S. de Guadalupe	Aumento de terreno Sta Ynes		540
S	Samuel (Judio)	Suerte de tierra		427
	Scott Jos y John Wilson	Canada de los Osos Pichoe Islas		470
	——— , ———	del Chorro		474
	Sais Maximo	Sta Gertrudes		482
	Serrafino de Jesus	Estencion de terreno		486
	Smith Estevan	Dos Solares. Yerba ba		487
	Sloans Abel	Vallecitos		502
	Sainserain Pedro	Terreno pº Molino, Stª Cruz		508
	Serafin de Jesus	S Gabl		527
	Sanchez Vicente	Cienega y paso de la Tigera		532
	Kayser Sebastino	Llano Seco		472
	Knight Guillo	Carmel,		550
D	Dominguez Jose	Pinlos y Nagalaguna		469
	Dolores Manuel y Rufino	una Casa		496
	Davila Guslo	x Corral de Cuero		479
	Dominguez Carlos	Ramirez y Yerba Mision nega de S. Miguel BC		498
	Gutierrez Octaviano	La Lagima		478

B Mision riega de S. Miguel B C 498.

Gutierrez Octaviano La Laguna 478
Gordon Julian Jesus Ma 518
Guerrero Franco y H. Fitch, Presidio de San Franco 578
A Abila Alanis Macino, S José Buenos Ayres 519
~~Arrellana~~ José y Franco Lopez Temascal ~~500~~
Alvarado Juan B. Rincon del Diablo ~~536~~
B Berreyessa Franco Rincon de Musalacon 510
— " — Franco y Santo Nemisio, Canada de Copay 511
Blanco Migl Muscupiovit 525
Botello Narciso y Agustin Olvera La Cienega 546
Berreyesa José Ygno Chimeles 549
Bona Tomas Valle de la Trinedad 556
Bonet J. B. y A. T. B. Martin Milcuatay 594
M Manriquez Julian Angeles 515
Maube Amo 2000 S. Gabl 537
Malo Ramon Sta Rita 542
Moraga Vicente y Luis Arenas Pauba 545
Morillo Hilario Durango 555
Martin A. J. B. y J. B. Bonet Milcuatay 574
Sepulveda Vicente y B. Yorba Sierra de Stoctua 543
Serrano José Ampliacion 558
Simeon 500 vs S. Gabl 563
Seceña Ma del Rosario &c Los Gralla 564
Sepulveda José Loreto y Juan Palos Verdes 565
— " — Franco Ampliacion de terreno 568

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

James. G. Marshead Admr

vs

United States

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H. W. Halleck being sworn says that in the year 1847. he was acting as Secretary of State under the Military Governor of California and that in the same year, W. E. P. Hartnell was assisting Affiant in the duties of his said Office so far as related to the custody and charge of the "Archives" then in said Office and was also acting as Official translator to the Governor that in the early part of the said year 1847 the said Hartnell commenced to arrange the Espedientes papers and documents now in the Surveyor Generals Office composing the present "Archives" and at the same time the said Hartnell commenced to index the different Espedientes and continued the same so long as Affiant remained at Monterey in that year that about the month of October 1847. Affiant left California and was absent until about the Month of June 1848. At that time the said Hartnell had completed the said index in the form in which it now appears except as

as hereinafter stated. That the said

in the form in which it now appears except as

as hereinafter stated. From the index thus prepared and also from an examination of the Espedientes on file, the index heretofore spoken of in the deposition of Affiant now on file in this case was prepared. In the preperation of this last index, some few Espedientes were discovered which had been overlooked by Mr. Hartnell and a note of the same was then inserted by him, in the first index made by said Hartnell, an extract of which is hereto attached

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Affiant knows that said index last above named was commenced in the early part of the year 1847 and with the above exceptions was completed before the month of June 1848.-

Affiant has examined the said index now in the Surveyor Generals office and knows the same to be in the handwriting of the said Hartnell and particularly the entry in the same, of Espediente Nº 550 for the Rancho "Carmel"

Affiant further says that while in charge of the said "Archives" they were always kept locked up except when the said Hartnell or himself was present and no one in their absence had or could have access to the same.

Affiant further says that by direction of Gov. Mason he wrote the letter dated, July 21st 1848 found on page 572 of "California Message

Message and Correspondence 1850. being House Document N° and that the same was written immediately upon receipt at Monterey of the news of Gov. Pico's return to California.

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Affiant says that neither at the time of his taking possession of the Archives nor at any time since has he ever discovered any record book or index of Grants made in the Year 1846. nor has he ever heard of the discovery of such book or index save and except those made by Affiant and the said Hartnell

It is hereby stipulated and agreed that the foregoing Affidavit of H. W. Halleck shall be received in evidence with like force and effect as if taken upon notice by deposition and that the paper purporting to be a traced copy of a page of the index referred to by said Halleck is a true copy thereof, and that the paper marked "Exhibit N°1" is a copy of the letter referred by said Halleck

Thos Sunderland
for Claimant

June 3. 1854

P. Della Torre
U. S. Atty
Glassel & Leigh
Of Counsel for the U. S.

Endorsed

Endorsed

Filed May 5, 1858.

W. H. Chevers

Clerk

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I W. H. Chevers Clerk of the District Court of the United States for the Northern District of California do hereby certify the foregoing to be a full true and correct copy of the original now on file and remaining of record in my Office

In testimony whereof I have hereunto set my hand and affixed the seal of said Court this 10th day of May A.D. 1858.

W. H. Chevers.

Clerk

No 331.

U. States District Court
J. W. Halleck
Southern District of
California

United States
vs
Robt B. Vetleigh

affidavit of
J. W. Halleck
in the case of
Morehead admr
vs
United States

A certified copy

Filed this 15th June 1858
C. Sims clk
J. H. Coleman
Dep

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Stewart.

In the United States District Court

In the United States District Court
for the Northern District of California.
James G. Morehead admr.

vs.

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United States

The deposition of A. H.
Gillespie taken on the 27th day of April
A. D. 1858 at the city of Sacramento, by consent
of parties, to be used on the trial of the above
entitled cause on the part of the Appellant.

A. H. Gillespie being first duly sworn
deposes as follows, to wit:

I am the same person whose
deposition was taken in this case on
the part of the United States.

After William Knight had enlisted
as stated in my former deposition, he
remained on duty in the Sacramento
valley until late in the fall of the year
1846. and then went South with Col. Fre-
mont as guide and arrived at Los Angeles
as, on or about the 16th day of January
1847. This was the first time Knight went
South after the commencement of hostilities
in 1846. After remaining at Los Angelas
about a month Knight was sent North
as bearer of despatches, and did not again
go South to my knowledge.

On his first trip South after the beginning of the war in 1846. Col. Fremont reached Los Angeles in the month of August of that year and at once assigned the Archives as I learned on my arrival there which was on the last day of that month. The Archives were then placed in my possession & I retained them until the 6th of September when Col. Fremont carried them South, and as I understand to Sutters Fort.

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Pio Pico left the Country in the month of September 1846. and did not return while I remained. I left in July 1847.

Archd. A. Gillespie

Subscribed & sworn to before me this 27th day of April A. D. 1858.

Wm. G. English
Notary Public

It is hereby agreed that the above deposition may be introduced and read in evidence subject to the same objections & exceptions as if taken on due notice before a Commissioner

Thos. Sunderland

for Appellant.
P. Della Donna
U. S. Atty.
Glapell & Leigh
of Counsel for the U. S.

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Endorsed
Filed May 5th 1858
W. H. Chevers
Clerk

I, W. H. Chevers Clerk of the District Court of the United States for the Northern District of California do hereby certify the foregoing to be a full true and correct copy of the original now on file and remaining of record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court this 10th day of May A. D. 1858

W. H. Chevers.
Clerk

331

U. States District Court
Southern Dist of California

United States
vs.
Robt. B. Neligh

deposition of A. H. Gillespie
in case of
Morehead admr
vs.
United States

a certified copy

Filed this 15th June 1858
C Sims clk
J H Coleman
Dep

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United States District Court

331 SD
PAGE 118

United States District Court
Northern District of California
San Francisco May 7. 1858.

The United States
ads
Jno. G. Mearehead. Admr.

On this day before the District Court (by consent.) of the United States for the Northern District of California duly authorized to administer oaths &c. &c. came John C. Fremont a witness produced on behalf of the claimants in Case No. 106 being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 89 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows.

Present:

The District Attorney & Mr. Stapell for U.S.
& Mr. V. E. Howard for Claimants

Question by Claimants Counsel.

Please to state all you know in relation to the custody of the records & documents belonging to the former Government touching land titles in California.

Ans. About Aug. 14. 1846. I received an order from Com. Stockton then at Los Angeles, directing me to take charge

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of the public archives, which were then in possession of Don Luis Vignes an old resident of Los Angeles, in whose charge they had been placed as I understood by Pio Pico, I took possession of them accordingly, and retained them in my possession until about the end of September when I placed them at what was then called Sutters Fort, on the American river. They made together about 2 mule loads, and I transported them in that way from Los Angeles to Sutters fort.

Some time in March 1847, being myself at Los Angeles I received an order from Gen. Kearney dated about March 17th directing me to deliver up all the archives and public papers belonging to the former government. Under this order they were delivered up, and consigned directly I think to the care of Mr Hillard P. Hall at Monterey. They were kept in Mr. Larkins house where I saw them about the 13th May 1847. I had been up to the time I received the order of Gen. Kearney, Military Commandant & Governor of California, Mr. Hall was with Gen. Kearney, I dont know in what capacity.

Mr. Robt C. Larkin had been acting as U. S. Consul.

I understood that the archives had been kept in trunks by Mr. Vignes. The

I understood that the Archives had been kept in trunks by Mr. Vignes. The Californians had just evacuated Los Angeles when we entered on the 13th August. The Archives were in reasonably good condition I formed them into bales convenient for packing. They were under my immediate charge until about the end of September and up to that time no one but myself had accep to them. I myself frequently examined them & think I examined more or less every title in the Archives. At the end of September they paped into the charge of J. M. Hern then commanding at Sutters fort.

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About the time we took papession of Los Angeles, Pio Pico went to Sonora where he remained I think until hostilities ceased.

Cross examined.

I was aware of the value of these Archives and took precautions to have them protected. They were packed in bales and covered with blankets so as to be secure from loss. A part of them were subsequently lost. I ordered home some of them to be inspected at Washington, one I know I left there. The others were lost with other effects in the mountains of San Juan.

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One of these titles referred to a grant to Gen. Castro.- It was I think a title wherein the full title or the papers concerning a grant. I am unable to say- This was last in the mountains. There were three or four last in the mountains The one left at Washington referred to the MacNamara grant.

The archives I allude to were only those found at Las Angeles- I know nothing of any at Monterey or at any other point than Las Angeles- When I last saw them they were at Mr. Larkins private residence or in a room adjoining a store where he resided.- It was not used as a hospital.

The feeling of the Mexican authorities towards Americans & American settlers in March April & May 1846. was hostile

About May 1. 1846. I was about the Rulles in Sacramento valley.

The rising of the American settlers in the latter part of that month was caused directly by a disposition on the part of the Mexican authorities to expel them I knew Wm. Knight very well I first saw him I think in the Spring of 1846 I had heard of him as one of the settlers and a former resident of New Mexico. He was a prominent actor in this rising

and a former resident of New Mexico. He was a prominent actor in this rising but not ostensibly so. He acted as a spy for me during the whole campaign. He became a spy for me in May. His occupation led him to the neighborhood of the bay where he could communicate with the Mexicans, and ascertain their movements.

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The communication between the Sacramento Valley & Los Angeles was open by the coast route but more or less obstructed by Indians on the Tulare route. The season was very hot. The waters were rather low. I found no difficulty in fording any stream except the Sacramento. Only speak of the Sacramento waters. I suppose communication would be difficult for American settlers. I don't know whether Knight was in Los Angeles in May 1846.

He spoke to me of his title frequently and generally with the object of having me examine them. He brought them to me at Monterey and returned to the Stanislaus - this was just before his death. He described them but I do not recollect what the description of them was. I do not recollect of his saying anything of Micheltorena in connection with the papers. I think he spoke rather of

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Pico. He and I were on friendly terms & I had great regard for him. I don't recollect that he stated his papers were imperfect, - when he brought his papers to me in 1849. he could not have dispossed & had any authority to complete his papers. The Convention was then sitting.

J. C. Fremont

Taken & subscribed before me this 7th May 1858.

Ogden Hoffman.

Endorsed

Filed May 7th 1858.

W. H. Chevers

Clerk

I, W. H. Chevers, Clerk of the District Court of the United States for the Northern District of California, do hereby certify the foregoing to be a full true and correct copy of the original now on file and remaining of record in my office.

In testimony whereof I

my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court this 10th day of May A.D. 1858.

W. H. Chevers,
Clerk

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U. States Dist Court
J. C. Fremont
Southern District of
California

United States
vs
Robt B. Nelligh

deposition of C. J. Fremont
in case of
Morehead admr
vs.
United States

a certified copy

Filed this 15th June 1858
C Sims clk
Jr J H Coleman
dep

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No 331

Robert B. Neleigh
vs.
The United States

United States District Court
for the Southern District
of California —

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It is hereby stipulated and agreed that certified copies of the depositions of John Charles Fremont, taken on the 7th day of May 1858 in the case of James G. Morehead administrator vs. the United States, now pending in the District Court of the United States for the Northern District of California, and numbered on the Docket of said Court as number 106 and the deposition of A. H. Gillespie taken in the same case on the 27th day of April 1858 and the affidavit of J. W. Halleck and exhibits annexed thereto, filed in the said case, No 106 on the 5th day of May 1858 shall be received as evidence in the case of Robt. B. Neleigh vs. the United States, No 331, now pending in District Court of the United States for the Southern District of California, subject to all legal objections, except as to the form of taking them —

Fred K. A. Sawyer
for Claimant

May 13th 1858

P. Ord
C. S. Attys.

No 331

United States District Court
Southern District of
California.

Stipulation - in
relation to the depositions
of A. H. Gillespie
& J. W. Halleck &
John Charles Fremont -

Filed this 15th June 1858
C Sims Clk
J H Coleman
Dep

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El ciudadano Pio Pico primer vocal de la Escma Asamblea Departamental de Californias y Gob.r interino del Departam.to a los habitantes del mismo Sabed, Que la Escma Asamblea Departamental en Sesion de hoy ha acordado y decretado lo siguiente

Siendo el primer vocal de la Escma asamblea la persona que llama la ley para encargarse de las riendas del Gobierno de este Departamento cuyo destino se halla vacante por estar desconocida esta autoridad en la del Sor Gral Don Manuel Micheltorena en que residia y resultando serlo el Sor Dn Pio Pico, se encargará este Señor y desde esta misma fecha del Gobierno Departamental interinamente conforme al articulo 138 de las bases Organicas de la Nacion, y procederá á dictar las medidas convenientes á la seguridad conservacion del orden publico y tranquilidad segun las facultades que las leyes le conceden; circulandose este decreto á todos los pueblos del Departamento para la inteligencia y reconocimiento. Dado en la ciudad de los Angeles Capital del Departam.to de Californias á 15 de Febrero de 1845 -

Y para que llegue á noticia de todas lo comunico á V. á fin de que haciendolo publicar con las solemnidades de bando en ese pueblo, y su comprencion, se fije en los parages de costumbre, acusandome el corresponden-

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-diente, recibo.

Dios y Libertad Ciudad de los Angeles Febrero 15 de 1845—

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Office of the Surveyor General
of the United States for California

I, J. W. Mandeville Surveyor General of the United States for the state of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican Territory or Department of the Upper Californias do hereby certify that foregoing to be a full, true and correct copy of a document from Vol 6. Departmental State papers. page 35 as the same appears among and as a part of said Archives.

In testimony whereof I have hereunto set my hand and affixed my official seal, at the City of San Francisco, this 12th day of June A.D. 1858.

J. W. Mandeville
U.S. Sur Gnl. Cal.

No 331
U. S. Dist. Court Southern District
of California

United States
vs.
R. B. Nelligh

C

Filed this 15th June 1858
C Sims clk
J. H. Coleman
Dep

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1.50
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La Exma Asamblea Departamen=
=tal en acuerdo de hoy y en uso de la
facultad 17ª que le concede el artículo
134 de las Bases Organicas de la Nacion
ha tenido à bien proponer al Supremo
Gobierno para Gobernador del Departa=
=mento los Señores Siguientes
Primero Exmo Señor Dn Pio Pico
Segundo-Señor Don Juan Bandini
Tercero-Señor Don Mariano G Vallejo
Cuarto-Señor Dn José de la Guerra y Noriega
Quinto Señor Dn Antonio Mª Osio
Lo tendrá entendido el Exmo Señor Gober=
=nador del Departamento para su
publicacion y demas fines. Sala de
Sesiones de la Honorable Asamblea
de Californias Junio 27 de 1845-

Pio Pico
Presidte

Augustin Olvera
Srio

Y para que llegue à noticia de todos
y tenga su cumplimiento, mando
se publique por bando en los pueblos
del Departamento y se circule à
quienes corresponda- Angeles á 27
de Junio de 1845

Jose M Covarrubias
Srio

"Endorsed"

Propuesta pa gobernador-

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1.50

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Office of the Surveyor General
of the United States for California

I, J. W. Mandeville, Surveyor General of the United States for the state of California and as such having in my office and in my charge and custody a portion of the Archives of the former Spanish and Mexican Territory or Department of the Upper Californias, do hereby certify the foregoing pages numbered One (1) to be a true, full and correct copy of a document from Vol IV. of Legislative Records. Page 401. as the same appears among and forms a part of said archives.

In testimony whereof I have hereunto signed my name officially and affixed my official seal at the City of San Francisco, this 12 day of June A.D. 1858.

J. W. Mandeville
U.S. Sur Gen Cal.

No 331

U. S. Dist. Court Southern District of California

United States

vs

Robt B. Nelson Jr

F. H.

Filed this 15th June 1858

C. Sims Clk

J. H. Coleman

Dep

$1.50

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City & County of San Francisco
State of California

James F. Stuart, a resident of the county of Sonoma in the State of California, being sworn, deposes & says that he is the owner, by good & sufficient deeds of conveyance, duly recorded in the counties of Mariposa & Fresno, of one third part of the lands on the San Joaquin claimed by Robert B. Nesleigh in the suit now pending in the U. States Court of the Southern District of California, between the said Nesleigh & the United States, which is numbered 331 on the docket of said Court.

Subscribed and sworn to before me this Second day of April. A.D. 1858.
F. I. Thibault
Notary Public

James F. Stuart

No 331.

Robert B. Neleigh

vs.

United States

affidavit of

James F. Stuart

Filed this 15th June 1858

Lewis clk

J. H. Coleman

Dep

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MINISTERIO
DE JUSTICIA
E INSTRUCCION PUBLICA.

Nº 28

683

E. S.

Ha llegado á noticia del E. S. Presid.te que el Gobierno de ese Departam.to ha dispuesto sacar á pública subasta todos los bienes pertenecientes á las misiones del mismo, que el antecesor de V E. habia mandado devolver á los respectivos Misioneros para el manejo y admon. de sus temporalidades, en consecuencia se ha servido prevenirme que ese Gobierno se sirva informar sobre estos particulares, suspendiendo desde luego todo procedim.to en cuanto á enagenacion de los bienes de que se trata hasta la resolucion del Supmo. Gobierno.

Tengo el honor de decirlo á V E. con los fines indicados, protestandole mi consideracion y aprecio.

Dios y Libertad Mejico Noviembre 14 del 1845.

Montesdeoca

E. S. Gobernador del Depto de California.

Puerto de Monterey.

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Office of the Surveyor General,

Of the United States, for California.

I, **J. W. MANDEVILLE,** *Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, a portion of the* **Archives** *of the former* **Spanish** *and* **Mexican** *Territory or Department of* **Upper California,** *as also the papers of the late Board of Commissioners "to ascertain and settle private Land Claims in California;" by virtue of the power vested in me by law,* **Do Hereby Certify** *that the ——— preceding, and hereunto annexed page of tracing paper numbered ~~from~~ one ~~to~~ ~~inclusive~~, exhibits a true, full and correct ~~accurate~~ copy of an original document dated November 14th 1845. on page 683. of Vol. 2. of "State Papers - "Missions & Colonization" as the same appears among and is a part of said Archives.*

In Testimony Whereof, I have hereunto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this 1st day of June A.D. 1858.

J. W. Mandeville **U. S. Surveyor General for California**

Extract from the 2nd Section of the Act of Congress "providing for the Survey of Public Lands in California, and for other purposes."
[Approved, March 3d, 1855.]

"The Secretary of the Interior is hereby authorized to cause an official Seal to be prepared for the Office of the said Surveyor General, (California) and any copy or extract from the plats, field notes and other records and documents on file in his office, when attested as such by the said Seal and the signature of the Surveyor General shall, in all judicial matters, have the same force and effect as the original."

Extract from an Act of the Legislature of the State of California, "concerning certified copies of certain Instruments in Writing."
[Approved, April 29th, 1857.]

"SEC. 1. Copies of all papers, lately belonging to the United States Board of Commissioners for the settlement of private land claims in California, and on file in the office of the Surveyor General of the United States for the State of California, and all copies of documents and papers belonging to said Surveyor's office, which copies shall have been duly certified to be true copies by said Surveyor, shall be received and read in evidence, in the same manner, and with like effect as the originals."

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United States District Court
Southern District of California

United States
vs
Robt B. Nelligh

K.

Filed this 15th June 1858
C Sims clk
J H Coleman
Dep

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United States
vs. No 331.
Robert B Neleigh

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

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State of California
City and County of San Francisco } ss.

Depositions of Johnathan D. Stevenson and Richard Somerset Den. Witnesses produced sworn and examined on the part of the Claimant or Defendant in the above entitled action, this 22nd day of May A.D. 1858, before me, the undersigned C.J. Bonham, a Notary Public in and for said City and County of San Francisco, duly commissioned and sworn, at the Office of the United States Surveyor General in Montgomery Block in said City, Taken by consent of the respective parties Plaintiff and Defendant and in the presence of their respective Counsel. T. Ord. Esq. United States District Attorney for the Southern District of California, appearing for Plaintiff and J. A. Sawyer Esq. for Defendant or Claimant.

The Witnesses having been by me the said Notary duly Sworn that the evidence they should give in the said action, should be the truth, the whole truth and nothing but the truth, duly testified as follows.

My name is Johnathan D Stevenson - I am about fifty nine years of age and reside in the City of San Francisco - I am an attorney at Law.

Question — Are you acquainted with Don Pio Pico - of Los. Angelos - and if yea - How - When and where did you become acquainted with him?

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Ans. I am - I became acquainted with him at Los. Angelos - California in the Spring of 1848. the acquaintance continued up to the day I left Los Angelos, which was about the 26th Sept 1848 - Don Pio Pico upon his return to California, was ordered by me as the Military Commandant of the Southern District of California, to report himself to me as having arrived in the Country. He did so report himself. and I permitted him to go where he pleased upon his parole of honor. I was subsequently directed by Col Mason to arrest him. and confine him in the Common Guard House of the Post - I arrested him But gave him my own quarters, and became myself responsible for him He took his meals daily at my table - and at night occupied my Chamber - We were constantly together during his arrest.

Question — At the period mentioned in your last answer - did you occupy any position under the United States Government, and if yea, What was it?

Ans. I was a Colonel in the United States Service - Commanding the First Regiment of New York Volunteers - Then on duty in California and was then Commanding the Southern Military District of California - with my Head Quarters at Los. Angelos

Question — Are you acquainted with the signature of Don Pio Pico and if yea - State how you became acquainted

Question Are you acquainted with the signature of Don Pio Pico and if yea - State how you became acquainted with it. }

Ans. I am acquainted with his signature - Before I became personally acquainted with him, a large number of Mexican Documents bearing his signature and official seal as Governor of California - passed thro my hands. After I became personally acquainted with him, and while he resided in my Quarters at Los Angelos, I saw him write daily at the same table I used - I saw him sign his name and saw it after it was signed.

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Question Is the signature of Pio Pico, attached to the Document now presented to you, bearing date the 4th of April 1846. (a certified traced copy of which document, marked with initials of witness - hereto annexed -) genuine or not.

Ans. I believe it to be the genuine signature of Pio Pico late Mexican Governor of California

J. D. Stevenson

My name is Richard Somerset Den. my residence is the County of Santa Barbara - My age between thirty and forty years.

Question Are you acquainted with the signature of Don Pio Pico of Los Angelos. late Governor of California.

Ans. I am acquainted with him since 1843. I have seen him write, and know his signature -

Question Is the signature attached to the Document now presented to you - bearing date the 4th April 1846. (a certified

traced Copy of which document marked with initials of Witness hereto annexed.) genuine or not.

Ans. To the best of my knowledge and belief it is genuine I believe it to be genuine.

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Question Are you acquainted with the signature of José Matias Moreno, attached to the same Document.

Ans I am, I have seen him write and sign his name.

Question Is the said signature of José Matias Moreno before mentioned, genuine or not.

Ans. I believe it to be genuine

R Somerset Den

I further certify that the foregoing Depositions were taken and reduced to writing by me on the said 22nd day of May 1858, and when completed were carefully read by me to the said Witnesses, who did not desire to make any corrections, but pronounced the same to be correct and thereupon subscribed their names in my presence

In Witness Whereof I have hereunto set my hand and affixed my Official Seal. this 22nd day of May A D 1858.

J Brenham
Notary Public

It is hereby agreed that the above depositions of J D Stevenson and Richard Somerset Den may be introduced and read in evidence subject to the same objections and exceptions as if taken on due notice before a Commissioner

Fred K S Sawyer for Claimant
P. Ord. U S Atty.

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

United States
vs
Robt B Neliegh

Depositions of
Johnathan D Stevenson
and Richard Somerset Den.

Filed this 15th June
1858 C Sims clk
J H Coleman
Dep

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J. F. Stuart -
$4.50 -

Pio Pico Gobernador constitucional del Departam.to de californias

GOBIERNO DEL DEP.to DE CALIFORNIAS

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PAGE 143 A

Por cuanto el Teniente coron.l de cab.a D. Jose Castro, Ciudadano Mexicano, ha solicitado para su beneficio personal y el de su familia un terreno p.a criadero de ganados en las margenes del Rio de S. Joaquin, compuesto de once sitios, q.e comenzarán a medirse desde la orilla dela dela sierra nevada, Rio abajo; practicadas previamente las averiguaciones q.e han sido necesarias, he venido por decreto de este dia en conceder al espresado Señor los once sitios q.e pretende, declarandole la propiedad de ellos por las presentes letras, de conformidad con la ley de 18 de Agosto de 1824 y Reglamento de 21. de Nov.e de 1828, conforme alas facultades con q.e me hallo autorizado por el supremo Gobierno á nombre dela Nacion, á reserva de la aprobacion dela Exma Asamblea Departamental y bajo las condiciones siguientes

1.a --- Podrá cercarlos sin perjudicar las travesias caminos y servidumbres; los disfrutará libre y esclusivamente

destinándolos al mejor cultivo y uso q. le sea conveniente.

2ª.. Solicitará del Juez respectivo le dé la posesion juridica en virtud de este Despacho, por el cual sele demarcarán los linderos con las respectivas mojoneras, poniendo á mas de éllas algunos arboles frutales ó de conocida utilidad

3ª.. El terreno de q. se hace donacion es puramente de once sitios de ganado mayor en los margenes del Rio [illegible] Joaquin y comenzará su medicion desde la Drilla de la Sierra Nevada. El Juez que diere la posecion lo hará media con entero arreglo a Ordenanza y á vista del diseño o plano topografico q. presentará el agraciado.

En consecuencia mando, que teniendose el presente titulo por firme y valedero, se tome razon de él en el libro a q. corresponde y se entregue al interesado p.ª su resguardo y demas fines.

Dado en la casa de Gobierno en la Ciudad de los Angeles, en papel comun por no haber sellado, a los cuatro dias del mes de

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S.D. SD
PAGE 143 B

Abril de mil ochocientos cuarenta y seis

Pio Pico

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José Matias Moreno
Srio. Gnl.

Queda tomada razon de este Superior Despacho en el libro respectivo

Moreno

deposited in the Government Archives this 8th day of June 1849, by Bernard McKenzie.

H. W. Halleck
Bt Capt & Secty of State.

J. D. S.

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PAGE 143 D

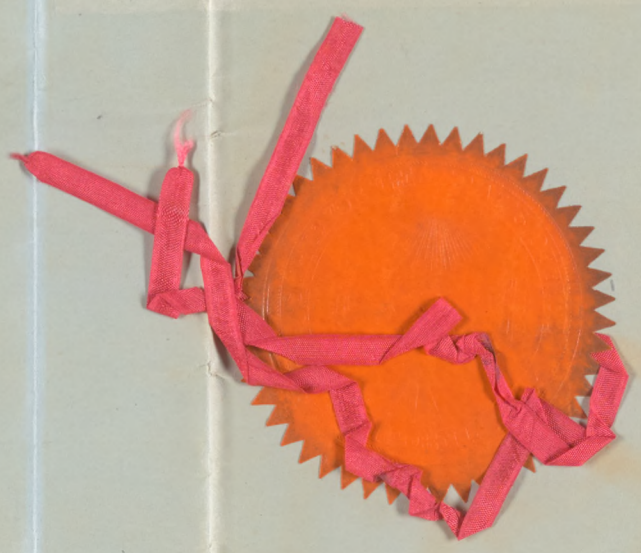
Office of the Surveyor General,

Of the United States, for California.

I, J. W. MANDEVILLE, Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, a portion of the **Archives** of the former **Spanish** and **Mexican** Territory or Department of **Upper California**, as also the papers of the late Board of Commissioners "to ascertain and settle private Land Claims in California;" by virtue of the power vested in me by law, **Do Hereby Certify** that the three (3) preceding, and hereunto annexed pages of tracing paper numbered from one to three 3. inclusive, exhibit a true and accurate copy of a Document endorsed as follows viz

Deposited in the Government Archives this 8th day of June 1849, by Bernard McKenzie

H W Halleck
Bt Capt & Secy of State



In Testimony Whereof, I have hereunto signed my name officially and caused my Seal of Office to be affixed, at the City of San Francisco, this 13th day of April AD 1858

J. W. Mandeville U. S. Surveyor General for California.

Extract from the 2nd Section of the Act of Congress "providing for the Survey of Public Lands in California, and for other purposes."
[Approved, March 3d, 1855.]

"The Secretary of the Interior is hereby authorized to cause an official Seal to be prepared for the Office of the said Surveyor General, (California) and any copy or extract from the plats, field notes and other records and documents on file in his office, when attested as such by the said Seal and the signature of the Surveyor General, shall, in all judicial matters, have the same force and effect as the original."

Extract from an Act of the Legislature of the State of California, "concerning certified copies of certain Instruments in Writing."
[Approved, April 29th, 1857.]

"SEC. 1. Copies of all papers, lately belonging to the United States Board of Commissioners for the settlement of private land claims in California, and on file in the office of the Surveyor General of the United States for the State of California, and all copies of documents and papers belonging to said Surveyor's office, which copies shall have been duly certified to be true copies by said Surveyor, shall be received and read in evidence, in the same manner, and with like effect as the originals."

No. 331

P. 105

Filed this 15th June 1858
C Sims Clk
J H Coleman
Dep

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United States District Court for the Southern District of California

United States appellants } docket No 331

vs.

Robert B. Neligh appellee } Transcript No 320

It is hereby stipulated that this cause be now submitted upon the papers in the case & Briefs to be filed forthwith —

Jeremiah Sawyer
atty for claimant

J. R. Gitchell
Dist Atty

No 331

In the Dist of the U States
for the Southern Dist
of Cala

D N Bishop
vs
U States

Stipulation to submit
the cause on briefs

Filed 7th Decr 1858
Gwin
Clk

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The United States, Applts
vs
Robert B Neligh appee

Dist Court
No 331

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This is a claim for six square leagues of land situated on the banks of the Rio San Joaquin — commencing at the foot of the Snow mountains.

The Claimant professes to derive title, from a grant purporting to have been executed by Pio Pico as Governor of the department of California dated April 4th AD 1846 to one Lieut Col Jose Castro, and by mesne conveyances from said Castro to Claimant. — The intervening conveyances from Castro to Neligh & McKenzie and from Mrs McKenzie to Neligh appear to be regular. —

The only questions presented on the part of the Government are

1st That the grant or expediente made to Castro is anti dated, fraudulent and fictitious, —

2nd That if genuine and issued at the date it purports, it is nevertheless void for want of a compliance with the second, third and fifth of the

general rules and regulations for the Colonization of the teritories of Mexico adapted November 21st AD 1828.

3d Assuming the grant to be genuine in other respects it is nevertheless void and worthless, by reason that the description of the land in the grant is so vague and uncertain that nothing passed or could pass by it—

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1st That the grant or Expediente purporting to be made by Pio Pico as Governor of the department of California, to Lieut Col Jose Castro is fraudulent, fictitious and antidated. The grant in this case purports to have been issued on the fourth day of April AD 1846 — and deposited in the public archives by one Bernard McKenzie on the 8th day of June 1849. as appears by the certificate of H W Hallecke.— No trace of the existence of this grant or its having been issued is to be found among the Mexican Archives. Nor has any testimony been introduced to show that this grant ever was seen in or out of the possession of said Castro. from its date down to the time of depositing as above mentioned.

The existence of this grant appears to have been a profound secret until

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after the discovery of Gold upon the San Joaquin, had greatly enhanced the value of property in that portion of the State. If this grant was genuine and had in fact existed, proof of the same could doubtless have been easily obtained and surely would not have been omitted by the Claimant. To supply as far as possible this defect the testimony of Antonio Maria Pico and Juan B Alvarado have been taken. Pico swears to having been on the rancho in 1844 and that Castro then occupied it and that he had cattle and horses upon the same. Alvarado explains this occupancy. he says "In 1844 "
"Jose Castro was appointed by Micheltorena "
"to go with some troops and occupy the
"Margins of the river San Joaquin, this took
"place during the last six months of that year."

An attempt is made through the same witness to connect that occupancy with the present title. the witness says that
"Castro passed by my rancho near Monterey, being
"on his way for this purpose, and he con-
"fidentially showed to me his military instructions
"which he had from Micheltorena, in part-
"thereof he promised to said Castro to grant to
"him eleven leagues of land, wherever he should
"locate himself with the said troops.

"stipulating to give him a title
"Stipulating to give him a title afterwards
"in remuneration for the Military and civil
"Services which he had performed to the
"Country" Now the Claimant does
not pretend to drive title from any
grant issued in 1844, Nor can this
testimony have any force to strengthen
the pretended title of 1846. If true
it but shows a temporary and Military
occupation, - accompanied with a
conditional promise to compensate for
Military and civil services, and no
pretence is set up that this promise
was ever complied with - The
paper presented in this case is a pure
donation, purporting to be issued under
the colonization laws of 1824 and the
regulations of 1828, and in it no
reference is made to the provisional
grant now invoked to sustain the
rights of the Claimant - nor does it
purport to be in compensation for
Services rendered the Country - On the
contrary, as before mentioned it is a
donation or colonization grant purpor-
ting to have been issued on the 4th
day of April 1846, - It is a
historical fact that at this date a

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bitter political feud existed between
Jose Castro as commandate General
of the forces of California and Pio
Pico as governor of the Department
of California. That the Grantor as
governor of the Department was en-
-gaged in recruiting troops for the
express purpose of removing the
grantee from office. We find
the grantor a few weeks after the
alledged date of this grant actually
starting from Los Angeles with an
armed force of citizens with the
avowed intention of removing the
said Castro from office. His civil
power having failed to correct abuses
fancied or real he resorts to arms.

Abel Stearns in his testimony (which
but corroborates the history of the times)
says "That in June 1846 Governor Pico
"left Los Angeles with an armed
"force of citizens as I understood
"to proceed to Monterey for the
"purpose of investigating the conduct
"of the Commandante General, Castro
"and with the intention of removing
"him from office" he further states
that this feud had existed between
the parties for several months previous

Again we find the grantee
Jose Castro claiming and exercising
the same powers as the Governor
thus virtually denying the power
of Pio Pico, to issue any such grant
as the pretended one upon which this
claim is based, and further that
Castro not only claimed but exercised
the power of granting lands up to the
9th of June 1846 (See Executive Document
1st Session 31st Congress vol 5 page 293)

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The Claimant has attempted
to establish his claim by the introduction
of Pio Pico as a witness. The testimony
of this witness is of a most unsatisfactory
character, he appears to have lost all
recollection of the stirring scenes of
a few years past. exciting scenes in
which he acted an important part.

He recognizes his own signature
and believes it to have been made
at the time it purports, but there
was no marked circumstance connected
therewith to fix the date upon his
mind. I submit to the Court that
this is unsatisfactory and insufficient
particularly so when we consider the
perfect obliviousness of the witness in
regard to transactions more exciting

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Now Sirs, the parties at this time, the Grantor and grantee, each claiming and exercising equal rights and equal powers over the same territory, for the maintenance of which they resort to arms, these are the facts shown to exist - is it then probable - is it possible that Governor Pico would cede lands to one whose actions were so revolutionary as to demand expulsion from the country by force of arms

These facts raise such a suspicion of the genuineness of the grant as to demand of the claimant not only proof of the execution of the grant but that it was executed at a time when the power so to do was in the grantor.

2nd If the expediente to Castro is genuine and issued at the date it purports, it is nevertheless void for want of a compliance with the second, third and fifth & ninth of the general rules and regulations for the colonization of the territories of the Government of Mexico, adopted November 21st AD 1828 -

The four rules referred to read

as follows. Rule 2nd "Every person soliciting lands shall address to the governor of the respective territory a petition expressing his name, country and profession describing as distinctly as possible by means of a map the land asked for

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Rule 3rd The Governor shall proceed immediately to obtain the necessary information whether the petition embraces the requisite conditions, &c

Rule 5th The grants made to families or private persons shall not be held to be definitely valid without the previous consent of the territorial deputation &c

Rule 9th ~~The definite grants altered for being~~ The necessary records shall be kept in a book destined for the purpose, of all the petitions presented and grants made with the maps of the lands granted &c

There are many other regulations relating to the disposition of public lands but these have a special bearing upon this case.

In the case at bar we have presented the naked title unsupported by any of the conditions made necessary by the foregoing regulations— No petition is exhibited nor is there any attempt to prove that one ever was presented to the governor

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An attempt is made to prove by Pio Rico, that he issued grants only upon petition, such he states as his belief, but the value of his belief must be governed, by an examination of his whole testimony, which shows a perfect obliviousness of matters much more intimately connected with himself. No map of the land asked for was presented, no enquiry made as to the propriety of granting the land — no confirmation of territorial deputation — no judicial possession taken. In fact not a single condition made requisite by the regulations of the 21st of November A.D. 1828. have been complied with.

In the case of the United States vs Cambuston 20th How. page 63 the Supreme Court in speaking of these regulations makes use of the following language "And we do not see how they can well "be dispensed with, as they are not only "expressly prescribed by the regulations "as essential to guard against improvident grants, but constitute an essential part of the record of the title. —

In that case as in the present the title recites, that petition had been

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presented and the necessary inquiries made. but the court says
"this cannot be regarded as conclusive
"or even satisfactory evidence of these
"facts when the question is raised whether
"or not the alledged grant is made in
"conformity with the requirements of the
"law. in other words whether the pre-
"liminary conditions had been complied with

Much testimony has been taken on the part of the claimant to show the manner in which the former archives of the state were kept, as well as the probable loss of a large portion thereof. all this we were ready to admit, but the loss of the entire archives, and the proof of that alone will not raise the presumption that this particular title was recorded therein. or that the petition and reports thereon was necessarily amongst the papers lost.

The relative positions occupied by the parties grantee and grantor the Grantee by his acts virtually denying the right of Pico to issue grants. precludes the idea that he would make application on his own behalf. for the exercise of

a power by Pico which he himself claimed to have, and did exercise.

The presumptions thus raised against the claimant are so strong as to require of him clear proof that the preliminary conditions have been complied with. This he has failed in doing.

In part the expediente bears on its face the evidence of a want of compliance therewith. No map or plan was furnished, but was to be furnished, by which judicial possession was to be given. This plan never was furnished consequently no juridical possession ever given. In the case of The United States vs Fremont 17th Howard 542. the Court says "According "to the regulations for granting lands it was "necessary that a plan or sketch of its "lines and boundaries should be presented "with the petition." In that instance they further say that the reasons given in the petition was deemed sufficient and the grant issued without it.

In the present case no reason is assigned why the grant should issue without the map. nor has any testimony been presented upon that

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point, In the Fremont case the petition, sets out the impossibility of having a mapa made on account of the hostility of the Indians, this reason cannot be set up in the present case, for the claimant has shown by the testimony of A M Pico a temporary occupation of the premises during the latter part of the year 1846, with some four hundred head of cattle.

3d Assuming this grant to be genuine in all other respects it is nevertheless void and worthless by reason that the description of the land in the grant is so vague and uncertain that nothing passed or could pass by it.

The grant in this instance is for eleven leagues, the measurement of which is to be commenced from the edge of the Snow Mountains following down the Stream. the third condition is in these words "The land of which donation is made consists expressly of eleven (sitios) ranges of large cattle upon the banks of the San Joaquin and its measurement shall commence

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from the edge of the Sierra Nevada"

In the Fremont case the Supreme Court say "that the grantee had a vested interest in the quantity of land mentioned in the grant. The right to so much land to be afterwards laid off by official authority in the territory described. In that case a starting point was given, and extreme boundaries, within which the land must be taken. In this case a starting point is given, with direction to extend down that river, no extreme boundaries are prescribed, within which the eleven leagues shall be taken, no direction whether it shall be in width one mile or thirty. So far from giving any extremen boundaries, the expedients refers for lines to a plan or map to be afterwards furnished by the grantee This map never was presented and consequently no boundaries fixed or possession given, as boundaries only could be fixed by the map or plan and by the same possession given.

In the case of the United States vs Sutherland, et al 19th Howard 364 The Court say "When the grant is by name, &c When the Cajon was a

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well known place with boundaries of general notoriety how the premises are described as ~~a~~ Ranch upon the San Joaquin River, a ranch without a name, on a river several hundred miles in length, with a starting point almost as indefinite as its boundaries Starting at the foot of the Sierra Nevada, is it the first point at the head of the Stream, or is it the last bold point upon the river some thirty miles below In 1853 Mr Lewis surveyed a tract of land on the San Joaquin, now claimed to be this grant. I submit that there is nothing in the grant ~~that~~ by which ~~to justify~~ the court can determine whether or not this survey is within premises described. Mr Lewis says he had no difficulty in finding boundaries the starting point being shown by Capt Vinsonhaler— What knowledge Vinsonhaler had of boundaries is shown by his own deposition— he arrived in this county in 1846 and visited this part of the county in 1849 in the month of October

Lastly Assuming the genuineness of the grant. I contend that there has been an abandonment by the

Claimant of his claim and that he is now endeavouring to resume it by reason of its enhanced value.

In this claim no steps were taken by the claimant to make even a public assertion of his claim until June 1849 when for the first time a claim is made by depositing the grant in the archives and in August or September of the same year taking possession of the premises he claims. no reason is given for this long delay. In the case of Fremont the impossibility of occupying the land asked for was set forth in the petition "The hostility of the Indians in the vicinity"

In this case no such barrier is set up, the claimaint has shown by the testimony of A M Pico, and Alvarado that the premises were occupied in 1844, and that the cause of Castro's leaving the land is not attributable to Indian hostilities but to the order of the governor and political disturbances in the department.

L D Vinsonhaler is the only witness who speaks of Indian hostilities and he says that it would have been unsafe to occupy the premises earlier than Castro did in 1849. This is a sweeping declaration and extends back

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indefinitely- The reliance to be placed
in this ~~testimony~~ witness may be gained from
Examining his own testimony. which
shows that he only came to this county
in 1846, and visited the San Joaquin
in October 1849 some month or so
after Castro had Settled there - Also
from the testimony of Pico and Alvarado
which show the premises occupied
in 1844-

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Under all these views of the
case I submit that this claim
should be rejected

J. H. Whitehill
Dist Atty

U S Dist Court
Southern Dist California

The United States
vs
R B Neligh } No 331

Brief

Filed 22. Decr. 1858
C. Sims Clk.
per W. W. Stetson.
Dpty.

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U S Dist Court Southern
Dist of California

The United States
vs
Robert B Neleigh

No 331

Now Comes J R Gitchell
U S Dist atty for the Southern Dist of Califor
and move the court for leave to take
appeal in the above entitled cases

J R Gitchell
US Dist atty

No 331

Robt B Lehigh
vs
The U States

Filed in Office
this 7th Dec 1859
Chris
Clk

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United States
appellants
vs.
Robt B. Nelight
appellee

United States District
331 Court
Southern District
of California
December Term 1858

Reading on file
upon hearing the affidavit of
Fred K. Sawyer of Counsel for the Claimant
in this cause, and on Motion of said Sawyer
it is ordered that said Sawyer be allowed
to withdraw from among the papers used
in the trial of this cause, the original
Titulo or grant upon which this claim is
founded.

Isaac S. K. Ogier
U S Dist Judge

331 –

order

Order

Filed Decr 2 M/9
1858
Chris
Clk

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F A Sawyer

Robt Aleigh
Appne
vs
The United States

Case No. 331

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Deposition of Jose Matias Moreno

taken before C. SIMS, United States Commissioner for the District of California, at the United States Court House, in the City of ~~Los Angeles~~ Monterey, on Monday, the 13th day of June A. D. 1859, at 10 o'clock A M., on said day, on behalf of the appellee by the Consent of the parties to be used as testimony in a certain cause now pending in the U States Dist Court for the Southern Dist of Cala being Case No. 331, on the Docket of said Court, wherein ~~Robt Aleigh~~ U States are appellants, and Robt Aleigh is ~~are~~ appellee~~s~~.

Present J R Gebchel US Dist Attorney in behalf of the appellants and Messrs Sayer & Howard in behalf of appellees. and John Rucurards as Interpreter

Quest, What is your name, age and place of Residence

And My name is Jose Matias Moreno, I am forty years of age and reside in San Diego in the State of California

Quest Did you ever fill any public Office under the Government of the Californias, and if so, what and when?

Ans In the year 1846 I was provisional Secretary of ~~the Cala-formias~~ State of the Government of the Californias

Quest, When were you appointed to this Office and when did you Commence to act and how long did you act?

Ans I took the Oath of Office on the 1st of May 1846 and I Commenced to act the same day I took the oath and I continued to act four months in California, I left Los Angeles in the night of ~~the~~ the 10th or ~~11th of August~~ August 1846 in Company with Pio Pico

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Quest Who was Governor of the California at the time you filled this Office?

Ans, Don Pio Pico

Quest, Why did you and Pio Pico leave Los Angeles in the night of the 10th of August 1846?

Ans Because Commodore Stockton was at San Pedro with his forces and Col Fremont was at San Diego both marching to the City of Los Angeles — great disorder prevailed in California, the Governor had no troops to oppose them, — A Session of the departmental Assembly was held on the 10th of August 1846 in Los Angeles and it was resolved that the Governor Don Pio Pico should go to the

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Capitol of Mexico & under an account of the Government of the State of things,

Quest Look at the paper now handed to you bearing date 4th of April 1846 purporting to be a grant from Don Pio Pico for 11 leagues of land to Jose Castro situated on the River San Joaquin Commencing at the foot of the Sierra Nevada and Extending down the said River and say whether you recognise the signatures to the same?

Ans The signature of Pio Pico I recognise as his genuine signature, I have seen him write and know his handwriting, My signature is also genuine, Also the certificate of the entry signed by me, is genuine,

Quest Was there a Book of Roman Records for the year (Register Book) for the year 1846, and if so, describe it?

Ans There was a book called Roman Records for the year 1846, and when a grant was made of any portion of land an annotation was made in that book, stating the names of parties for whom the grant was made and also the number of leagues of land granted and then the annotation was signed with the Rubric of the Secretary,

Quest Was it your practice as Secretary to make an annotation in this registry of all the grants which were officially signed by you?

was
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Ans It was not only my practice but it was my duty to make an entry of all the grants made in my office or coming from my office

Quest Did you make an Entry of this Grant to Castro for the lands on the San Joaquin which has been shown you? — Question withdrawn)

Quest State all you know in relation to the Issuance of the Title to Jose Castro and its Entry in the Book "Woman Raised"?

Ans This Grant was made at the time when I was not Secretary and when the Government of the State had no Secretary, the Secretary Jose M. Covarrubias was absent and in the City of Mexico on duty — Consequently I did not see this Grant made, — afterwards when I took possession of the Office of Secretary after the 1st of May I signed the Grant by order of the Governor, Because it was necessary under the Law of Mexico that the Secretary should sign every Grant together with the Governor. In this way I signed this or those Grants

when I observed to the Governor that I signed these two (2) or three (3) titles which were made at the time that I was not secretary; then the Governor told me that thereafter I should affix the date to my signature at the time of my signing it, Afterwards I put down the date of my signing these grants, I remember, I think it was on the fourth of May, I signed a grant in favor of Abel Stearns — This was the first to which I affixed the date

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Quest Was it your practice to note on the grant itself that you had made an entry ~~which you made~~ on the Book of "Tomar Razon" at the time of making said Entry?

Ans I always did

Quest Do you recollect the time that you signed this grant, if so state when it was?

Ans I do not remember exactly the date but it was in the beginning of May I think it was between the first and the fourth of May,

Quest Do you recollect at the time you made an annotation in the Registry Book of this grant "Whether there was any Expediente accompanying the same and if so of what papers did it consist?

Ans I did not see any Expediente as the title was made before my time in office

I did not take any pains to look for the Expediente, Because it was not necessary for me to have it

Quest Do you recollect when this title was delivered from the Office of the Governor to the party interested?

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Ans I do not know — the Governor took the Title and delivered the same to the agent of the interested party, but I think some time in the month of May

Cross Examination by Sr Getchell U.S. Dist atty

Quest, To whom were the grants made previous to your being Secretary that you signed without redating?

Ans I do not remember, I see that this grant is one of those without date —

Quest For what lands were said grants made?

Ans I do not remember

Quest What circumstances are connected with this Title that you recollect the signing of it so clearly?

Ans No more than that the grant was made to Don Jose M Castro who was then Commandante General of California

Quest Was this the first grant that you signed after coming into office

Ans I do not know whether it was the
last or not — It was one of the first
cases — It might have been the second or
third, but not after the third

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Quest Where were you at the time the Grant
was signed?

Ans I was at Los Angeles in my office

Quest When was Pio Pico at this time?

Ans He was also there

Quest Did Pio Pico during the month of
May or June 1846 start for the North
and if so, in what manner and for
what purpose?

Ans During the month of May Pio Pico
was at Los Angeles — In the month of
June he ~~came~~ started to Monterey with myself as
Secretary and other Officers on his Offi-
cial duties

Quest At what time did you arrive in Mon-
terey?

Ans We did not come to Monterey
We came as far as San Luis Obispo at
the Rancho of Santa Margarita

Quest Had Pio Pico with him a Military
force in the Country?

Ans Yes

Quest For what object did he bring that force?

Ans There were several reasons for it
as there was a difficulty between the
Governor and Jose Castro, he went to
try to settle it amicably or by force
of Arms, also Col Fremont with his forces
was at the North

Quest What was the Difficulty between Pio Pico and Jose Castro and how long had said difficulty existed? ——————

Ans The difficulty began about the year 1845 in the month of August or Sept- for Certain usurpation of power on the Side or part of Jose Castro; to which Governor Pico would not Consent— the authority of Jose Castro being purely military

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Quest What was the usurpation of power upon the part of Castro?

Ans There were several. Jose Castro as Military Chief could alone Control Military affairs, and he seized upon the public revenues. And by his interference with the Prefects and other authorities, he prevented the disposition of the Governor from taking that due Course

Quest At what time did Castro take Control of the revenues arising from the Custom House?

Ans, About the year 1845 in Sept or October

Quest Until what time did he Continue to take Control of and dispose of the revenues

Ans Up to the time he left California

Quest From the time that Castro resigned the reins until he and Pico such as Santa Margarita were they or not on friendly terms

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Ans Notwithstanding the difficulty owing to their respective positions they had to regard each other with due consideration — There was some private Correspondence between them, And Governor Pico always endeavored to soften the rebellious disposition of Jose Castro

Quest What was the nature of the private correspondence between them and what did it relate to?

(Objected to by Counsel for Claimants on the grounds that the question indicates that it was in writing and that it ought to be produced)

Ans Their private correspondence related to the political affairs of the Country — It is customary in Mexico that two authorities one Military and the other Civil besides their official Correspondence have some private character in regard to the same matters

Quest — At what date did Pio Pico and Jose Castro such as Santa Margarita and did the reconciliation then

take place?

Ans, I am not certain about the date but I think between the 10th and 12th of July 1846 — A reconciliation took place between them — Castro was gathering forces at Monterey had been taken by the United States forces and Pico Pico had with him his forces and Castro sought his friendship for the sake of the common defence of his country

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Quest After the reconciliation when did Pio Pico and Castro go?

Ans Both set out for Los angeles Castro went first, and Pico remained two days at San Luis Obispo, — Castro preceded him three days

Quest Did Castro leave the State of California with Pico and Pico or did he leave about the same time and join Pico on side of the limits of the state

Ans The same night I and Pico left Los Angeles, Castro left also It was determined to take the road to Sonora by the river Colorado, Castro took the road to San Bernardino and Temecula and Pico Pico took the road to San Juan Capistrano and Los Luis Rey to meet Castro at Temecula, but Col Fremont

intercepted Rio Rico, - Pio Rico went to Los Rauch Santa Margarita, & remained Stopped at San Luis Rey, incognito Pio Rico did not go to Sonora but went to Lower Calefornia

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Quest Who was the Agent of Castro in procuring this Grant from Rico

Ans — I do not know, from the fact that it was made before I came into Office

Quest Who was the Agent of Castro to whom this Title was denied ?

Ans I do not know, the Governor presented the Grant to me for my Signature and then took the same to, I don't know to whom, but it was shortly after in the month of May

Quest Was Juan Castro in the City of Los Angeles any time between the first of October 1845 and the month of July 1846 and if so when ?

Ans I do not recollect but I remember of having seen him at Los Angeles during the month of July 1845

Direct Examination resumed by Counsel for Claimant—

Quest Do you think that the political differences between Pio Rico and Juan Castro made any difference in their

private friendship?
(Question Objected to by U.S. Dist. atty)

Ans It certainly caused some disagreeable feeling between them, not enough however to brake up all friendly relations between them

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Quest Where did you reside previous to the time you were appointed provisional Secretary of State?

Ans I had no fixed residence. I had business in San Diego and Lower California and was travelling the most of the time. In the month of April I left the frontier of Lower California and arrived at Los Angeles on the 22d April. The whole of the month of March I was on the frontier of Lower California and at the beginning of April I started for Los Angeles and I arrived there on the 22d April

~~Quest~~

José Matías Moreno

Sworn and subd to before me this the 13th day of June 1859

C. Jones
U.S. Commissioner

I, C. Sims, of the City and County of Los Angeles, and State of California, Commissioner to take Affidavits and Bail, in civil case pending in the Courts of the United States, and Depositions under the Acts of Congress, approved September 24th, A. D. 1789, February 20th, A. D. 1812, and March 1st, A. D. 1812, by virtue of my office of Clerk of the United States Court of the Southern District of California, and by special appointment by the United States Circuit Court for the State and circuit of California, do hereby certify that the foregoing Depositions of Jose Matias Moreno was taken before me on the 13th day of June, A. D. 185 9, according to the annexed and agreement of the said parties at the United States District Court House in the City of Los Angeles, and State of California, in behalf of the appellee

That the said Jose Matias Moreno was by me duly sworn according to law as a Witness in said cause in the caption of this Deposition mentioned, and after being so sworn, his Testimony was by me reduced to writing in his presence, and after having been by me carefully read to him, and by him corrected in every particular as he desired, was by him signed in my presence.

In witness whereof, I hereunto set my hand and private Seal, (having no Seal of Office,) this 13th day of June, A. D. 185 9

C. Sims

United States Commissioner.

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No. 331

United States District Court for the Southern District of California.

Robt Arlough
appr
vs
The U States
appllts

Deposition of Case Mt Morena

Filed this 14th day of June 1859

Jim S
clk

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Sesion del dia
15 de Abril de 1840

Leida y aprobada la acta del dia 30 de Marzo p.o p.o, se dió cuenta con el nombramiento que para Gobernador Constitucional de este Departamento hizo el Exmo. S.or Presidente de la Republica en la persona del Exmo. S.or Don Pio Pico, á virtud de la propuesta que elevó la corporacion en 27 de Junio anterior. Quedo impuesto el Honorable Cuerpo, de la Suprema determinacion y á consecuencia de haber manifestado El Exmo. S.or que puede hallarse apto para prestar el juramento de la ley, y que por tanto se le señalase el dia que habia de hacerse

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

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I, J. W. MANDEVILLE, Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, the papers of the late Board of Commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, **Do Hereby Certify**, that the _____ preceding, and hereunto annexed page , numbered from one to, _____ inclusive, exhibit a true, full, and correct copy, of part of the proceedings of the Departmental Assembly on the fifteenth of April 1846, as the same are found of record in the Archives of my office.

EXAMINED AND FOUND CORRECT.
Keeper of Archives.

In Testimony Whereof, I have hereunto signed my name officially, and caused my Seal of Office to be affixed, at the City of San Francisco, this 18 day of Feby 1859.

J. W. Mandeville
U. S. Surveyor General, for California.

No. 331.

Exhibit (O)

Filed in office this
17th June A.D. 1889
Sims
clk

G

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The United States appellants
ads
R B Neleigh appelle

For lands on San Joaquin River

No 331

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It is hereby ~~is hereby~~ stipulated and agreed between the parties that the Certificate of R C Hopkins - marked "T" ~~and~~ hereunto attached may be read in evidence in this case also that exhibit (O) and the translation thereof may likewise be read and considered as evidence in this case also exhibit (L) the Certificate of R C Hopkins keeper of the public Archives may be read in evidence on the trial of this cause And it is further stipulated and agreed that the deposition of Jose Castro in case No 359 in this Court and the Deposition of D Spence on 17th page of Transcript in case No 338 in this Court may be read in evidence on the trial of this cause, and copies of the same certified by the clerk filed in this cause

June 15th 1859

J R Gitchell
U S Dist Atty

Fred K. S. Sawyer
Atty for Claimant

No 331.

R. B. Naylor
appellee
vs.
U. States
appellants

Stipulation of
parties

Filed in Office this
17th day of June 1859
C Sims

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Robert B Nilugh
vs appell
The United States appell

Case No. 331

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Deposition of Jacob P Leese

taken before C. SIMS, United States Commissioner for the District of California, at the United States Court House, in the City of ~~Los Angeles~~ Monterey, on Tuesday, the 4 day of June A. D. 1859, at 8 o'clock P M., on said day, on behalf of the appellee by the Consent of the parties to be used as testimony in a certain cause now pending in the U S Dist Court for the southern Dist of California being Case No. 331, on the Docket of said Court, wherein ~~Robt B~~ the U States are appellants, and Robt B ~~Nigh~~ Nilugh is ~~are~~ appellee~~s~~.

Present J R Gitchell Attorney in behalf of the appellants and F A Sawyer atty in behalf of appellees.

Quest What is your name, age and place of Residence?

Ans My names is Jacob P Leese, I am 49 years of age and my residence is in Monterey city and County —

Quest, Will you relate what you know of the Civil War in California which took place in the years 1844 and 1845 and your means of information?

Ans In the year 1844 I was first Alcalde in the Dist of Sonoma, Some time, I cannot Exactly say but think it was in the latter part of October or the first of November Juan B Alvarado who was formerly Governor of the State of California

Sent a Messenger to the Town of Sonoma informing General Vallejo who was Commander of the North inviting him with all his Military Officers and the People of that jurisdiction to meet him and General Castro at the Ranch Known as San Pablo on the Bay of San Francisco that himself and Genl Castro had a force composed of the people north of Monterey and wished them to unite with him in sending the Officers and Soldiers under Micheltorena as the inhabitants of Monterey could not live happy on account of their Conduct — Genl Vallejo ~~applied to me~~ informed me of the Message that Alvarado had sent him to call the inhabitants of that jurisdiction to the Town of Sonoma and requested me as Alcalde to call the inhabitants to gather and invite them to join the party of Castro and Alvarado. I refused to do so in consequence of the position that I held in that jurisdiction — Vallejo got a number of people in that jurisdiction and crossed the Bay and went to where Alvarado and Castro were — I then, as in duty bound immediately despatched a mail to General Micheltorena informing him of the application being made to me through Genl Vallejo for the Citizens of that jurisdiction in opposing the Governor with his troops and Soldiers and also informing him, that the opinion against him was about divided in that jurisdiction. About two [illegible]

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and also informing him, that the opinion against him was about divided in that jurisdiction. — About two weeks afterwards I received an answer from Genl Micheltorena thanking me for defending him on the part of the Government and for not violating my office and to hold myself in readiness in case the Government should require my assistance — A short time a report was circulated ~~wh~~ by the return of some of the Genl Vallejo's Officers that an armistice ~~Capitulation~~ had been drawn up between Genl Micheltorena and the opposing party, at the place or Ranch called the "Laguna Seco" about 12 miles South of San Jose, ~~that Genl Micheltorena had~~ after Micheltorena was informed that hostilities were not against him but against his soldiers after which Genl Micheltorena agreed to send them all out of the Country within about ninety days; in the mean time Genl Micheltorena sent his first Officer in Command Don Rafael Telleas to Mazatland making Castro, Alvarado and Vallejo's believe that he had reported to the Mexican Government that he was taking steps to fulfill his agreement in sending them out of the Country, It was found out that the General had applied to Capt Sutter for his assistance with his Indians and foreigners to hold his position. On that discovery hostilities commenced with the Californias in the north and Californias with foreigns at the South against Micheltorena and Sutters force

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there a general revolution commenced against Micheltorena and Suttes force = ~~about~~ — Micheltorena and Capt Suttes with his forces marched in the month of February against the Californians and the foreigners South and in the planes of San Fernando in the County of Los Angeles at the place known as Cahuenga, both forces met about the month of March 1845, and prepared for hostilities and really had an hostile encounter — Where the American Capt. John Gant, of Suttes Company discovered that there was foreigners on the opposite side in the following morning at day light received a notice from the Capt of the other side that he would like to have an interview with him a short distance from their forces down the gulch, and concealed, where they would meet on friendly terms and after their meeting they came to the conclusion, that it was ridiculous for foreigners to be fighting against each other and withdrew their Companies, on each side, with the determination not take a part neither with one side or the other, which left General Micheltorena ~~on~~ his resources with his Mexican troupes against the native Californians — Micheltorena discovering his situation after the withdrawing of the foreigners from his command, Capitulated and was shiped out of the Country about the first of April 1845

L R Leese

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I, C. Sims, of the City and County of Los Angeles, and State of Cali-

I, C. Sims, of the City and County of Los Angeles, and State of California, Commissioner to take Affidavits and Bail, in civil case pending in the Courts of the United States, and Depositions under the Acts of Congress, approved September 24th, A. D. 1789, February 20th, A. D. 1812, and March 1st, A. D. 1812, by virtue of my office of Clerk of the United States Court of the Southern District of California, and by special appointment by the United States Circuit Court for the State and circuit of California, do hereby certify that the foregoing Depositions of Jacob P Leese was taken before me on the 14 day of June, A. D. 185 9, according to the Consent and Agreement of the said Parties at the United States District Court House, in the City of Los Angeles, and State of California, in behalf of the Appellee That the said Jacob P Leese was by me duly sworn according to law as a Witness in said cause in the caption of this Deposition mentioned, and after being so sworn, his Testimony was by me reduced to writing in his presence, and after having been by me carefully read to him, and by him corrected in every particular as he desired, was by him signed in my presence.

In witness whereof, I hereunto set my hand and private Seal, (having no Seal of Office,) this 14 day of June, A. D. 185 9

C Sims

United States Commissioner.

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No. 331

United States District Court for the Southern District of California.

Deposition of J. P. Leese

Filed this 15th day of June 1859

C. Sims Clk

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(Translation)

Session of 15th April 1846-

Read and approved the Act 30th March ultimo. The subject of the appointment of Constitutional Governor of this Department by this Excellency the President of the Republic, conferred on his Excellency Don Pio Pico, in conformity to the recommendation made by this assembly on the 27th day of June last. The decision of the Supreme Government now made known to this honorable Assembly, and his Excellency presiding having given notice that he ~~to~~ is ready to take the oath of office and that a day should be appointed for doing the same &c

No. 331.

Translation of an Extract from the proceedings of the departamental assembly at its session of 15th April 1846.

(0)

Filed in Office this the 17th June AD 1859

Jim[illegible]

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

United States
vs.
Robert B Neleigh } No 331.

State of California
City & County of San Francisco } SS

Deposition of John W. Shore, a Witness produced sworn and examined on the part of the Defendant or Claimant in the above entitled action, this 25th day of June A D 1858. before me the undersigned C. J. Brenham, a Notary Public in and for said City and County, duly Commissioned and Sworn. at the Archives Office of the United Surveyor General for the State of California, in said City of San Francisco
Present; P. Ord Esq. U. S. District Attorney for the Southern District of California for Pliff - and F. A. Sawyer Esq. representing Defendant or Claimant.
The Witness having been by me the said Notary, duly sworn, that the evidence he should give in the said action, should be the truth, the whole truth, and nothing but the truth, duly testified as follows.

Question What is your name, age, residence and present occupation

Ans. My name John W Shore I am Thirty years old My residence is Los Angeles. I am at present a clerk in the Archives Office of the United States Surveyor General for California

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Question Are you acquainted with Governor Pio Pico, if yea How long have you known him, and where did you know him?

Ans. I am acquainted with him Have known him Since January 1851 in the County of Los Angeles

Question Are you acquainted with the handwriting of Pio Pico, if yea, State how you became acquainted with his handwriting?

Ans. I am. I became acquainted with his handwriting by seeing him write frequently and receiving letters from him

Question Look at the document now presented to you, and State whether the signature at the bottom of it is, or is not the Signature of Pio Pico

Ans. I believe that to be his genuine signature I have examined many hundreds of his Signatures in the Spanish Archives in the Surveyor General's Office, and I believe this to be genuine

Question What is the document presented to you, when you answered the last interrogatory?

Ans. I believe it to be an Original title or grant for Eleven Square leagues of land on the banks of the San Joaquin River, made by Governor Pio Pico to Lt. Col. Jose Castro dated the 4th day of April 1846.

Lt. Col. José Castro dated the 4th day of April 1846.

Question Are you familiarly acquainted with the Spanish Archives in the Surveyor General's office of California, if so State your opinion of the Document now before you, and alluded to in the last interrogatory

Ans. I am familiarly acquainted with the greater portion of the Spanish Archives in the Surveyor General's office, and more particularly with those, relating to Missions and Land Titles, and the proceedings of the Departmental Assembly From the signatures attached to the Document, I believe it to be a genuine grant.

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Cross Examination by P Ord Esq. District Attorney for Southern District of California

Question How long have you been employed in the Surveyor General's Office?

Ans. Since October 1857

Question Did you ever see the paper above referred to before you came into the Surveyor General's Office.

Ans. Never.

John W Shore.

It is hereby agreed that the above Deposition may be introduced and read in evidence, subject to the same objections and exceptions as if taken on due notice before a Commissioner

P. Ord U S Atty.

Fred K A Sawyer
for Claimants

I further certify that the foregoing deposition was taken and reduced to writing by me on the said 25th day of June 1858. and when completed was read by me to the said Witness, who did not desire to make any correction, but pronounced the same to be correct in every particular, and thereupon subscribed his name in my presence

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In Witness whereof I have hereunto set my hand and affixed my Official Seal this 25th day of June A.D. 1858.

J. Bronham
Notary Public

United States District Court for the Southern District of California

United States

vs

Robt. B Releigh

Deposition of Jno W Shore.

Filed July 7th 1858

C Lewis

Clk

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United States District Court.
For the Southern District
of California

United States
vs.
Robert B Neleigh } No 331.

State of California
City & County of San Francisco } ss

Deposition of Thomas O Larkin a
Witness produced sworn and examined on the part of
the Defendant or Claimant in the above entitled action
this 30th day of June A D 1858 before me C. J.
Brenham a Notary Public in and for said City and
County duly Commissioned and sworn; at my office
No 155 Montgomery Street in said City.
Present. P. Ord. Esq U. S. District Attorney for the
Southern District of California and Frederick A Sawyer
Esq. Atty for Defendant or Claimant.
The Witness having been by me the said Notary
duly sworn, that the evidence he should give
in the said above entitled action, should be
the truth, the whole truth, and nothing but the
truth, duly certified as follows. —

Question What is your name, age, and residence?

Answer. My name is Thomas O Larkin. I am fifty six years old, and reside in the city of San Francisco

Question How long have you resided in California

Ans. From 1832 to 1850., at times from 1857 to the present day.

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Question Did you ever fill any Official Station under the Government of the United States

Ans. I did. I was United States Consul.

Question Did your situation give you an opportunity to know all the considerable and distinguished men of California

Ans. My Official, as well as private capacity gave me every opportunity of knowing and being acquainted with all the Mexican Officers, and men of note in Alta California

Question Do you know Genl Jose Castro or as he was called in 1845 and 1846 Col Jose Castro.

Ans. I was personally acquainted with Jose Castro, his father, his wife and children; I knew him from 1832 to the time he left this country for Lower California in 1856 or 1857, where he now resides as Military Commandant under the Mexican Government. He was known in 1845 and 1846. as General Jose Castro, and had command of troops in Alta California He was in full command of the California Troops July 7. 1846.

Question Do you know or did you hear of any other Colonel

or General Castro in California, except one.

Ans. I am confident there was in Alta California, no other General or Colonel Castro. I have a list of all the Mexican Officers in Alta California January 1846 containing their grades, pay, arrears &c. which I copied from the Government Books at the time. In this list José Castro appears as General or Colonel in the Mexican Army.

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Thomas O. Larkin

I further certify that the foregoing deposition when completed was read over by the said Wetmore, that he did not desire to make any correction, but pronounced the same to be correct in every particular, and thereupon subscribed his name in my presence.

In Witness Whereof I have hereunto set my hand and affixed my Official Seal this 30th day of June ad 1858.

J. Brenham
Notary Public

It is hereby stipulated that the above deposition may be read in evidence in this cause subject to all objections except as to the form of taking the same as if taken on notice before a commissioner. P. Ord U.S. Atty
San Francisco June 30th 1858
Fred'k A. Sawyer

United States
vs
Robt B Nelson. } No 331

Deposition of Thomas
A Larkin for
Claimant

Filed July 7th 1858
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Clk

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The U. States. Appellant
vs.
Robt. B. Waligh Respt.

Case No. 331

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Deposition of Abel Stearns

taken before C. SIMS, United States Commissioner for the District of California, at the United States Court House, in the City of Los Angeles, on Saturday, the 14th day of December A. D. 1858, at 10 o'clock A. M., on said day, on behalf of the United States, by ~~the~~ Stipulation of parties. Applt vs Respt, to be used as testimony in a certain cause now pending in the U. S. Dist. Court, of the South. Dist. of California being Case No. 331, on the Docket of said Court, wherein The United States are appellants, and Robert B. Waligh is ~~are~~ appellee.

Present J. R. Mitchell U. S. Dist. Attr. Attorney in behalf of the appellants and E. A. Sawyer in behalf of appellees.

Abel Stearns being duly sworn, says, answers to the interrogatories of Attornies as follows:—

Quest. State your name, age, and place of residence?

Ans. My name is Abel Stearns, reside in Los Angeles, State of California, am sixty years old.

Quest. How long have you resided in California?

Ans. Twenty nine years.

Quest. Do you know Pio Pico, and Don José Castro, and if so, how long have you known them?

2.

Ans, I have known them since the years 1829 and 1830.

Quest. Were you acquainted with them during the years 1845 and 1846, and if so, what positions did they occupy under the government of California?

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Ans. I was acquainted with them. Pio Pico was Governor of the Department of California during those years, and José Castro was Comandante General of California, and Pio Pico resided in Los Angeles, the Capital, and José Castro resided the first part of the year 1845, in Los Angeles, and the remainder of that year and 1846 he resided at Monterey.

Quest. State if you know the relationship existing between them during the fore part of the year 1846, and if the same was friendly or not?

Ans. It was generally understood that their Political relationships were not very friendly.

Quest. Do you know of any action being taken on the part of Pio Pico as Gover-

=nor against Don José Castro. and if so. what action and at what time?

Ans. On June 1846. the Governor Don Pio Pico left Los Angeles with an armed force of citizens, as I understood to proceed to Monterey for the purpose of investiga=ting the conduct of the Comandante Gen=eral Castro, and with the intention to remove him from Office.

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Quest. State if you can what time in June Pio Pico left Los Angeles for that pur=pose, and how long previous to this time, the difficulty which you have spo=ken of had existed between Pio Pico and Gl. José Castro?

Ans. Pio Pico left Los Angeles on the 17th day of June, 1846. to the best of my rec=ollection. The political differences had existed for some months previous. to the best of my recollection.

Cross Examination.

Quest. Do you think from your acquain=

=tance with Pio Pico and José Castro, that these political differences which you have alluded to, made any serious dif=ference in their friendly relations to each other?

Ans. I do not think that as private gentlemen these political differences would have made any change in their friendship, although such might have been the case. But I never heard that it did.

Abel Stearns

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The United States
vs
Robert B Neligh

In District Court of U. States Southern District of California

It is hereby agreed and stipulated between the Attornies of the respective parties that the testimony of Abel Stearns shall be taken and received in this cause as a part of the proof therein subject to all legal exceptions except as to the manner of taking the same

Dec 4th 1856

L R Gitchell
Dist Atty
Melvin S Dawson
atty for Claimants

I, C. Sims, of the City and County of Los Angeles, and State of California, Commissioner to take Affidavits and Bail, in civil case pending in the Courts of the United States, and Depositions under the Acts of Congress, approved September 24th, A. D. 1789, February 20th, A. D. 1812, and March 1st, A. D. 1812, by virtue of my office of Clerk of the United States Court of the Southern District of California, and by special appointment by the United States Circuit Court for the State and circuit of California, do hereby certify that the foregoing Depositions of Abel Stearns was taken before me on the 4th day of December, A. D. 1858, according to the agreement and Stipulation — — ——— of the said parties, at the United States District Court House, in the City of Los Angeles, and State of California, in behalf of the Appellant That the said Abel Stearns was by me duly sworn according to law as a Witness in said cause in the caption of this Deposition mentioned, and after being so sworn, his Testimony was by me reduced to writing in his presence, and after having been by me carefully read to him, and by him corrected in every particular as he desired, was by him signed in my presence.

In witness whereof, I hereunto set my hand and private Seal, (having no Seal of Office,) this 4th day of December, A. D. 1858

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C. Sims

United States Commissioner.

No. 331.

United States District Court for the Southern District of California.

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Deposition of Abel Stearns

Filed this 4th day of December A.D. 1858.

C. Sims. Clk.

for W. W. Stetson, Dpty.

The United States
vs
Robert B Neligh

Six Leagues on San Joaquin River

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It is hereby stipulated that the annexed deposition of Don Pio Pico may be introduced and read in evidence in the above entitled cause subject to the same objections as if taken on due notice. And it is further agreed stipulated and admitted that the title or grant enclosed with this deposition though not attached to the same. is the title refered to by the witness, and the same which he testifies to as an original title issued by him as Governor of the Department of California to Don Jose Castro and that his signature and the signature of Moreno he has testified are genuine

Frank S. Sawyer
atty for claimant
J R Gitchell
Dist atty

No. 331.

Stipulation of parties.

Filed 4th Decr. A.D. 1858.
C. Sims. Clk.
per W. W. Nelson
Dpty.

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The U States Appellant
vs
Robt B Neligh Respt

Case No. 331

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Deposition of Pio Rico

taken before C. SIMS, United States Commissioner for the District of California, at the United States Court House, in the City of Los Angeles, on 26th ~~the~~ day of November A. D. 1858, at 3 o'clock P M., on said day, on behalf of the Claimant by ~~the~~ Deputation of parties appt & Respt to be used as testimony in a certain cause now pending in the U S Dist ~~Court~~ Court of the Southern Dist of California being Case No. 331, on the Docket of said Court, wherein U States are appellants, and and Robt B Neligh is ~~are~~ appellee~~s~~.

Present G R Gitchell ~~U S~~ Dist atty Attorney in behalf of the appellants and F A Sawyer in behalf of appellees.

& I I Warner as Interpreter

- Pio Rico being duly sworn says answers to the interrogatories as follows

Quest - What is your name - age & place of Residence?

Ans My name is Pio Rico my age is ~~fifty~~ seven years old. Every place of Residence is Los Angeles County

Quest. Have you been examined in this Case before?

Ans. I Do ~~not~~ recollect ~~but this is possible~~ of having made a Deposition in this case before.

Quest. What is this document now pre=

= sented to you?

Ans. It is a title extended in favor of Jose lot.
Castro, by the Governor of the Department
331 SD of the Californias, for Eleven leagues
PAGE 214 of land upon the banks of the San Joa-
= quin River, made upon the fourth
day of April 1846.

Quest. Who was the Governor of California
at that date?

Ans. Pio Pico, myself.

Quest. Is that your signature attached
to this grant?

Ans. It is.

Quest. Do you know the signature of Jose
Matias Moreno?

Ans. Yes.

Quest. Is that his signature attached to this
grant as Secretary ad interim?

Ans. Yes, it is, having often seen him
write his name, and the many letters
I have received from him, as well as
his having been Secretary (official),
to the Government of the Department
of the Californias.

Cross Examination.

Cross Examination.
Questions by J. R. Gitchell Esqr. U. S. Dist. Attorney

Quest. Did there or not exist a difficulty between yourself as Governor and Don José Castro as Military Com=mander of the Department of Cali=fornia during the years 1845 & 1846?

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Ans. I do not recollect.

Quest. Did you not during the Spring of 1846, equip and start from Los Angeles a Company to displace said Castro, or to force from him a portion of the revenue for the sup=port of the Civil Department?

Ans. I do not recollect of having taken any such steps, for such a pur=pose.

Quest. From what source ~~what~~ the reve=nue received for the support of the Government, during your administration?

Ans. They proceeded from the duties paid by some Vessels in the Port of San Pedro during my Administration

one Vessel entered and paid duties, this being all the revenue received for the support of the civil government during my administration.

Quest. Was or was there not revenue received at other Ports than San Pedro during your Administration? If so, at what Ports and who received the same?

Ans. I do not recollect of there being any received by the government. Duties were paid in the Port of Monterey and received by the Collector of that Port. The Collector of that Port was Juan B. Alvarado.

Quest. Did you not make a demand on the Collector for funds? If so, what was his answer?

Ans. I do not recollect of making any such demand.

Quest. During the ~~year 1845 & 1846~~ latter part of the year 1845, and the first part of the year 1846, were you and Don

José Bastos on friendly terms?

Ans. We were friendly.

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Direct examination resumed.

Lowe: If there had been any political differences or difficulties did ~~those difficulties~~ have produced any breach of private friendship between you?

Ans. By no means.

Cross examination resumed.

Lowe. If you were raising forces to drive a man from the Department, would you at the same time, grant him lands in the Department?

Ans. Yes. I should, if he should ask for them, as soon as to any other person.

Sworn to & subscribed before
me this 26th Nov 1858
Chas Ad Commissioner

Pio Pico

Examination of Pio Pico adjourned by consent of Counsel to the 3. day of December. 1858. 10. o'clock. A. M.

Chas A Commissioner

Examination of Pio Pico resumed this 3d day of December, 1858, 10 o'clock A.M.
i Cordiary Wadsworth

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Questions by Claimant's Counsel.

Quest. What did you mean when asked on cross=examination whether there had ever been any difficulty between yourself and Col. Castro, while you were Governor of California, by answering that you did not recollect?

Ans. I wished to convey the idea by saying that I did not recollect, that I did not choose to answer the question, on the ground that I did not consider it pertinent to the declaration which I was giving.

Quest. Will you be kind enough to state if there was any political difficulty between yourself and Col José Castro, while you were Governor, and if so, state what was the nature of it, and when it occurred?

5.

Ans. I am not disposed to answer this question

5.

Ans.: I am not disposed to answer this question judging it irrevelant and for the reasons which I have previously given to the ex=amining Attorney, that a relation of the history of the affairs of the Govern=ment of California during any admin=istration would be long and tedious and might give rise to a great multiplicity of interrogatories and depositions which would be both disagreable and inconve=nient to me, and being matters of history can be fully obtained from other sources.

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Quest.: Was the title which was presented to you on your examination in-chief on the 26th of November, 1858, being during your first examination in this depo=sition, signed and sealed by you as Governor of California on the day it bears date, to wit- on the 4th day of April, 1846.?

Ans.: I believe it was signed by me as Gover=nor on the day which it bears date, to wit- the 4th day of April, 1846.

Davis - examination resumed.

Quest.: Was there any particular circumstance

connected with the signing of this title, which fixes in your mind the date of its execution?

A. There was none.

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Quest. Do you know the hand-writing of the body of this title, and if so, whose is it?

Ans. I am not positive but think it to be the writing of Francisco Lopez, a you thx clerk in the Office of the Secretary, who has since died here in the County of Los Angeles.

Pio Pico

Sworn & Subd.
to before me this
the 3d Dec 1858.
C Sims
U S Commissioner

I, C. Sims, of the City and County of Los Angeles, and State of California, Commissioner to take Affidavits and Bail, in civil case pending in the Courts of the United States, and Depositions under the Acts of Congress, approved September 24th, A. D. 1789, February 20th, A. D. 1812, and March 1st, A. D. 1812, by virtue of my office of Clerk of the United States Court of the Southern District of California, and by special appointment by the United States Circuit Court for the State and circuit of California, do hereby certify that the foregoing Depositions of Pio Pico was taken before me on the 26 day of Nov., A. D. 1856, ~~according to the~~ and on the 2. day of Dec. A.D. 1856. according to the stipulation and consent of the said parties at the United States District Court House, in the City of Los Angeles, and State of California, in behalf of the Appellees.

That the said Pio Pico — — — — — was by me duly sworn according to law as a Witness in said cause in the caption of this Deposition mentioned, and after being so sworn, his Testimony was by me reduced to writing in his presence, and after having been by me carefully read to him, and by him corrected in every particular as he desired, was by him signed in my presence.

In witness whereof, I hereunto set my hand and private Seal, (having no Seal of Office,) this 5th day of December, A. D. 1856.

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C. Sims

United States Commissioner.

No. 331.

United States District Court for the Southern District of California.

Deposition of Pio Pico.

Filed this 4th day of December A.D. 1858. C. Sims, Clerk.

per W. [illegible] Teton, Dpty.

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In the United States Court for the Southern District of California

Robert B. Neligh
vs. appellee
The United States
appellants
} No 331

Fred R. A. Sawyer being sworn deposes and says, that as counsel for the claimant he was very desirous of obtaining from the archives in the custody of the Surveyor General for the State of California, which are kept in the city of San Francisco, the original titulo or Grant in this case in order that it might be used in the trial of this cause, that as a general rule, the Surveyor General, acting under instructions from the Government at Washington, never permits original papers to be taken out of his immediate custody, but that deponent, thro' the assistance of Mr. E. M. Stanton, attached to the attorney General's office at Washington, and at that time on official business in San Francisco, did on the 17th of November 1858, obtain leave to bring with him to Los Angeles on the Steamer which left San Francisco for San Pedro, on the 18th of said November the original grant in this case, he (the deponent) giving under the direction of the said E. M. Stanton a receipt that after said document had been used on the trial of this cause, to take place at the decem-

ber Term of the said district Court for the Southern District of California, to be held on the first monday of said December in Los Angeles, that this deponent should carry the said grant back to San Francisco, and deposit it in the Archives of Spanish Records in the ~~Attorney~~ Surveyor General's office aforesaid from which it had been taken.

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The affiant therefore prays, that an order of Court may be entered permitting him to withdraw the said original Titulo, from among the papers presented before the Court in the trial of this cause, for the purpose of restoring ~~them~~ it to the custody aforesaid

Fred K. Stanyer

Sworn & Subd to before me this the 21st Decr 1858

Sims
Ch L

No 331

Robt B. Neleigh
vs.
U. States

affidavit of
F. A. Sawyer

Filed Decr 21st 1858
Gives
CR

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F A Sawyer

United States Court
Southern district of California
December Term 1858

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United States
appellant
vs.
Robert B. Nelligh
appellee

It is hereby stipulated, that this cause shall rest and stand without decision or decree untill the June Term of this Court to be held in Monterey 1859 - when the same shall be reargued before the Court

Fred R. A. Sawyer
for claimant
J. R. Gitchell
U S D & Atty for appellants
for E Downer Acting Atty

No. 331.

R. B. Neligh
vs
U. States.

Stipulation of parties.

Filed Dec. 22. 1858.
C. Sims. Clk.
per W. W. Stetson
Dpty.

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United States
vs
R. B. Neleigh

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

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I do hereby certify and State under oath that I am Keeper of the Archives in the United States Surveyor Generals Office for the State of California. and that I have under my charge all the Spanish Records relating to land titles in California that are in the possession of the Government of the United States, and that there is no Book of Records or "Toma de Razon" for the year 1846 to be found in the said Archives

R. C. Hopkins

Subscribed & sworn to
before me this 4th day of June
1859
Fred K. A. Sawyer
notary public

Certificate
of
R. C. Hopkins
Book of
"Toma Razon"

(T)

Filed in Office this 17th
day of June 1889

[illegible] Clk

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U. States vs Fremont } 17 vol. Howard R.

Same vs. Reading } 18 vol. do. p. 9

Same vs. T. O. Larkin } 18 vol. do. p. 557

Same vs. Cow Cervantes } 18 vol. do p. 554

Same vs. Vaca } 18 vol. do p. 556

Same vs. Sutherland } 19 vol. do. p. 365

Same vs Arredondo } 6 peters p. 729

10th Peters 413

Sutter case, decided last term of the court

No 331

United States
appellants
vs.
C. B. Nelson
appellee.

List of cases referred
to by counsel for
Claimant.

Filed in Office this
17th June 1859.
Jim S. Clk

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V. E. Howard
& J. A. Sawyer

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

The United States
Appellants } Decree
vs.
Robert B. Nelleigh
appellee

Term 1858

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This cause coming on this day to be heard on appeal from the final decision of the Commissioners to ascertain & settle land claims in the State of California, under the act of congress approved 3d March 1851, upon the transcript and proceedings and decision of the said board, and upon the further evidence taken before this court by order of the court, and counsel for the respective parties having appeared, in consideration of all which the Court is of opinion that there is no error in the decision of the said Board of Commissioners, and that the same should be and the same is hereby affirmed.

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And the court doth order, adjudge and decree that the title of the said claimant to the land described in said transcript is valid and the same is hereby confirmed to the extent and quantity of Six leagues.

The land of which confirmation is hereby made contains six square leagues embraced in a grant issued by Governor Pio Pico on the fourth day of April 1846 to José Castro and described in said Grant as commencing at the foot or base of the Snowy mountains on the San Joaquin River, and scanning down said river, to be selected by the said claimant, from the said eleven leagues named in said grant, when the same shall be located by the proper authority, reference being had to the said grant.

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Isaac S. K. Ogier
by S. Ons Lodge
for the S. Ons of Cal

No 331

Decree to

[illegible]

U.S. Dist Court

Robt B Heleigh
appr
vs
U States

Decree

Filed in Office
this the 6th day of
Oct A D 1859

Gims
Clk

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The citizen Pio Pico, first vocal of the most Excellent Departmental assembly of the Californias and Governor ad interim of the Department, to the inhabitants of the Same

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Know ye, That the most Excellent Departmental Assembly in Session this day has resolved and decreed the following-

The first Vocal of the most Excellent assembly being the person whom the Law calls to take charge of the reins of the Gov-ernment of this department, which place is now vacant because the Authority of Micheltorena in whom it was vested has been disavowed and whereas Don Pio Pico is the Senior Member (primer Vocal) he will take charge from this Same date of the departmental Government ad interim, in accordance with the article 138 of the organic Bases of the nation & will proceed to dictate measures proper for the security and preservation of public order and tranquility in conform-ity to the powers which the Laws confers upon him. circulation this decree through all the vilages of the department for their intelligence and information

Given in the City of Los Angeles

Capital of the Californias the 15th Febru-
ary 1845.

And in order that it may be known to all. I communicate it to you. in order that causing it to be published with all the solemnities of a proclamation in your village and its jurisdiction and that it be placed in the customary places. acknowledging to me the proper receipt.

God and Liberty - City of Los Angeles
February 15th 1845

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No 331.

U. States District Court
Southern Dist. of California

United States
vs
Robt B. Nelugh

Translation of document
marked

C II o

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Office of Justice
& Public Instruction

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Most Excellent Sir:

It has come to the notice of his Excellency the President that the Government of your Department has determined to expose at Public Auction, all the property belonging to the Missions of the same, which your Excellency's predecessor, had ordered to devolve upon the respective missions for the management & administration of their temporal affairs, This circumstance has served to advise me that your Government should make a report upon these facts forthwith suspending all proceedings in relation to the Alienation of the property referred to, until the determination of the Government upon the subject,

I have the honor to say this to your Excellency for the objects indicated. Protesting to you my consideration and esteem.

God and Liberty Mexico November 14th 1845

Montesdeoca

To the Governor of
the Department of the
Californias

Port of Monterey

No 331

United States District Court

Southern Dist. of California

United States
vs.
Robt B. Neligh

Translation of document marked

K.

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The most Excellent Depart-
=mental assembly by decree of this day
and in the exercise of the 17th faculty
granted to it by the 134th article of the
organic Bases of the Nation has thought
proper to propose to the Supreme Govern-
=ment for Governor of the Department,
the following gentlemen-
First = The most excellent Señor Don Pio Pico
Second = Señor Don Juan Bandini
Third = Señor Don Mariano G. Vallejo
Fourth = Señor Don Jose de la Guerra y Noriega
Fifth = Señor Don Antonio Mª Osio.

His Excellency the Governor of the
department will take notice of this-
for its publication and for other purposes
Chamber of the Honorable assembly
of the Californias

June 27th 1845

Pio Pico
President

Augustin Olvera
Secretary

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And in order that it may be known by all and
accomplish its purpose, I order that it be published by
proclamation in the villages of the department, and
be circulated to whom it may concern.

Angeles June 27th

1845.

Jose M. Covarrubias.
Secretary

(Endorsed)

Proposal for Governor.

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No 331

U. States District Court

Southern District of California

United States

vs

Robt B. Nelson

Translation of Document

marked

FFo

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The United States District Court
Southern District of California

United States appellants
vs.
Robert B. Neleigh

No. 331.

Claim for 11 Leagues of Land on the San Joaquin River.

The applicant founds his claim on a grant made by Pio Pico Governor of the department of the Californias on the 4th day of
The Grant ⅓ April 1846 to Col. Jose Castro.

The genuineness of the grant is established by the testimony of Richard Somerset Den to whose deposition, reference is made, Col. John D. Stevenson, I. H. Shore, I. J. Warner and others as well as by Pio Pico himself, and is not attempted to be impeached in any manner. It was put on file in the Archives as early as June 1849, nearly two years before the passage of the law under which these claims are adjudicated.

The Claimant is unable to produce any document connected with his claim except the Grant itself. There is no petition, reference, or

Report, or other evidence, of the proceedings which usually precede a grant. The claimant insists that these papers once existed but have been lost or destroyed. Pio Pico the Granting Governor says that he never made any grant except upon petition presented to him. The unprotected condition of the public Archives after Pio Pico abandoned Los Angeles in August 1846, the manner in which they were scattered, lost and destroyed is fully set up forth in the depositions of Pio Pico, Col J. C. Fremont A. H. Gillespie and Dr. Ord on file in this Case.

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Pio Pico says that the petitions for Land and other public papers were kept in the office of the Secretary of the department in the executive Building: Pio Pico left Los Angeles for Sonora in August 1846; before his departure he says, "Under my directions and supervision they were packed "in boxes, a portion of which said boxes were removed "from the Office to a designated place the remainder "of the Boxes, from the want of time and convenience "were left remaining at the Executive buildings. "On my return to the Country in 1848 I learnt and "was informed, and it was a matter of public notoriety "that not only the documents before referred to, but "many of those of the municipal Government of Los "Angeles, had been scattered about, lost and destroyed; "That they had been even used as paper for the making "of gun cartridges."

Colonel Fremont deposes to having taken possession of the archives which he found in the custody of Don, Luis Vignes, in whose charge they had been placed as he understood by Pio Pico. These according to Pio Picos testimony constituted only a part of said archives. That for the want of time a portion of them had to be ~~kept~~ left in the Government House. These it appears Fremont never saw. In fact immediately upon the departure of Pio Pico, the Government House was converted into Barracks, and occupied by Flores and his troops, until the surrender to the Americans, and it was during this occupation by Flores and his Soldiers that the work of destruction of that portion of the Archives which Pio Pico had been compelled to leave in the Government House was perpetrated. They were then used for gun Cartridges, or put to any other use that suggested itself. (History of the War in California.) There is no discrepancy between Fremonts testimony and that of Pio Pico, on the contrary they harmonize perfectly. Pio Pico does not speak of the after history of those papers he sent in boxes to a designated place, but only of those which had been left in the Government House.

Colonel Fremont states that while he had exclusive charge of the Archives (1847) as follows: "I carried home some of

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"them to be inspected at Washington; One I "know I left there, the others were lost with "other effects in the Mountains of San Juan, "One of these titles referred to a grant to General "Castro. It was I think a title, whether the full title or the papers concerning a grant, I am unable to say. This was lost in the "mountains; there were three or four lost "in the mountains. The one left at Washing-"ton referred to the Macnamara Grant."

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It is a historical fact that there was but one General Castro in California and that was Jose Castro the grantee in the present Case. It is not pretended on the part of the Government that there was any other grant made to General Castro.

Pio Pico was the Constitutional Governor of the Department of the Californias on the 4th day of April 1846. When the Grant was signed: Governor Micheltorena's authority as Governor ceased ~~on the 15th February~~ on the 1st April 1845. At that time Pio Pico was the first Vocal, or Senior member of the Departmental Assembly, and became at once by operation of law (Article 138 Bases Organicas) Governor ad interim of the department of the Californias; which fact was duly published by proclamation (bando) to all the inhabitants of the department. The depart-

~~Pio~~ Pio Pico Constitutional Governor

2 he left the country

5

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mental Assembly in the exercise of a power conferred on it by the 14th Sec. of Art. 134 (Bases Organicas) as early afterwards as convenient proposed the name of five persons (Tema) improperly translated in Pio Pico desposition by the word trio) heading the list with the name of Pio Pico to the Supreme Gavernment as permanent Governor. In answer to which proposition the Supreme Government forwarded to Pio Pico a formal commission as Governor which office he filled and exercised the authority of until 11th day of August 1846, See desposition of Pio Pico and certified Copies of Spanish documents marked

On the 14th November 1845 Montesdeoca Minister of Juelice and Public Instruction addresses him as Governor in an official Communication from the City of Mexico on the subject of the property of the Missions. See document marked K and certified Copy of extract from the proceedings of the departmental Assembly at the Session 15th April 1846 marked and filed in this Cause, and marked, (O)

It will be observed that the first deposition of Pio Pico was taken at Los Angeles for which reason the Original grant was not presented to him for inspection as it could not be taken from the Archives of the Surveyor Generals office which are kept in San Francisco. It has since been obtained and presented to the inspection

of Pio Pico and its genuiness completely established by him. See his 2nd deposition.

Loss of the Record Book Toma Razon for 1846

Matias Moreno the Secretary of the Governor, certifies that this title was recorded in the proper book. This would have been the book (Tomas razon) for the year 1846. This book the former existence of which is fully proved by Pio Pico was never found after Pio Pico left Los Angeles in August 1846 Pio Pico states as above quoted that in Order to preserve the Archives he had some of them put into boxes and sent to a designated place but for want of time many were left in the Government House. This Book was in all probability with the latter for it was not among those that Col. Fremont took possession of that had been deposited by Pio Pico with Don Luis Vignes and no doubt it was destroyed along with many other valuable documents and papers, during the occupation of the Government House by the troops. It was never seen among the archives in Monterey. (See deposition of H. W. Halleck). In relation to the occupation by Castro, Vinsonhaler testified to Castro's going upon the Land in 1849, building a house and corals; Jose Mª Pico states that Castro was on the land in 1844, about five years previous; and as the occupation of 1844, was only for a few months it is probable that all traces of what

Castro's occupation of the Land

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Castro's occupation of the Land

was then done were destroyed & obliterated at the time Vinsonhaler saw Castro go on the Land in 1849. During the years 1846-7-&8, Castro was too much occupied in the Military affairs of California to pay much attention to Lands on the San Joaquin; as soon as the War was over and peace fully established, in 1849, he returned to the Land, and made a regular and permanent Settlement. The occupation of 1844, and which would have been immediately without doubt followed by a formal grant, had it not been for the civil war which just about this time broke out, and in which Micheltorena and Castro occupied hostile positions towards each other, is important as showing that Castro had previously acquired some equitable rights, proper to be considered by the Californian Government at the time the grant was made, under which we now claim, as well as by the Government of the United States, at the present day, in determining Col. Castro's rights. The locality of this grant was in the Mariposas Country, and contiguous to the Territory in which Fremonts grant was made to Alvarado. Both grants call for the foot of the Sierra Nevada Mountains as a beginning. The locality of this grant, was equally infested with Hostile Indians and subject to their incursions as the Fremont Grant.

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When Alvarado saw Castro in 1844, in Monterey he was on his Way to the head waters of the San Joaquin River, with a Military force by the direction and under the appointment of Governor Micheltorena to occupy the Margins of the River San Joaquin. The Military instructions, ~~contained in them~~ which Castro bore from Micheltorena, were confidentially shown to the Witness Alvarado, but the Military directions contained in them are not detailed by the Witness, but as at that time the Californias had no other enemies but Indians the inference is irresistible that the Military object of his expedition was for their Chastisement, and the better security of the frontier against ~~their~~ incursions: Alvarado says: "in a part of them (the 2 instructions), he "Micheltorena, promised to said Castro, to "grant him 11 Leagues of Land, whereever "he should locate himself with the said "troops; stipulating to give him a title "afterwards, in remuneration for Military "and Civil services which he had performed "for the Country."

Witness states that he afterwards learned that Castro had established himself at a place on the San Joaquin River, erected houses, built Corals and had

Cattle there.

Castro was afterwards compelled to withdraw the Military force he had taken with him for the protection of the Frontier and temporarily leave his settlement because the exigencies of the County required in his judgment his and their services at another place; for he became engaged in the Civil War against Governor Micheltorena, as Commander of the insurgent forces, which civil war terminated in Micheltorena surrendering and capitulating to him (Castro) at or near Cauenga on the plains of San Fernando early in the year 1845 viz. on the day of 1845.

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Don Pio Pico and Colonel Castro during all this conflict operated in concert and together; and were on the most friendly terms. (See Historical Narrative marked B.)

These unforeseen difficulties and disputes, ending in Civil War between Castro and Micheltorena, naturally forbid all idea of Castro asking for, or obtaining from Micheltorena the promised Grant for the lands he should select and had selected on the Frontier; indeed it is said, and with every probability of truth, that they never spoke together from the commencement

of these difficulties until after Micheltorena's surrender and capitulation, when his authority as Governor ceased, and he was virtually a prisoner and under duress up to the very moment of his leaving the Country.

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Wherefore Castro, at a convenient period afterwards, very naturally applies to the lawful successor of Micheltorena viz. to Governor Pio Pico for a grant of the lands, so selected by him, and promised to him, by Micheltorena; and accordingly obtained the Grant on which this claim is founded.

Nothing can be more natural and truthlike than the whole testimony of Alvarado; - first that a man of Micheltorena's abilities should select Castro, a very distinguished and highly competent officer to over awe the Savage Indians in that portion of the Republic and chastise them if necessary, and that he should promise to reward his many Civil and Military services to the Country, by a grant of Land in the section of Country he had protected; and as the land was only likely to be esteemed for grazing purposes, that it should have been a grant for 11 Leagues.

11

In the case of Ex Fremont

11

In the case of J. C. Fremont vs. United States the Supreme Court say "The "fact that the Country where the land was situated "was such a Wilderness and bordered by such danger- "ous neighbors, that no plan could then be pre- "pared, is proved by these documents, and that "fact officially admitted is worthy of consideration "when we come to the enquiry whether there "was unreasonable delay in taking possession."

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This language is used when speaking of the Mariposas grant, which is contiguous, as before said, to the grant in question, and there were no difficulties or dangers which beset the occupation of the one, that did not beset the other. In relation to the public services rendered his Country by General Jose Castro, Alvarado says "Since the year 1834 "I think he was a member of the territorial "deputation he was next political Chief ad- "interim of the Territory and afterwards had "different Military offices up to the grade of "Lieutenant Colonel till he was Colonel Com- "mandant of the Military forces at Monterey "and finally General Commandant of the "forces in California during the War ~~until~~ "with the United States."

patriotic services of Gel. Castro

The Claimant submits that the calls of the grant are sufficiently

Calls of the grant

definite. Mr Lewis who made a survey of that portion of the grant, which is claimed by Neleigh, states "that he found
"no difficulty in locating the Land from such
"calls." It differs from the Fremont Case, in
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as much as there is not only a starting point, but a direction ~~to be followed~~ (Rio Abajo) to be followed by the survey. — Whereas in the Fremont Case there was only a starting point given, and the grantee could pursue any direction he pleased; but here the grantee is expressly restricted to the downward Course of the River.

Mr. Lewis further says "The Conformation of the
"Earth seemed to agree with the ~~calls~~ calls of the grant." It is submitted that this proof presents a prima facia case, sufficient to warrant a Confirmation; and that the question of specific boundaries is to be determined by another officer of the United States Government, who goes upon the Land himself.

The language of the grant in relation to location differs from most others, and is express and pointed. In the 3rd Condition it is stated as follows". The
"Judge who may give possession shall have
"it measured with entire observance of the
"Ordinances and in view of the Sketch or

"topographical plan which which the
"grantee shall present". There was no
diseno or plot made, at the time of the
grant, as was customary; but the grantee
himself was at some subsequent time to
furnish one to the Judge. No doubt, if the petition could be found it would shew the same reasons for not furnishing a map at the time of the application for the land, as were set forth in the Mariposa case — viz the almost impossibility of making one at that time owing to the country being infested with Indians —

That the Governor had
a right to dispense with the production
of a diseno or map at the time of
presenting the petition or issuing the grant
is fully admitted by the Supreme Court
in the Case of Fremont; and it may be
justly inferred, that the grantee Castro,
was expected by the Governor to present
a diseno to the proper Officer as soon as
the State of the Country would permit it
to be done with safety. The plan or map
now filed in this Cause is made and present-
ed, pursuant to the direction of the Grant.

If it were not sufficiently
proved that there was a petition for a grant
in this case, that has been lost we should
insist that no petition was necessary.

The Colonization law of
1824 does not require the presentation of a
petition.

It is also obvious that
the regulations of 1828 which required a

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petition are merely directory and not necessary to the validity of the grant.

The granting power in the first instance was in the Governor. He might grant as well on a verbal as upon written request or petition.

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No petition was necessary beyond the assent of the grantee. It constituted no part of the grant.

The word used in the second article of the regulations is "instancia," which is not properly Petition in the English sense: It is used in the original, as equivalent to representation, or statement and was obviously intended as merely for the information of the Governor.

He might act on other information without the instancia, and was in no respect bound by it.

It was not a necessary element in the grant nor is it so held in the "Cambuston" case.

Neither does the Court intend to intimate in that case that the registry of the Grant is at all necessary to its validity.

It is impossible that the Supreme Court could have

supposed that the neglect of the Secretary, or his Clerk, could have the effect to avoid the grant.

Authority to the contrary of this is abundant, and the principle too well settled to need reference.

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The district attorney refers to the fact that when Pio Pico is asked in his 2nd deposition about the political history of his administration he answers, "I do not recollect." But it appears upon his farther testimony that he interpreted these words, to mean only an unwillingness to be examined on that subject. Pio Pico explains that when he says he does not remember, he means to say, he is "under the impression that he was called to de-" pose to the character of the grant made by "him as Governor as to whether it was genuine" not to be catechized as to the history of "or not, and his administration. That to answer "such questions, would be irksome and disagree-" able to him; that the same information "could be obtained from the history of the "times, and from individuals, as was sought "to be obtained from him". (We all know the peculiar notions of the Spanish race in re-lation to official position and honor), his dig-nity was offended at being asked these questions) and therefore he declined answering them altho

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urged, in the most civil manner to do so, by the Claimants counsel himself, who was perfectly willing that every fact within the knowledge of the Witness should have been stated; as claimant cannot see how a political difference between Castro and Governor Pico in June 1846, about a fair division of the revenues of the Custom House at Monterey, or any other national subject of political misunderstanding can possibly effect the question presented to the Court. The private relations between Governor Pico and Castro were always of the most friendly kind, and as Pico states were never interrupted by any circumstance whatever, and that no political differences could have interrupted them; and that even if he had been engaged in raising a force to drive him out of the Country for political differences of opinion, he would still have felt bound to issue to him a title as Governor to Lands provided they were proper to be granted, and application in the usual and proper form was made for them: Governor Pico very properly considered that the Public lands were the property of the Nation, and not his private property, and that he as Governor was authorized and enjoined by his duty to grant

them in conformity to the Laws and regulations of the Nation, to any applicant who was entitled to receive them.- This Grant was made on the 4th April and more than two months and a half afterwards occurs the alleged expedition of Pio Pico against Castro as stated by Stearns the Government witness, who states, that he understood, but says nothing of his own positive knowledge, so that really his testimony ought to have but little consideration. He does not tell us what became of the expedition, but I think it is well known, that no blood was spilled, and that the meeting between Castro and Governor Pico terminated in the most friendly manner. Stearns the Government witness himself says "that he does not think "that this political difference, between Pico "and Castro, made any difference in their "private friendly relations; it might possibly "have done so, but he never heard that it did."

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I understand it will be urged by the dist. atty 37 +

The Allegation contained in the district Attorney's Brief+ that Castro claimed and exercised the powers of Governor, is totally unsupported by any proof, and is an entire misrepresentation of the facts of the Case,- which are simply these; That late in July, of that year (1846) nearly four months after the execution of this title, Castro received authority from the Home Government at Mexico, to

Tornel document 10th March 1846

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sell lands, not as Governor, but as a Military Chief, in order to raise money to defend the Country against the Americans: and in a Sale made under this authority by Castro to Nicholas Merchon, and the claim under which, is now being prosecuted before this Court (Cl°. 225), all of these facts are fully set forth; Castro did not pretend, in any manner whatever, to interfere with, or to ~~supersede~~ supercede the ordinary or lawful powers of the Governor.

It is mentioned in the District Attorneys Brief that "the Indians "could not in this as in Fremont Case have "presented any difficulties to the making out "and presenting a Map together with the "petition, when applying for the land, because "by the testimony of A. Mª Pico Castro had "a temporary occupation of the land in 1844". It is true he had an occupation in 1844, but it was one that had to be protected by a considerable body of troops from Indian hostility. The Exigencies of the State soon afterwards required these troops to be withdrawn for some other service, when Castro left, being compelled to await some more favorable opportunity of occupying and securing the lands he had selected under his understanding with

Micheltorena as set forth in the testimony of Alvarado.- In fact as has been stated before there are no equities in the Fremont Case, arising from the frontier and defenceless position of the land, and the presence of hostile and savage Indians upon the same, that are not strictly applicable to this case, as they are contiguous tracts of Country and similarly situated in every respect; and therefore in this case it was very properly decided by the Grant itself that the grantee should at some future time present a Map of the Land.

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Fremont had presented no diseno even at the time of the final confirmation of his ~~claim~~ claim by the Supreme Court, and under its decision might have had his claim run off in almost any imaginable shape, and to the great injury of the public Domain; but in the present Case a regular diseno, liberal and fair in its character, made under the directions and restrictions of the Grant, was presented at the first filing of the claim before the Land Commissioners; and is part of the Record in this case, which circumstance renders the reasoning of the United States District Attorney upon this part of the question entirely inapplicable,

As the real facts of the case are different from those from which he draws his conclusions.

Distinction between the present & Cambuston Case

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The Supreme Court of the United States urge as an objection to affirming the decision of the district Court in the Cambuston case "That the aiginal Grant was not produced either before the Commissioners or the district ~~Attorney~~ Court and the only proof "of its genuineness was the testimony of two "Witnesses who had seen the signatures of "Governor Pio Pico and the Secretary Moreno "on file in the Surveyor Generals Office" Now in the case at bar, the grant itself is ~~presented to the district Court for its~~ full examination and inspection, and the genuineness of the grant is established by the direct testimony of five highly respectable Wilnesses including the granting Governor himself.

The Court further say, in that case, that the regulations for the colonization of the territories of the Government of Mexico made 21st November 1828 in pursuance of the act of the General Congress August 18th 1824 must be substantially complied with;. That is, that there should have been a petition accompanied by a Map presented

to the Governor a reference by him to the proper officer, and a favorable report made upon the same &c in fact all the papers and documents necessary to a complete Expediente. Now I take this to mean that these documents viz. the petition &c must be either produced, with the grant itself, before the tribunals which are to decide upon the merits of the claim or their absence must be accounted for.

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It certainly in a Court of Equity can mean nothing else. Now in this case the Granting Governor Pio Pico says that he never made, as he thinks, any grant except upon petition presented to him. Nor is there any proof that he ever did so. There may be grants, ~~may be~~ made by him, which have been presented to the Courts unaccompanied by a petition, as in this Cambuston Case, but that is no proof of that there was not originally, a petition, and that upon that petition, and other proceedings, the Grant was issued.

Col. Fremont who has no personal acquaintance with the Claimants in this case, and who I am certain never heard of this cause, and is totally ignorant of its existence to this very day, in giving his testimony in a totally different case viz. the case of Moorheads Admrs vs. United States in the

Northern district of California, as to what he knew of the history of the Archives relating to land titles in California says "that after he had taken possession of that "portion of the archives which Pio Pico had "deposited with Don Luis Vignes in Los Angeles"

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because Pio Pico only sent a portion of the archives to Don Luis Vignes for safe keeping and the balance for want of time were left in the Government House, (See Pio Pico's 1st deposition) Those that were left in the Government House Fremont never saw, as they were pretty much destroyed before he reached Los Angeles,) he goes on to say that they (that is those taken from the possession of Don Luis Vignes) were exclusively in my charge" and "I carried "home some of them to be inspected at Washing "ton. One I know I left there, the others were "lost with other effects in the mountains of "San Juan. One of these titles referred to a "grant to General Castro. It was I think "a title whether the full title or the papers "concerning a grant, I am unable to say."

It is a historical fact that there was in California but one Col afterwards General Castro, and he was the grantee in this claim. Larkin in his testimony

states that he had been the American Consul at Monterey, and had been a long time in the Country, and never knew or heard of any other General Castro but the Grantee in this claim. It seems but a fair and just and almost irresistible inference, that the papers lost by Fremont in the San Juan mountains, were the missing portions of the Expediente in this case. As to that portion of the Archives which Pio Pico left in the Government House, in his haste ~~to~~ to leave Los Angeles; The manner in which they were destroyed, and scattered, is fully set forth in the deposition of Pio Pico, in the deposits of Dr. Ord, Gillespie and Colonel Stevenson, and the General notoriety of their loss and destruction.

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The Keeper of the Archives in the Surveyor Generals Office of California certified that no paper belonging to the Expediente in this case is among the archives in said office except the grant itself. See Certificate marked "L." So the papers are not there.

In the Cambuston Case; The Court object that there was no map or diseño; In this respect the grant before the Court, and the Cambuston Grant, have

a most marked distinction. The Cambuston grant is in the ordinary form, and ~~therefore~~ therefore according to the regulations of Nov. 1828 there should have been presented to the Governor at the time of applying for the land a map or diseno. But in the Grant before the Court the present presentation of a diseno is directly ~~dispensed~~ dispensed with and the grantee is expressly directed to furnish a diseno at some future time, to the Judge who was to give him ~~judicial~~ ridical possession of it.

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The Supreme Court decided in the Fremont Case that the Governor had a right thus ~~—~~ to dispense with the presentation of a map or diseno at the time of applying ~~for a grant of Land, directing the~~ grantee to ~~furnish~~ furnish it at some future time; and whatever indulgence was shown to the grantee of the Mariposas Claim, might reasonably and very naturally be extended to the grantee of the lands covered by this claim as the two tracts were contiguous and equally infested by savage tribes of Indians.

In the Cambuston Case the Supreme Court seem to think that it was not sufficiently shown that Pio Pico had been recognized by the Government of Mexico as the Governor of California. In the

present case, I think it very fully established ~~by~~ that he was the lawful and constitutional ~~substantial~~ Governor, of the department of the Californias, from some time in March 1845 to some time in August 1846 (See 1st deposition of Pio Pico, - Article 138 Bases Organicas - Certified Copies of documents marked and certified Copy of original documents on file in the department of the "Ministerio de Gobernacion en la República Mexicana" in the City of Mexico, showing the appointment, by the Mexican Government, of Pio Pico as Governor, and approving his acts as Governor ad-interim marked "M", and certified Copy of an Extract from the proceedings of the departmental Assembly of California at its Session on the 15th of April 1846 marked (O) all of which are on file in this Cause.

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The Supreme Court in the Cambuston Case further objected that on the trial of that cause "the Record (Book of "Toma Razon) should have been produced "or its non production reasonably accounted for".

In the present case, Matias Moreno, the secretary of the Governor, certifies that this title was recorded in the proper Book, the signature of Moreno

is proved by several Witnesses to be genuine. In relation to the Book itself Pio Pico states positively in his 1st deposition that when he left Los Angeles in August 1846 it was among the Archives in the Government House at Los Angeles. The manner in which the Books, papers, that were left in the Government House by Pio Pico were scattered and destroyed, has been referred to above, when speaking of the depositions of Pio Pico, Gillespie, Dr. Ord, and Col. Stevenson No doubt this Book was destroyed, at least it is reasonable to infer so, along with many other valuable documents and papers during the occupation of the Government House by the troops. I. W. Halleck, who from an early time, in the history of the American possession of California, had charge of the Archives relating to said titles, which had been collected at Monterey, certifies (See Copy of deposition in the Marshead's Admr. case) that it was never seen among the Archives in Monterey.

The Claimant submits that under this state of facts the non-production of the Book of Toma Razon or Record Book is sufficiently accounted for.

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He further submits that under the foregoing Statement, that the objections, set forth by the Supreme Court of the United States to the confirmation of the Cambuston Case, are totally inapplicable and irrelevant when applied to the Case before the Court.

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Fred M. S. Sawyer
for Claimants

Authorities

U. States vs P. B. Reading } 18 Howard - page, as to the effect of recitals of the Grant

Same vs Sutter } 21. Howard same point — Informe dispensed with

10. Peters — page 13. as to recitals

U. States vs Vaca } 18 Howard p. 556 & 553 as to excuse of map & survey &c

Same vs Sutherland } 19 Howard p. 363 as to boundary

Same vs T. O. Larkin } 19. Howard 557 as to services rendered being good consideration for Grant

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United States

appellant

vs.

Robert B. Neligh

appellee

Brief

of Claimant.

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