

CASE No.

332

SOUTHERN DISTRICT

CANADA DE SAN FELIPE Y LAS ANIMAS GRANT

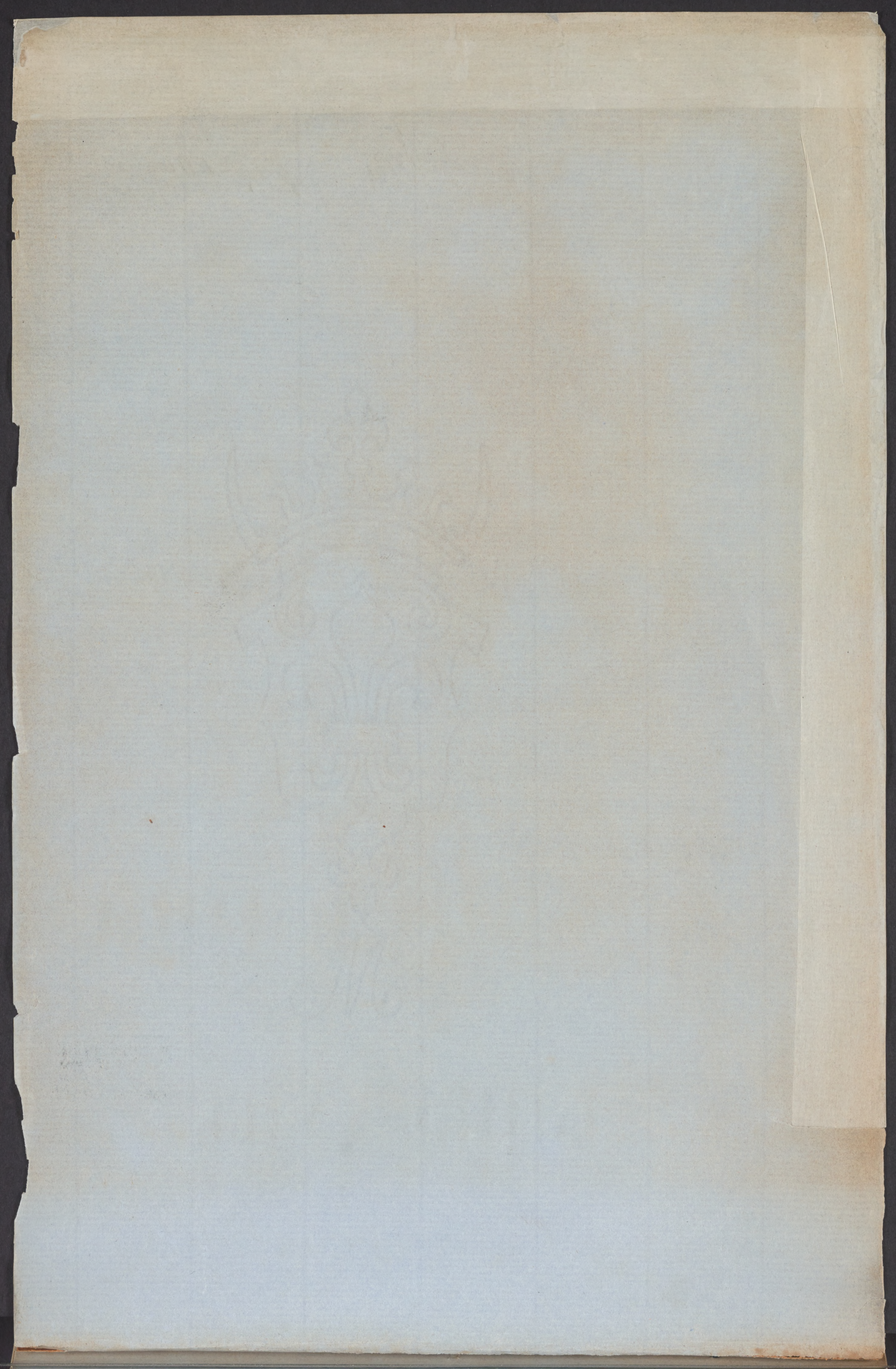
CHARLES M. WEBER

CLAIMANT.

Remington
FLOWER BOND
50% COTTON FIBER
U.S.A.

333

dup



333

dup

TRANSCRIPT

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PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. 333

Charles M. Weber

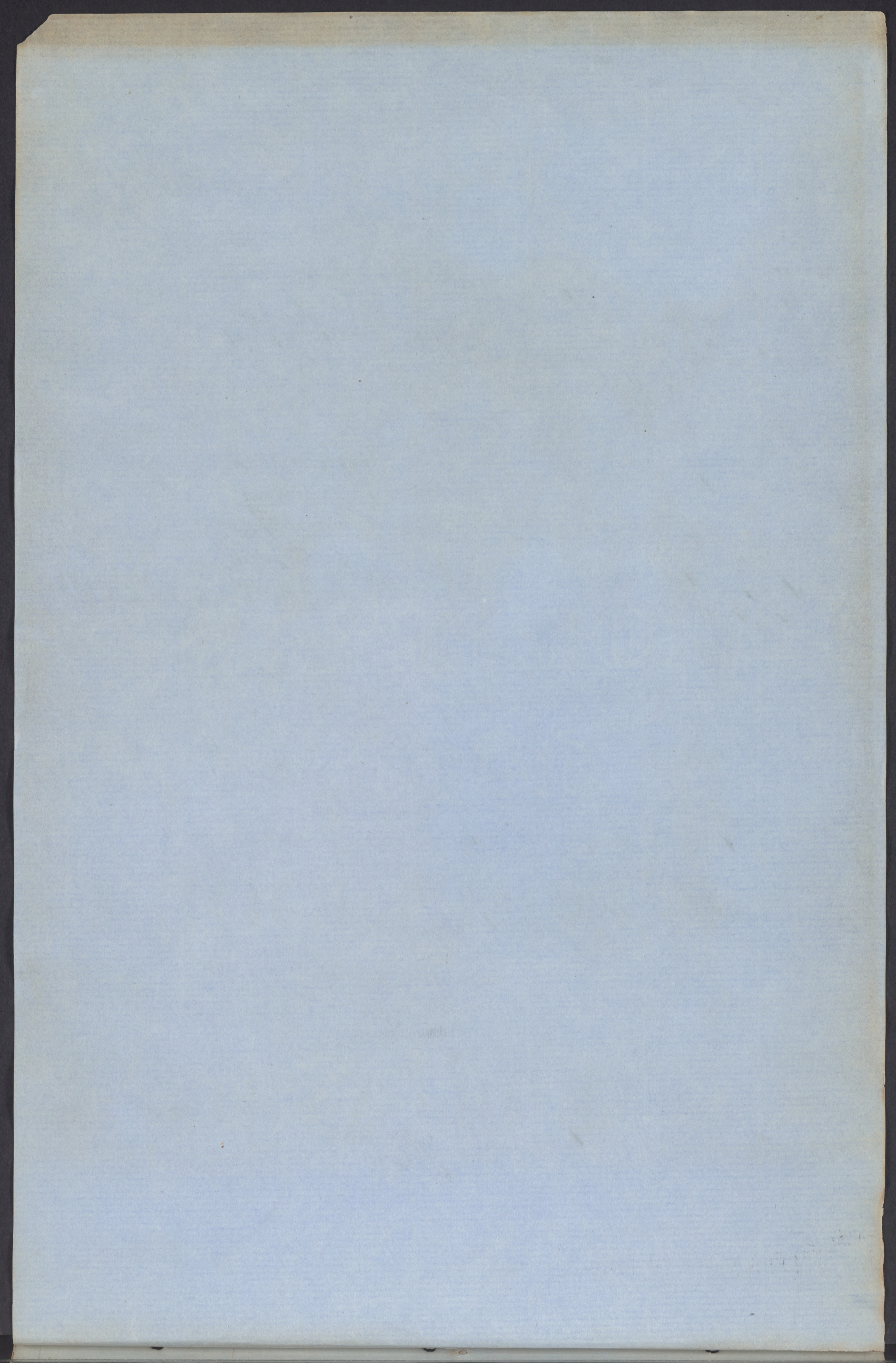
CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

Cañada de San Felipe y Las Animas.



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 tenth 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 Charles M. Weber,
 for the Place named
 "Cañada de San Felipe y San Armas,"
was presented, and ordered to be filed and docketed with No. 333 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;

Los Angeles September 11 1852.
In case no. 333, Charles M. Weber for the place named "Cañada de San Felipe y San Armas," the deposition of Pablo de la Guerra, a witness in behalf of the claimant, taken before Commissioner Henry J. Thornton, was filed;

(Vide page 5 of this Transcript.)

San Francisco January 8 1853.
In the same case the deposition of Antonio M^o. Pico, a witness in behalf of the claimant, taken before Commissioner Henry J. Thornton, with documents marked H. J. T. no. 1, annexed thereto, was filed;

(Vide page 6 of this Transcript.)

San Francisco Aug. 30 1853.
Case no. 333, called; submitted on briefs & taken under advisement by the Board.

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San Francisco May 5th 1855.

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

(Vide page 4³ of this Transcript)

S.

And the following order was made, to wit;

(Vide page 5³ of this Transcript)

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3  
To the Honorable Comisioneros  
to settle Private Land Claims in California.  
The petitioner Charles M  
Nebel respectfully shows,

Petition.

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That on the 14th day  
of August 1839 Manuel Jimeno Casarin  
Governor of California by virtue of authority  
in him vested granted to Tomas Boun the  
tract of land called "Canada de San Felipe  
& Las Animas" situated in the present County  
of Santa Clara containing two sitios de  
ganado mayor a little more or less as shown  
in the map and described in the title and  
accompanying papers all of which is shown by  
the original Espediente a certified copy of  
which is submitted herewith marked "A"  
with a translation marked "B".

The petitioner also sub-  
mits herewith a copy of the original title  
marked "C" with a translation marked "D".

That on the 7th day of October  
1842 an sold and conveyed said tract  
of land to Francisco Garcia and Carlos Mo-  
rino a copy of which public act of conveyance  
is submitted herewith marked "E" with a  
translation marked "F".

That on the 26th day of  
November 1845 the said Garcia and  
Morino sold and conveyed the said tract  
of land to Charles Maria Nebel a copy of  
which conveyance is submitted herewith  
marked "G" with a translation marked  
"H".

It is also shown by the Espe-  
diente a certified copy of which is submitted  
herewith as aforesaid that the said grant  
to Tomas Boun was duly approved by

H  
the Departmental Junta on the 23<sup>o</sup> of  
May 1851.

The petitioner also submits  
herewith a copy of certain judicial proced-  
ures before the Superior Tribunal of Cal-  
ifornia fully establishing the validity of  
the aforesaid grant marked "I" with a  
translation marked "J".

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The petitioner also represents  
that the said land has not been surveyed by  
the Surveyor General of California but  
that its boundaries are fully defined in the  
grant and accompanying papers and are  
well known.

That the petitioner and those  
under whom he holds have been for more than  
two years and the petitioner now is in the  
possession and occupation of the said tract  
of land.

That he knows of no conflicting  
claim.

That he desires for confirmation of title  
upon the original documents copies of which  
are submitted herewith upon the records and  
minutes in the archives now in charge of the  
Surveyor General and upon such other and  
further proofs as he may be advised are  
necessary.

Wherefore he prays the Commis-  
sions to confirm to him the tract of land  
aforesaid.

By his Atty.  
Heath & Peachy & Bellings  
Filed in Office Sept 11, 1852.

(Signed) Geo Fisher Secy.

Office of the California  
Land Commission.

Los Angeles Sept 10. 1852.

On this day before me Henry D. Thornton  
one of the Commissioners to ascertain and  
settle private land claims in California  
Cause Pablo de la Guerra a witness produ-  
ced in behalf of the Claimant Charles M.  
Niker whose petition is No 333 on the docket  
of the Commission and was duly sworn his  
evidence being given in English.

Opposition of  
Pablo de la Guerra

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The Law Agent was notified and  
attended.

In answer to questions propounded  
by Clements Cause the Witness testified  
as follows.

1<sup>st</sup> Question.

What is your name age and  
place of residence?

Answer.

My name is Pablo de la Guerra  
My age is about 32 years I reside in Santa  
Barbara and I have lived in California  
all my life.

2<sup>d</sup> Ques.

Examine the papers before you  
marked No 6 and filed with this deposition  
and say if the signatures are genuine and  
the document original and genuine.

Ans.

I am acquainted with the signatures  
of Manuel Jimeno, Francisco Le Arco  
Manuel Micheltona, Jose Maria Custanans  
Antonio Maria Sico & Juan Malas in  
their signatures to these documents are  
genuine & the documents themselves are to  
the best of my belief genuine & originals -

6  
Pablo de la Guerra.  
U. S. Law Agent present.

Sworn to & Subscribed  
before me this 10th Sept 1852.

Henry J Thornton  
Comr &c.

Filed in Office Sept 11, 1852.

(Signed) Geo Fisher Secy.

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San Francisco Aug 8. 1853.

On this day before Comr Henry J Thornton came Maria Antonio Pico a witness in behalf of the Claimant E. M. Weber petition No 333 and was duly sworn his evidence being interpreted by the Secretary.

Deposition of  
M. A. Pico

The U. S. Associate Law Agent was present.

My name is Antonio Maria Pico my age is 44 years I reside in San Jose and have lived in California all my life.

I know the signatures of Guidon Guillot, Jose Garcia, Thomas G. Bond, Bruno Loto, Francisco Garcia, Carlos Moreno, these signatures to the papers before me marked not are genuine and the signature of Antonio Maria Pico to the same papers as Alcalde is my own signature in 1842. Garcia occupied this rancho in 1842 and afterwards until he sold it to Weber who has occupied it ever since with his cattle and servants and a house.

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Antonio Pa Sico

U. S. Law Agent Present.

Sworn to and Subscribed  
before me this 8th of May 1853.

Henry D. Thornton

Clerk

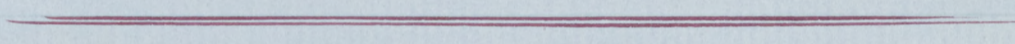
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Filed in Office May 8. 1853.

Signed

Geo Fisher Secy



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9. 1. L. D. R. Juzgado Constitu<sup>o</sup> de }  
D. José de Alvarado } año de  
1889.

## Expediente

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Promovido por D<sup>n</sup> Tomas Bonn  
y en Solicitud del Paraje  
nombrado. "J. Felipe y las Amiz

A.

Expedt - mes.

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J. G. D. R. Monterrey 18 de Mayo, Don Prefecto  
 de 1839. Informe el } Tomas Bounecasado  
 Alcalde del pueblo } con Mexicana y Natam  
 si el terreno que se so. } deli residentes en este  
 licita es baldio y si } pais, ante V. O. con el  
 no pertenece al grupo } Mayor respeto nos presen  
 ticulas Misión o pue } tamos y decimos que  
 blo. } poseemos el numero de  
 } doscientas Cabezas de  
 } Ganado Vacuno para

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Castro.

cuyo conservacion y aumento carecemos de  
 un terreno apropiado y hallandose baldio  
 el paraje nombrado D. Eclipse y las Animas  
 situadas al Oriente de este lugar, suplica  
 mos se digno V. O. de adjudicarnoslo.  
 Este terreno no pertenece a ningun indivi  
 duo, corporacion ni Misión por lo que  
 rendidamt. a V. O. suplicamos se sirva  
 de proveer como llevamos pedido en lo qd.  
 recibremos gracia y no yendo este en  
 papel sellado por no haberlo.

Pueblo de D. José Alvarado y Mayo 14  
 de 1839.

Tomas G. Boune. Natam Deli.

Señor prefecto

Por los informes que he  
 tomado acerca del terreno que se pretende  
 sea baldio y no pertenece a ningun  
 particular ni Misión ignorandose si es  
 responsadera a los Egidios y propios de esta

J. G. D. R. poblacion enano de le señalen pues dis  
 tara en atre leguas al O. E. de ella; con lo  
 que he dado cumplimiento del decreto  
 de V. O. que antecede;

D. José de Alvarado 23 de Mayo de 1839

José Nouga

El terreno qd. solicitan los interesados es abso  
 lutamente baldio y puede concederseles  
 sin perjuicio de ningun particular ni pueblo  
 admitiendo que los solicitantes no tienen  
 carta de naturaleza; pero tienen en el De  
 partamento ocho años de Residencia y el  
 primero es casado con Mexicana en cuyo  
 tiempo han adquirido obradamt. en



subsistencia y el numero de bienes q. me  
nifestan en su representacion.

D. Juan de Castro Mayor 23 de 1839

José Castro.

Monterey 1<sup>uy</sup> de Agt. de 1839.

Vista la petición con que da principio  
este Expediente el informe del Alcalde  
del pueblo de San José y el de el Sr. Me  
fecto del 1<sup>o</sup> Distrito con todo lo demas  
que se tuvo presente y ver con vino de confor  
midad con las leyes y reglamentos de la  
materia declaro a Tomas Boun dueño del  
paraje nombrado Canada de San <sup>del</sup> Eclipse  
y las animas en Esteneion de dos sitios  
de ganado mayor colindante con el Rem  
cto de D. José Bernal con el de D.  
José Chabolla, con el de D. Juan Alvarez  
y con la Orena de Sta. Isabel supetom  
dose a pagar el canon correspondiente  
en caso que el cto terreno pertenece a los  
epidos del pueblo de San José Guadalu  
pe y a las condiciones que se estendian  
en el título. El Sr. D. Manuel Jimeno Ca  
-sarrinuma vocal propietario de la Exma  
Junta del Departamento de las Califor  
nias en ejercicio del Gobierno del mismo  
comando, decreto y firmo de que doy fe.

Man. Jimeno

Francisco B. Arce.

Oficial 1<sup>o</sup>

Monterey 19. de Mayo de 1840

Dada cuenta a la C. Junta Departamen  
-tal Acordo en sesion Ordinaria de este  
dia que pase a la comision de agricul  
tura.

José J. Fernandez  
Sno.

En Vante y dos del mismo lo devolvi en  
comision con el dictamen que se acompa

Monterey 13. de Junio de 1840.

En Vista de la Aprobacion otorgada en Vante  
y dos del mes p. p. por la C. Junta Depar  
tamental, libese testimonio de ella a la

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21. G. D. R

Esp. d. R.

Continued

parte de D. Tomas Pom en confirmacion  
del tenen D. Felipe y los Aninas que ob-  
tuvo en diez y siete de agosto de mil ochoc-  
ientos treinta y nueve. El Sr. D. Juan B  
Alvarado Gobernador Constitucional del  
Departamento de las Californias asi  
lo provee y firmo de q. doy fe.  
Alvarado.

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b. o. d. r

Here follows  
{ map }

13<sup>o</sup> y L. D. R

Como Gov

La Comision de Agricultura y Comercio Unidas encargada p. V. C. de dictaminar los Expedientes que en la Sesion anterior a-  
comparó el Como Gov. y consedió p. el mismo Gobierno y en entonandolos confor-  
mes segun lo Atracto è informes y demas que ver se ha podido propone à la delibera-  
cion de V. C. los articulos siguientes.

Artto 1<sup>o</sup> De aprueba la Concesion hecha p. el Gobierno Departamental con fecha 1<sup>ya</sup> de Agosto de 1839. en la persona de Tomas Roum del parage nombrado 2<sup>o</sup> Felipe y las Animas.

2<sup>o</sup> Que devuelva al Como Gov. Gobernador el Expediente p. los fines combinados.

Monterey Mayo 21 de 1840.

Jose Rafael Gonzalez

J. Anziello

J. L. D. R. Monterey 22 de Mayo de 1840

En sesion de Estadia aprobò la C. Junta Departamental los dos articulos con que concluye el dictamen anterior mand. Dimeis

Presdt. Jose J. Hernandez  
Geo.

Office of the Surveyor General  
of the United States for California

I Samuel D. King  
Surveyor General of the United States  
for the State of California and as such  
now having in my Office and under my  
custody a portion of the Archives of the  
former Spanish and Mexican Territory  
or Department of Upper California do  
hereby certify that the eight preceding  
and hereunto annexed pages of the en-  
per numbered from One to Eight inclusive  
and each of which is verified by my ini-  
-tials (S. D. 12) exhibit true and accurate  
copies of certain documents on file and  
forming part of the said Archive on this

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Office

In testimony Whereof I have  
*Seal* hereunto signed my name Officially and affixed my private seal not having a seal of Office at the City of San Francisco Cal. the 24<sup>th</sup> day of August 1852.

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Saml. D. King  
Surf. General. Cal

Filed in Office Sept: 11 / 1852

Geo. Fisher  
Deery

Señor Prefect.

P.

Translation  
of  
Espediente.

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The Thomas Bown  
married to a Mexican woman and Natan  
Deli residents in this country before your  
Honor with the greatest respect present  
ourselves and say that we possess the  
number of two hundred head of neat cattle  
for the preservation and increase of which  
we are in want of a fit land and the  
place named San Felipe and Las Ammas  
situated to the East from this place being  
vacant we pray your Honor to be pleased  
to grant it to us.

This land does not belong  
to any individual corporation or Mission. We  
find us earnestly beseech your Honor to have  
the goodness to provide as we have prayed  
in which we will receive favor & this not  
going on stamped paper because there is  
note.

Pueblo of San José de Abasco.

May 14th 1839

(signed)

(signed)

Thomas Bown

Natan Deli.

Señor Prefect.

It appears from the infor-  
mations which I have taken relation to  
the land petitioned for that it is vacant  
and belongs to no individual or Mission  
It not being known whether it will come  
part to the Common or Municipal lands  
of this town when they may be marked  
out for it is distant four leagues to the  
South East from it with which I have  
complied with the foregoing decree of

16  
Your Honor,

San José de Alcarado  
May 22. 1839.

(Signed)

José Boriega

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The land which the persons inter-  
ested solicit is absolutely vacant and  
may be granted to them without prejudice  
to any individual or pueblo. Observing that  
the petitioners have no titles of naturalization  
but they have resided eight years in the  
Department and the former is married to a  
Mexican during which time he has honorably  
procured his subsistence and the number of  
cattle which his representation shows.

San Juan de Castro May 23. 1839.

(Signed)

José Castro.

Monterey August 14. 1839.

Having seen the petition  
with which this Expediente begins the report  
of the Alcalde of the Pueblo of San José and  
that of His Honor the Prefect to District  
with all other things which were represented  
and deemed proper to be seen in conformity  
with the laws and regulations on the matter I  
declare Tomas Boun owner of the place  
named "Cauada de San Felipe y Las Animas"  
in extent two square leagues bounded by the  
Rancho of Don José Bernal by that of  
Don José Charolla by that of Don Juan  
Alvarez and by the Sierra of Santa Isabel  
remaining subject to pay the corresponding  
Municipal tax in case the land should  
belong to the Common Lands of the Pueblo

of San José Guadalupe and to the  
conditions which may be made out in  
the title.

Senior Don Manuel Jimeno Casarin  
first regular agent of the Most Excellent  
Junta of the Department of the Californias  
in Exercise of the Government of the same  
ordered, decreed and signed it of which I  
certify.

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(signed) José Manuel Jimeno

(signed) Francisco Arce,  
1st. Clerk.

Montreux May 19th 1840.

Reported to the Most Excellent Departmental  
Junta it was resolved in ordinary session  
of this day that it pass to the Committee on  
Agriculture.

(signed) José F. Fernandez.

On the twenty second of the same the  
Committee returned it with the report which  
I transmit herewith.

(signed) Fernandez.

Most Excellent Sir.

The united Committee  
on agriculture and Commerce charged by  
Your Excellency to report on the Complaints  
which in the previous session his Excellency  
the Governor transmitted and granted by  
the same Government and finding them in  
conformity according to that performed  
the informations and other things which they  
have been able to see, proposes to the

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deliberation of His Excellency the following  
ing Articles.

Art 1<sup>st</sup>. Approved the grant made by the  
Departmental Government dated August  
14. 1839 in the person of Tomas Bown  
to the place named "San Felipe y Las  
Aunias".

2<sup>o</sup>. That the Expediente be returned to  
His Excellency the Governor for the conveni-  
ent purposes.

Monterey May 31<sup>st</sup> 1841.

(signed) José Rafael González  
(signed) S. Arguello.

Monterey May 2<sup>da</sup> 1841.

In session of this day the Most Excellent  
Departmental Junta approved the two ar-  
ticles with which the foregoing report  
concludes.

(signed) Manuel Amaro.  
(signed) José J. Fernández.

Monterey June 13<sup>th</sup> 1841.

In view of the approval granted on the  
twenty second of last month by the Most  
Excellent Departmental Junta, let a testimony  
of it be issued to the part of Tomas Bown  
in confirmation of the land "San Felipe y  
Las Aunias" which he obtained on the sev-  
enteenth of August eighteen hundred thirty  
nine.

Senor Don Juan B Alvarado Constituted  
Governor of the Department of the Californias.

(signed) Alvarado.

Filed in Office Sept 11. 1852.

(signed) Geo Fisher Secy.



Stamp Book. Two Rules.

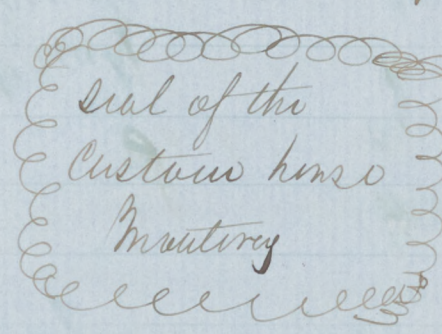
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Provisionally authorized by the Maritime  
Custom House of the Port of Monterey  
in the Department of the Californias for the  
years Eighteen Hundred and forty four and  
Eighteen hundred and forty five.

Transcription  
of  
Proceedings  
in  
Superior  
Tribunal.

(2d) Michitrona Pablo de la Guerra.  
In the absence of the Administer

(2d) Guillermo Eduardo Hartman



To His Excellency the  
Governor.

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J. Francisco Garcia a native of  
this Department and resident of the jurisdiction  
of the Pueblo of San Jose before your Excellency  
in the most proper form in justice say that  
in 1842 having need of a land for the improve-  
ment of the stock which I possess, I executed  
the contract shown by the document which I  
only transmit herewith to your Excellency by  
which I purchased of Tomas Bono the place  
named "Cauada de San Felipe y Las Animas"  
in the impression that I believed he had  
acquired in a legal right and had power to  
sell it but knowing now from well informed  
persons that when Bono alienated the land  
to which I refer he was not the owner of  
it because in the three years which passed  
he neither quit nor cultivated it and that  
he could not sell it in any manner I have  
come to ask your Excellency to relieve me  
from the obligation under which I still

and by reason of the aforesaid contract for  
I have not yet finished paying that which  
I promised to Dono for the right which I  
erroneously considered him to have in the said  
land.

Moreover announcing this land in  
due form as vacant on the part of Dono and  
in view of the fact that I have established in it  
some labors and of the disbursement which  
I have unjustly made in favor of Dono I will  
desire of Your Excellency's wise justification  
that you grant me in fee the land here re-  
ferred to in the same extent as designated in  
the respective titles which I have in my power  
and also respectfully transmit.

Wherefore I implore Your  
Excellency to take into consideration both pe-  
titions for which favor I will have grateful  
surrendering what may be necessary &c.

Montreux August 12<sup>th</sup> 1844

(Signed) Francisco Garcia +

Montreux Aug. 12<sup>th</sup> 1844.

Let the Secretary of State  
report calling for other information if he  
needs it.

(Sgd)

Richetonna.

To His Excellency the Governor.

I find no objection to allowing the  
person interested to occupy as his own the  
land named San Felipe by the rights  
which Don Tomas Bown conveyed to him  
but with respect to the release from the pay-  
ment of the amount in which the land by  
Francisco Garcia purchased I think that

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Francisco Garcia purchase & I think that  
it belongs to the Superior Tribunal to decide  
as a writing was executed relative to the sale  
of the land to which I refer.

Your Excellency's Superior  
disposition will be the most proper.

Date the same.

(yda) Manuel Jimeno.

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Montreux August 12<sup>th</sup> 1844.

In Entire Conformity  
with the foregoing report I declare the  
place to be the property of him who represents  
and with respect to the second part upon the  
payment of that contracted for before the Mag-  
istrate the title not having the conditions of  
not being able to sell or alienate &c.

Let it be sent to the Supreme  
Tribunal for decision.

(yda) Michettonna.

Superior Tribunal of Justice.

Let the Magistrate of the  
Pueblo of San Jose report whether from the  
4<sup>th</sup> of August 1809 on which the land known  
by the name of Canada de las Animas y San  
Felipe was granted to Don James Bon. he had  
it without fence house plantings or cultivation  
until the 4<sup>th</sup> of October 1842 on which day he  
alienated it by sale to Don Francisco Garcia.

Montreux August 2. 1844.

On account of the sickness of  
His Honor the President  
(yda) Jose Maria Cosarribas.

mm

Stamp Fifth. One Real.

Provisionally authorized by the Genl. Custom  
house of the Port of Monterey in the Dept of  
the Californias for the years 1844 & 1845.

(sfd)

Micheltorna For Pablo de la Guerra.

(sfd)

Guillermo Ed. Hartnett.

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~~Seal of the~~  
Seal of the  
Custom house

In compliance with the Superior  
decree which precedes I have to say that  
the land granted to Don Tomas Bon has never  
had any improvement whether house corn  
field or planting. But in the month of December  
of last year Don Francisco Garcia made a  
corn field which still exists with which I think  
I gave the due compliance.

Pueblo de San José

Aug 8. 1844

(sfd)

Ante. M<sup>o</sup> Pico.

Monterey September 12, 1844.

As the contract which was made between  
Francisco Garcia and Tomas Bon appears  
to have been perfected by the delivery which the  
former made to the latter of a part of the  
amount for which he purchased and  
by the occupation of the land by him and  
Bon not having been sued on the sale  
which he made the person representing can  
not be relieved from the payment of that  
which he owes to Bon for although it may  
be true that he did not occupy the land in

three years and by that according to the title  
 had lost his right, it is also true that both  
 the Contracting parties having consented to  
 the delivery and receipt without any denouance  
 of the land intervening until it was made the  
 vendor made use of that which he had acquired  
 with just title and in this view Garcia is bound  
 to pay to Bon.

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 PAGE 23

Pass this to the Magistrate of  
 San Jose that he may notify both parties  
 returning all (the papers) to him who represents.

(sgd)

Malarin.

Filed in Office. Sept 11. 1852.

(Signed)

Geo Fisher Secy.



Dello 1º Pais pesos:

Habilitado provisionalmente por la Aduana  
Maritima de Monterey para los años de 1839  
y 1840.

Doc: No 6

Alvarado

Antonio Ma. Qui.

annexed to the  
Depo. of Pablo  
de la Sierra  
taken before  
Com: Thornton

(S<sup>no</sup>) Manuel Ameyo Casarin primer Vo-  
cal propietario de la Exma Junta del  
Departamento de las Californias en exerci-  
cio del gobierno del mismo.

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PAGE 24

Por Cuanto Tomas Bruma  
naturalizado y casado en este Departamento  
ha pretendido para su beneficio personal y  
el de su familia el terreno conocido con el  
nombre de <sup>cañada de</sup> San Felipe y las Animas colin-  
dante con el Rancho de D<sup>o</sup> José Bonal  
D<sup>o</sup> José Chevolla, D<sup>o</sup> Juan Alvarez y la Oveja  
de Santa Isabel: practicadas previamente  
las diligencias y averiguaciones con certitudes  
segun lo dispuesto por leyes y Reglamentos  
usados de las facultades que me son confe-  
ridas à Nombre de la Nacion Mexicana he  
venido en conferirle el terreno mencionada de  
clarandole la propiedad de el por las presen-  
tes suscritas à la aprobacion de la Exma  
Junta Departamental y à las condiciones  
siguientes.

1º pagara el canon que se le señalare dire-  
sultare el terreno pertenecer à los Egidios del  
pueblo de San José Guadalupe.

2º nocha cercarlo sin perjudicar las heredaci-  
as, caminos y servidumbres: lo disputara  
libre y Esclusivamente destinandole al uso  
de cultivo que mas le acomode; pero dentro  
de un año fabricara casas y estara habita-  
do.

3º Solicitara del juez respectivo que le  
de posesion juridica en virtud de este des-  
pacho, por el cual se demarcaran los linder-  
os de cuyo limites pondra à mas de las  
mojoneras algunos Arboles frutales ò sil-  
vestres de alguna utilidad.

4º El terreno de que se hace mencion  
es de dos sitios de ganado Mayor segun

Explica el duceno que corre en el Exped. P.  
El juez que tiene la posesion lo haia medi  
conforme a Ordenanza que manda el sohan  
te que resulte a la ndeion para los usos con  
-viniertes.

Si continiere a estas condiciones  
perdera su derecho al teneny sera denuncia  
-ble por oho.

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PAGE 25

En consecuencia mando  
que teniendose por firme y valedero este  
tituli se tome razon de el en el libro a que  
corresponde y se entregue al interesado p  
su resguardo y demas fines.

Dado en Monterey a diez y siete de Ag. de  
mil ochocientos treinta y nueve.

Man. Jimeno

Francisco Arce.

Oficial 1.

Queda tomada razon de este despacho en  
el libro de Aciento sobre adjudicacion de  
terrenos baldios. a f.

Arce.

Dello Quarto Dos Reales  
Habilitado provisionalmente por la Adu  
ana Maritima del puerto de Monterey  
en el Departamento de las Californias  
para los años de mil ochocientos cuarenta  
y cuatro, y mil ochocientos cuarenta y cinco  
Michel Torera Pablo de la Guana

Por Aus. del Adm.

Guillo. Edo. Hartwell.

Sello

Como por Gobernador

Monterey Ag. Juan E. Garcia natural  
n. de 1841 y n. de este Departamento y ve  
Inf. el Sr. Jefe de la prisdiccion del  
del despacho } pueblo de San Jose, emte V.  
tomando otro } E. en la forma que mas haya  
si los necesitan } lugar en justicia dijo: que  
Michel T. en 1842 teniendo necesidad

de un terreno para progreso  
de los bienes de campo que posee celeb. el  
trato que expresa el documento que a V. E.  
debidamente acompaño por el que le compie



27

à Tomas Bonè el parage nombrado Canada de San Felipe y las Animas en el concepto de que crei que habia adquirido en el modo legal y que estaba facultado para venderlo; mas sabiendo hoy por personas instruidas que Bonè euando enageno el terreno à que me refiero, no era dueño de el por que en tres años que pasaban no lo habia ni cultivado y que de ninguna manera podia venderlo he venido à suplicar à V. E. me Exima de la obligacion en que todavia me hallo por razon del ya citado contrato por que no he acabado de pagar lo que ofrecio à Bonè por el dño con que equivocadamente lo consideré en el terreno repetido. Igualmente denunciando este en toda forma por baloteo por parte de Bonè y en atencion à que yo he establecido en el algunos trabajos y al desembolso que injustamente he hecho en favor de Bonè, he de merecer de la sabia participacion de V. E. me conceda en propiedad el terreno ya repetido en la misma estension que señala el titulo respectivo que tengo en mi poder y tambien respectivamente á campo.

Doe: N.º 6. continued

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R. E. à V. E. imploro se digno tomar en consideracion ambos pedidos de cuya gracia mereciere reconocido por el modo lo necesario de  
Monterey Agosto 1.º de 1844

Francisco Garcia +  
Dño Gob.º

No encuentro inconveniente alguno p.º que el interesado ocupe como propio el terreno que nombran San Felipe por derecho que le seerá D. Tomas Bonè; pero en cuanto al cesarse del pago en que empeño el vecino Francisco Garcia, creo que corresponde resolver el sup.º Tribunal p.º haberse extendido una Escritura sobre Venta del terreno à que me refiero. La Dup.º disposicion de V. E. sera lo que mejor convenga.

Por la misma  
Man.º Amen.

Monterey Agosto 1.º de 1844

Conf. en un todo con el anteced.º inf.º

declaro p. propio el sitio al q. representa  
 y en cuanto a la segunda parte sobre el  
 pago de lo contratado ante el juez no tenien-  
 do el título los condicionales de no poder  
 vender ni enajenar y  
 dirijase al supremo tribunal para su  
 resolución.

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 PAGE 27

Michelto  
 Superior Tribunal de justicia.

Informe el Sr. Juez del pueblo de S.  
 José si desde el 4. de Agosto de 1839. en  
 que por superior título le fue concedido el  
 terreno conocido con el nombre de canada  
 de las Animas y D. Felipe a D. Tomas  
 Boen, este lo tubo en posesion, esa plantio  
 ni cultivo hta el 4. de Octubre de 1842  
 en que lo enajeno por venta a D. Francisco  
 Garcia.

Monterey Agosto 2. de 1844  
 Por enfermedad del Sr. presidente

Jose Maria

Castanares.

C. N.

Dello Quinto Un Real.

Habilitado provisionalmente por la Academia  
 Maritima del puerto de Monterey, en el De-  
 partamento de las Californias, para los años  
 de mil ochocientos cuarenta y cuatro y mil  
 ochocientos cuarenta y cinco.

Michelto

Pablo de la Guerra

Por: Aus. del Adm.º

Guillermo Cde. Hartwell

(Sello) Cumplimiento del superior decreto  
 que antecede, debo decir que el terreno  
 concedido a D. Tomas Boen, nunca a te-  
 nido finca de casa, Corral, o arboles ni sem-  
 bra pero en el mes de Dho. del año pasado  
 D. Francisco Garcia hizo un corral el que  
 hasta la presente existe con lo que creo  
 dar el debido cumplimiento.

pueblo de S. José Agosto 8. de 1844

Antonio M. Pico

Monterey Septiembre 12 de 1844.

Como aparece perfeccionado el contrato  
 hecho entre Sr. Garcia y Tomas Boen

hecho entre Don Garcia y Donas Doen  
29  
por la Entrega que el primero hizo al se-  
gundo de una parte del valor en que compra  
y la ocupacion del terreno por el, no habiendo  
sido reconocido Don para la venta q<sup>d</sup> hacia  
no puede quedar el Representante eximi-  
da del pago de lo que debe a Don pues  
si bien es verdad que este en tres años no o-  
cupó el terreno por tal según el título tenía  
perdido su derecho también lo es que habien-  
do consentido ambos con presentes en la en-  
trega y recibos sin que hta efectuarse se  
hubiese interpuesto ninguna denuncia  
de del terreno el vendedor hacia uso de la  
que en su título había adquirido y en  
tal concepto esta Garcia obligado a pagar  
a Don. Pase esta al juez de Don José  
para lo notifique a ambas partes de vol-  
viendo todo a lo que representa

Malam

Filed in Office Dept. 11<sup>th</sup> 1852

Geo. Fisher Clerk

1. The first part of the paper is a
   
 2. The second part of the paper is a
   
 3. The third part of the paper is a
   
 4. The fourth part of the paper is a
   
 5. The fifth part of the paper is a
   
 6. The sixth part of the paper is a
   
 7. The seventh part of the paper is a
   
 8. The eighth part of the paper is a
   
 9. The ninth part of the paper is a
   
 10. The tenth part of the paper is a



Stamp First. Six Dollars.

Provisionally Authorized by the Maritime  
Custom House of Monterey for the years  
1839 and 1840.

D.  
Translativa (sgd)  
of  
Title.

Alvarado (sgd) Antonio Maria Osio.

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PAGE 29



Manuel Amaro Casgrin first  
regular Decree of the Most Excellent  
Junta of the Department of the  
California in Exercise of the government  
of the same.

Whereas Tomas Bown natural  
ized and married in this Department has for  
his own personal benefit and that of his  
family petitioned for the land known by  
the name of 'San Felipe y Los Anuncias'  
bounded by the ranchos of Don Jose Ber-  
nab. Don Jose' Chapulle. Don Juan Alvarez  
and the Sierra of Santa Ysabel. the proper  
measures and circumstances being previously  
made as required by laws and regulations  
using the forms which are conferred on me  
in the name of the Mexican Nation I have  
conferred on him the aforesaid land de-  
claring to him the ownership of it by these  
presents subject to the approval of the Most  
Excellent Departmental Junta and to the  
following conditions.

- 1<sup>st</sup> He will pay the Municipal tax which  
may be designated if the land shall prove to  
belong to the Common lands of the Pueblo  
of San Jose' Guadalupe.
- 2<sup>d</sup> - He may enclose it without prejudice  
to the Crossings roads and servitudes he may.

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PAGE 30

Enjoy it fully and Exclusively making such use or Cultivation of it as may best suit him but within one year he shall build a house on it and it shall be inhabited.  
3<sup>d</sup>. He will request the proper Magistrate to give him judicial possession in virtue of this title by whom the boundaries will be marked out in the limits of which he shall place beside the bounds some fruit or forest trees of a useful character.

4<sup>th</sup>. The land of which mention is made is two square leagues according to the map which goes in the Especiminto. The Magistrate who may give the possession will cause it to be measured in conformity with the ordinance leaving the surplus which may result to the Nation for its Government uses.

5<sup>th</sup>. If he contravene these conditions he will lose his right to the land and it may be denounced by another.

In consequence I order that this title being held as firm and valid, note be made of it in the corresponding book and it be delivered to the party interested for his security and other purposes.

Given in Montevideo on the seventeenth of August Eighteen hundred and thirty five.

(Signed) Manuel Jimeno.

(Signed) Francisco Arce.

1<sup>st</sup> Clerk.

Copy has been made of this Title in the book of Entries of grants of vacant lands on folio —

(Signed) Arce.

Filed in Office Sept 11, 1852.

(Signed)

Geo Fisher Secy.

Juzgado de paz del pueblo de S. José } En el pueblo de San José a los siete dias del mes de Octubre de mil ochocientos cuarenta y dos ante mi D. Doro Guillen juez de paz con facultades de dicho pueblo en presencia de los señores Don, Francisco Garcia y Benito Moreno: Diez y dos el primero, q. bendio como en efecto bendio a los otros dos todas las acciones y derechos q. obtiene (p. la junta Departamental y el Com. Gov. Gobernador Constitucional) en el paraje nombrado Canada de las animas y San Felipe colindante con el sitio de Jose Bernal D. Jose Cabolla. D. Juan Albirez y la Sierra de Santa Isabel cuyo sitio se compone de dos sitios de Ganado mayor y lo bendio en la cantidad de cuatrocientos pesos de los cuales han sido pagados ciento y cuatro pesos y quedan los compradores responsables a pagar cada uno en el termino de un año contando desde esta fecha la cantidad de ciento cuarenta y ocho pesos, cincuenta en coquillos y lo restante en trigo u otras semillas que el acreedor quiera recibir, sirviendo de testigos en este auto los C. C. Jose Garcia y Bruno Soto y para debida constancia me rogaron interponer mi autoridad por mandado de D. Doro con miyo y los mencionados testigos Pueblo de S. José Octubre de 1842

D. Doro Guillen # Tomas G. Bourne  
 Jose Garcia # Bruno Soto

Exhibi. No 1  
 to deho. of a. M. p. si y sus propias personas. los C. C. Tomas  
 p. en m. C. C.  
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 PAGE 31

Juzgado de paz del pueblo de S. José } En el pueblo de San José a los diez dias del mes Diciembre de mil ochocientos cuarenta y cinco ante mi Antonio Maria juez Alcalde de 1.ª nominacion del juzgado de esta municipalidad y ante los testigos de asistencia con quienes actuó en la forma establecida a mas de los insinu

mentales de que al fin se hara mención  
parecieron de presente los Sr. C. Gerem. Garcia y Carlos Moreno y dijeron ambos dos:  
que por si y a nombre de sus sucesores y  
herederos y quien de ellos hubiera título  
Bog y cursa, benden y dan en venta publica  
y enajenacion perpetua la accion que po-  
sien en el Rancho llamado San Felipe  
y las Animas; colindante con el Rancho  
de Don José Bernal, Don José Chabrera  
Don Juan Alvarez y la ciudad de Sta. Isa-  
bella: a Don Carlos Maria Weber Meji-  
cano por naturalizacion y vecino de dicho  
pueblo el que adquirimos por documento  
echo ante el juez de paz constitucional  
del pueblo de San José con fecha siete de  
Octubre de mil ochocientos y cuarenta  
y dos del ciudadano Tomas Bouy, el of.  
lo adquirio por título dado por la Coma  
Junta del Departamento de las Californias  
con fecha diez y siete de Agosto de mil ochocien-  
tos treinta y nueve; como consta de los  
documentos que se han presentado y de  
se he visto: cual Rancho con todo el dere-  
cho que a ellos les pertenecia. se vendió al  
Espressoado Don Carlos Maria Weber en la  
cantidad de ochocientos pesos en Co-  
quiltmos, los que se le entregaron a los men-  
cionados vendedores en el Acto de la venta  
Dando desde esta fecha por concluido el  
contrato y por tanto cede todo el derecho de  
propiedad, posesion y posesion que tie-  
nen de dicha parte del terreno al menci-  
onado D. Carlos Maria Weber.

Y desde hoy en adelante y para siempre  
se desapodera, quita y aparte a sus here-  
deros y sucesores del dominio posesion y  
otro qualquiera derechos que les com-  
petan al mencionado terreno. Los cedo a  
favor del comprador para que lo posea  
y goce pacificamente y haga de el el uso  
que le convenga entera y se apoderare de dicho  
terreno y tome la posesion que le corres-  
ponde y por derecho le compete y a la



firmesa y Valida eni de lo que en Vir-  
 tud de esta Venta hace, obligen los Otorga-  
 tes sus personas y bienes habidos y por haber  
 y con ellos se someten al fueri y jurisdic-  
 cion de los señores jueces que del caso de-  
 ben conocer de cualquiera estado que  
 sean para que a su cumplimiento los  
 compelen y cotechen como por sentencia  
 pasada en autoridad de cosa juzgada  
 Renuncia todas las leyes a su favor  
 en cuya virtud asi lo Otorgo y firmo por  
 ante mi y los testigos de asistencia en  
 defecto de Escribeno publico siendo los  
 instrumentales los C. B. Isidoro Guillen  
 Juan Burton y José Hernandez  
 Antonio M. Páez.

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 PAGE 33

Francisco Garcia  
 Carlos + Moreno) José Hernandez

State of California  
 County of Santa Clara

On this 10<sup>th</sup> day of July A. D. 1852 I per-  
 -sonally appeared before me the Recorder  
 in and for said County, Francisco Garcia  
 personally known to me to be the person whose  
 name is subscribed to the foregoing con-  
 -veyance and who acknowledged to me  
 that he executed the same freely and  
 voluntarily and for the uses and propo-  
 -ses therein mentioned.

Given under my hand and private  
 seal having no seal at Office yet provi-  
 ded the day and above written.

J. B. Murphy  
 County Recorder

Claim Office Sept. 11<sup>th</sup> 1852

Geo. Fisher Deery

The first part of the paper is a list of names and their corresponding numbers. The names are written in a cursive hand, and the numbers are written in a simple, blocky font. The list is organized into two columns, with the names on the left and the numbers on the right. The names are:

|          |     |
|----------|-----|
| John     | 1   |
| James    | 2   |
| Robert   | 3   |
| William  | 4   |
| Thomas   | 5   |
| Richard  | 6   |
| Henry    | 7   |
| George   | 8   |
| Charles  | 9   |
| Edward   | 10  |
| Joseph   | 11  |
| Samuel   | 12  |
| Benjamin | 13  |
| Michael  | 14  |
| David    | 15  |
| Matthew  | 16  |
| Andrew   | 17  |
| John     | 18  |
| James    | 19  |
| Robert   | 20  |
| William  | 21  |
| Thomas   | 22  |
| Richard  | 23  |
| Henry    | 24  |
| George   | 25  |
| Charles  | 26  |
| Edward   | 27  |
| Joseph   | 28  |
| Samuel   | 29  |
| Benjamin | 30  |
| Michael  | 31  |
| David    | 32  |
| Matthew  | 33  |
| Andrew   | 34  |
| John     | 35  |
| James    | 36  |
| Robert   | 37  |
| William  | 38  |
| Thomas   | 39  |
| Richard  | 40  |
| Henry    | 41  |
| George   | 42  |
| Charles  | 43  |
| Edward   | 44  |
| Joseph   | 45  |
| Samuel   | 46  |
| Benjamin | 47  |
| Michael  | 48  |
| David    | 49  |
| Matthew  | 50  |
| Andrew   | 51  |
| John     | 52  |
| James    | 53  |
| Robert   | 54  |
| William  | 55  |
| Thomas   | 56  |
| Richard  | 57  |
| Henry    | 58  |
| George   | 59  |
| Charles  | 60  |
| Edward   | 61  |
| Joseph   | 62  |
| Samuel   | 63  |
| Benjamin | 64  |
| Michael  | 65  |
| David    | 66  |
| Matthew  | 67  |
| Andrew   | 68  |
| John     | 69  |
| James    | 70  |
| Robert   | 71  |
| William  | 72  |
| Thomas   | 73  |
| Richard  | 74  |
| Henry    | 75  |
| George   | 76  |
| Charles  | 77  |
| Edward   | 78  |
| Joseph   | 79  |
| Samuel   | 80  |
| Benjamin | 81  |
| Michael  | 82  |
| David    | 83  |
| Matthew  | 84  |
| Andrew   | 85  |
| John     | 86  |
| James    | 87  |
| Robert   | 88  |
| William  | 89  |
| Thomas   | 90  |
| Richard  | 91  |
| Henry    | 92  |
| George   | 93  |
| Charles  | 94  |
| Edward   | 95  |
| Joseph   | 96  |
| Samuel   | 97  |
| Benjamin | 98  |
| Michael  | 99  |
| David    | 100 |

100  
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Court of the Justice of the Peace  
of the Pueblo of San Jose.

Translation  
of  
Confession.

332 SD  
PAGE 34

In the Pueblo of San Jose on  
the Seventh day of the Month of October Eight-  
teen hundred and forty two before me Isidro  
Guillen Constitutional Justice of the  
Peace of said pueblo appeared personally  
Citizens Tomas Ron, Francisco Garcia and  
Carlos Moreno the first saying that he  
sold as he actually did sell to the others  
all the shares and rights which he possessed  
through the Departmental Junta and His  
Excellency the Constitutional Governor, in  
the place named "Canada de los Amigos y  
San Felipe" bounded by the place of Don  
Bernabé Don José Charalla, Don Juan Alvarez  
and the Sierra of Santa Isabel which place  
is composed of two square leagues, and he sold  
it for the sum of four hundred dollars of  
which one hundred and four dollars have  
been paid and the purchasers remain respon-  
sible to pay each one within the term of one  
year counted from this date the sum of  
one hundred and forty eight dollars fifty in  
goods, the best in wheat or such other grain as  
the vendor may be willing to accept. Citizens  
Jose Garcia and Bruno Soto serving as  
witnesses to this act and for proper constan-  
cy they prayed that I would interpose my  
authority. Said Ron and the aforementioned wit-  
nesses signing with me.

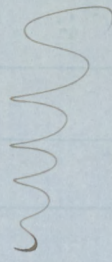
Pueblo of San Jose October 7<sup>th</sup> 1842.

(Signed) Isidro Guillen  
(Signed) Tomas & Bruno

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(signed) Jose Garcia

(signed) Bruno Soto

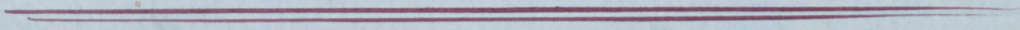


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Filed in Office Sept 11, 1852.

(signed)

Geo Foster Dues



Court of the Justice of the Peace.  
 of the Pueblo of San Jose

No.  
 Translation  
 of  
 Conveyance.

332 SD  
 PAGE 36

In the Pueblo of San Jose  
 Guadalupe on the tenth day of the Month of  
 December one thousand eight hundred and  
 forty five, Before me Antonio Maria Pico  
 Alcalde of First Jurisdiction of the Court of  
 this Municipality and before the assisting  
 witnesses with whom I act in the established  
 form besides the witnesses to the instrument  
 who will at the end be mentioned appeared  
 present Citizens Francisco Garcia and  
 Carlos Morino and both of them said that for  
 themselves and in the name of their successor  
 and heirs and whoever of them might have title  
 voice or claim they sell and give in public  
 sale and perpetual alienation the right  
 which they possess in the Rancho "Calle  
 San Felipe y Las Animas bounded by the  
 Rancho of Don Jose Bernabé Don Jose Chapot  
 la Don Juan Alvarez and the Sierra of Santa  
 Ysabel to Don Carlos Maria Niles a Mexican  
 by naturalization and resident of said Pueblo  
 the which they acquired, by a document  
 made before the Constitutional Justice of  
 the Peace of San Jose dated Oct 7th Eighteen  
 hundred and forty two by Citizen Tomas  
 Berra the which he acquired by title given  
 by the Most Excellent Departmental Junta  
 of the Californians dated August 17th Eight  
 ten hundred thirty nine as appears from  
 the documents which have been presented  
 and I certify I have seen, which concho  
 with all the right which belongs to them is  
 sold to the aforesaid Don Carlos Maria

Meber for the sum of Ten Hundred dollars  
in goods the which was delivered to the  
aforesaid vendors in the act of the sale.

Causing the Contract  
finished from this date and therefore they cede  
all the right of ownership grant and posses-  
sion which they have of said part of the  
land to the aforesaid Don Carlos Maria Meber  
and from this time forth and forever they dis-  
possess take away and separate from their  
heirs and ancestors the dominion possession  
and other rights whatsoever which pertain  
to them in the said land they cede them in  
favor of the purchaser that he may possess  
and enjoy it peaceably and make of it the  
use he may find convenient that he may enter  
upon and possess himself of said land and  
take the possession which corresponds to  
him and to the security and validity of  
that which in virtue of this sale he may  
do they the vendors bind their persons and  
property present and future and with them  
submit themselves to the fuero and jurisdic-  
tion of the Judges who ought to take Cogni-  
sance of the case of whatever State they may  
be that they may force and compel them  
to comply with it as by sentence passed  
in authority of us judicatos -

They renounced all the laws  
in their favor in virtue of which they  
acknowledged and signed this before me  
and the assisting witnesses for want of a  
public Notary the witnesses to the Instru-  
ment being Citizens Didero Guillen Juan  
Burton and Jose Ferrnandez.

Antonio Maria Tico.  
Francisco Garcia

H1

Carlos Proano.

(Sgd) Jose' Fernandez.

State of California  
County of Santa Clara } p.

332 SD  
PAGE 38

On this 10th day of July  
1852 personally appeared before me the  
Recorder in and for said County, Francisco  
Garcia personally, known to me to be the  
person whose name is subscribed to the  
foregoing conveyance and who acknowledged  
to me that he executed the same freely and  
voluntarily and for the uses and purposes  
therein mentioned.

Seal.  
C

Given under my hand and  
private seal having no  
seal at Office yet proved  
and the day and date  
above written -

(Signed)  
J. M. Murphy  
County Recorder.

Filed in Office Sept 11. 1852.

(Signed) Geo. Fisher  
Secy.

42

100



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Charles M. Weber

vs

The United States } Canada de San  
Delipe y Las Animas

Opinion of the Board  
delivered by Commissioner  
R. Aug. Thompson

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This is a claim for two square leagues of land situated in the present county of Santa Clara, and is founded on a grant made by Manuel Jimeno Fiscal of the Departmental assembly of the Californias exercising the functions of Governor, to Thomas Burn on the 17<sup>th</sup> of August 1839 which grant was duly approved by the Departmental assembly on the 2<sup>d</sup> of May 1840, and a certificate of such approval issued to the grantee by Governor Alvarado on the 13<sup>th</sup> of June following.

The genuineness and authenticity of the original grant and the means conveyed by which the present petitioner claims to derive his title are fully established by the testimony.

A controversy arose in relation to this grant between the original grantee Thomas Burn and Francisco Garcia to whom in connection with one Carlos Moreno the said Burn had conveyed the premises by deed bearing date the 7<sup>th</sup> day of October, 1842 which was referred to the Supreme judicial Tribunal of the department for its decision. The original record or expediente of the proceedings of that court in the matter has been filed in this case and its genuineness proved.

From this record it appears that Garcia, one of the aliases of Burn on the 1<sup>st</sup> of August 1844, presented a petition to the Governor, praying to be

relieved from the payment of the purchase money of the land, upon the ground that Brown having failed to perform the conditions of the grant in the Beave which had elapsed since its date, his title was imperfect, and he had no right to sell, and furthermore denouncing the land "as vacant in the grant of Brown" and praying for a grant of the same to himself.

This petition was referred by the Governor to the Secretary of State who reported that the petitioner was entitled to the land in virtue of the conveyance by Brown, but recommending that the question in reference to the payment of the purchase money should be referred to the Supreme Tribunal. This report was affirmed by the Governor and the reference accordingly made.

After the proper investigations the Court made the following decision:

"Montreal Sept. 12<sup>th</sup> 1844

As the contract which was made between Francisco Garcia and Thomas Brown appears to have been perfected by the delivery which the former made to the latter of a part of the amount for which he purchased, and by the occupation of the land by him, and Brown not having been sued on the sale which he made the person representing cannot be relieved from the payment of that which he owes to Brown, for although it may be true that he did not occupy the land in three years, and by that, according to the title, had lost his right

It is also true that both of the contracting parties having consented to the delivery and receipt without any denunciation of the land intervening until it was made, the vendor made use of that which he had acquired with a just title, and in this view Garcia is bound to pay him  
(Signed) "Malarin"

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We have thought it proper to notice more particularly these proceedings as the the recent decision of the Supreme Court in the case of John C. Fremont vs the United States seems to be made in accordance with the principle therein affirmed, viz:

That notwithstanding the failure of the grantee to comply with the conditions of grant, he still retained a subsisting vested interest in the premises which he could convey or dispose of at his pleasure, no denunciation of the land having in the meantime intervened

There is however a marked distinction between this case and the one above referred to. In this it will be observed that the grant had received all the sanctions required by the Mexican laws of Colonization, and was a complete title according to the strictest ruling. In the case of John C. Fremont vs the United States, there was no approval by the Departmental Assembly and consequently no final or certifying documents of that fact, to serve as a definitive title to the party was ever issued as required by the regulation of 1828. Notwithstanding the absence of these formalities heretofore considered by this Commission as essential

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to the perfecting of a legal title to lands under the Mexican law, the Court decide that the grant itself, without the approval of the Assembly, vests in the grantee a present and immediate interest, and right of property in the premises, which the non-performance of the conditions annexed to the grant, was not of itself always perfect. It subjects the land to be denounced by another, but the conditions do not declare the land forfeited to the state upon the failure of the grantee to perfect them."

Again the Court say —

"As between him (the grantee) and the Government, there is nothing in the language of the conditions, taken together, nor in their evident object and policy, which would justify the Court in declaring the lands forfeited to the Government when no other person sought to appropriate them, and when their performance had not been unreasonably delayed"

They then proceed to enquire whether in the case under consideration there had been such delay; "No," say they, "if this was the case, it might justly be presumed as in the Louisiana and Florida conceptions, that the party had abandoned his claim before the Mexican power ceased to exist." In relation to the approval of the Departmental Assembly the Court lay down the following doctrine

"It does not appear that the Government ever communicated the grant

to the Assembly, at all events they never

HJ

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"to the Assembly. At all events they never  
"acted on it, and the omission or inac-  
"cility of the public authorities to perform  
"their duties, cannot upon any sound  
"principle of law or equity forfeit the  
"property of the individual to the State.  
"It undoubtedly disabled him from  
"obtaining what is called a definitive  
"title, showing that all the conditions  
"had been performed; but it could not divest  
"him of the right of property, he had  
"already acquired under the original  
"grant, and re-vested it in the State"

The effect of the principle thus  
announced is to declare that an original  
grant for lands in California made by  
the Governor, vests in the grantee an  
immediate right of property in the  
premises granted, of which he would  
not be divested except by disavowment  
according to forms and practice of the  
Mexican laws, or such an unreasonable  
delay in the performance of the conditions  
annexed to the grant, as would raise a  
presumption that the party had aban-  
doned his claim before the Mexican  
power ceased to exist in the country.

In the present case it is shown  
by the testimony that the original grantee  
But now made any effort to occupy  
the premises, or to perform any of the  
conditions of the grant, until he sold  
it, near three years after its date, to  
Garcia and Moreno. His right to make  
the sale and the validity of the title acquired  
by his vendors under it, are fully recognized  
by the Mexican authorities both Executive  
and Judicial, Garcia occupied the premises

soon after the sale, and continued to occupy them, until they were sold to the present claimant, who has continued the occupation up to the time of filing his petition before the Comission.

Accordingly therefore to the decision of the Mexican Government as well as the ruling of the Supreme Court in the case above referred to, the non-performance of the conditions present no obstacle to the confirmation of the claim.

Some difficulty would also arise in this case, on the question of boundaries under the ruling of the Comission as applied in the cases heretofore decided by them.

The land is described in the grant by the name of San Felipe y las Animas, bounded by the Ranchos of Don Jose Bernat, Don Jose Leheralla, Don Juan Alving and the Sierra of Santa Isabel; containing two square leagues, as shown by the map which accompanies the expediente with the customary reservation of the sobrante to the use of the nation.

The map to which reference is made represents according to the scale laid down upon it, a tract of land about three leagues in length by two in breadth, bounded on three sides by the Ranchos named in the grant, as boundaries, and on the other by the Sierra de Santa Isabel. The two Cañadas de San Felipe and Las Animas, from which the Rancho takes its name, are laid down within the exterior limits of the plot, but without any defined limits to indicate the precise boundaries of the two leagues

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conceded by the grant

No judicial survey or measurement was ever had, by which these two layers were marked out and separated from the larger tract within which they were to be located.

The absence of this segregation according to the policy of the grant in their former decision would be fatal to a confirmation of the claim. But under the same decision of the Supreme Court already referred to, this objection to the validity of the grant is also removed. In reference to this question the Court, say

"It requires as a general principle of justice, and municipal law, that a grant for a certain quantity of land by the Government to be afterward surveyed and laid off within a certain territory vests in the grantee a present and immediate interest."

"The general gift becomes a particular gift when the survey is made; and when this doctrine has been asserted in this Court upon the general principle which courts of justice apply to such grants from the public to the individual, good faith requires that the same doctrine should be applied to grants made by the Mexican Government where a controversy arises between the United States and the Mexican grantee."

Again, in reference to the location and survey of the land the Court say

"The law directs that a survey shall be made, and a plat returned of all claims affirmed by the Commission"

"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 injurious to the adjoining  
 "public domain, and impair its value,

"The right which the Mexican Government  
 "secured to control this survey passed, with  
 "all other public rights to the United States,  
 "and in the form and divisions prescribed  
 "by law for surveys in California embracing  
 "the entire grant in one tract."

The law referred to in first clause  
 of the above quotation, is clearly the 13th  
 section of the act of the 3d March, 1851,  
 which enjoins on the Surveyor General  
 of California the duty to cause all private  
 land claims which shall be finally confirmed  
 to be accurately surveyed and to furnish  
 plats of the same, and the effect of the  
 decision is to relieve the board from the  
 task of locating and defining the boundaries  
 of the claims confirmed by them, and to  
 devolve that duty upon the Surveyor  
 General, subject of course, to the par-  
 ticular calls of the grant, and other evidence  
 of identification contained in the proceedings  
 and to the laws of the United States,  
 prescribing the mode of making surveys  
 in California

Whatever may be the views of the  
 individual members of the Board in reference  
 to the decisions contained in this decision,  
 and others by the same Tribunal involving  
 the validity of claims to land in California



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derived from the Spanish or Mexican Government  
the law of Congress creating the Commission  
has enjoined them upon us as an imperative  
rule of action, in adjudicating the question  
submitted for our decision.

Applying them to the case now  
under consideration, they establish beyond  
a doubt the validity of the claim, and the  
right of the claimant to a confirmation  
for two leagues of land to be located  
within the limits described in the grant  
and delineated in the cédulas or swaps  
contained in the expediente.

To which effect a deed will  
be entered.

Filed in Office May 8, 1855

(Signed)

Geo. Fisher Gray

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Charles W. Weber )  
 vs )  
 The United States )  
 In the place called  
 San Felipe of  
 Las Animas, two  
 square leagues of land  
 in the County of Santa  
 Clara.

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Order of  
Confirmation

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

The land of which confirmation is  
 made is situated in the County of Santa  
 Clara, and is known by the name of San  
 Felipe of Las Animas, being the same  
 which was granted to Thomas Horn by title  
 bearing date on the 14<sup>th</sup> of August, 1839,  
 executed by Manuel Jimeno, exercising the  
 functions of Governor of the California  
 and is of the extent of two square leagues  
 to be located in the following boundaries, to wit:

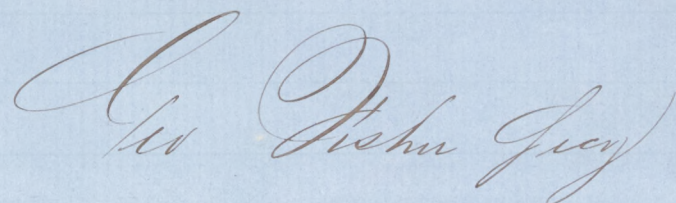
The Rancho of Don. Jose Bernal, Don  
 Jose Chavalla, Don Juan Albray and the  
 Sierra of Santa Isabel, reference to be had  
 to the original grant and map contained  
 in the expediente, a true copy of which  
 is filed in the case

R. Aug Thompson

J. B. Farnell

Commissioners

Filed in Office May 8. 1855

(Signed)   
 C. P. Fisher

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Order

And it appearing to the satisfaction of this Board that the land hereby adjudicated is situated in the ~~Southern~~ District of California, it is hereby ordered that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded be made out and duly certified by the Secretary, one of which transcripts shall be filed with the Clerk of the United States District Court for the ~~Southern~~ District of California and the other be transmitted to the Attorney General of the United States.

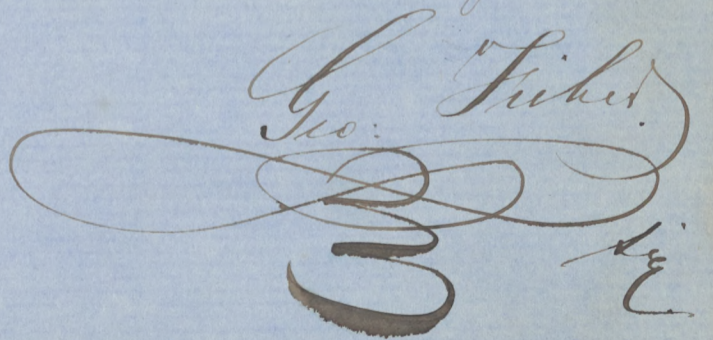


Office of the Board of Commissioners,  
To ascertain and settle the Private Land Claims in the State of California.

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 Three pages, numbered from  
1 to 53, both inclusive, to contain a true, correct and full Tran-  
script of the Record of the Proceedings and of the Decision of the  
said Board, of the Documentary Evidence and of the Testimony  
of the Witnesses, upon which, the same is founded, on file in this  
Office, in Case No. 333, on the Docket of the said Board,  
wherein

Charles M. Weber is  
the Claimant against the United States, for the place known by  
the name of "Cañada de San Felipe y las  
Animas"

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-eighth.

Geo. Fisher  




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U. S. DISTRICT COURT,

District of California.

No. 332.

THE UNITED STATES

vs.

332

*Charles M. ...  
Cana... de San ...  
Las Animas*

SCRIPT OF THE RECORD

FROM THE

U. S. LAND COMMISSIONERS,

Case No.

*333*

Nov - 24 - 1855.

*C. E. ...  
C. K.*

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Office of the Attorney General of the United States,

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Washington, 3. December, 1855.

333) "Cañada de San Felipe y las  
Armas"

Charles M. Weber, 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.

*Cushing*

Attorney General.

No. 332.

U.S. Dist. Court  
South Dist. Calif.

C. M. Weber  
appellee  
ads.

The United States  
appellants

Notice of appeal

Filed July 12<sup>th</sup> 1886.

J. E. Jones  
clerk

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Charles M. Weber, Appellee

Docket No. 332.

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vs.

PAGE 53

The United States, Appellant.

Transcript No. 333.

**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 11<sup>th</sup> day of September A. D. 1852, Charles M. Weber,

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 *Canada de San Felipe y las Animas* in the County of Santa Clara 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 8<sup>th</sup> 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 24<sup>th</sup> 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. 333; reference to which it is prayed may be had and made part of this petition. That on or about the 20<sup>th</sup> 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 <sup>about</sup> the 12. 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 pe-  
tition to said Commissioners, or in support of the said claim, no decision con-  
firming 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~~ <sup>said claim</sup>, and decree the alleged title to be invalid: with costs and general relief.

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*J. Ord*

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

N<sup>o</sup> 332.

Filed this 5th January  
1857  
Cecilius ctk  
J. H. Coleman  
Secy

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

THE PRESIDENT OF THE UNITED STATES,

TO

*Charles M. Weber*

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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

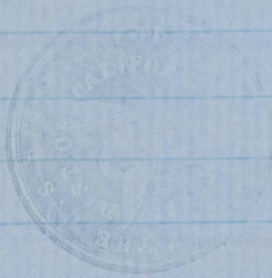
GREETING :

*J. Ord U.S. Atty praying  
Said Court to review the decision of the  
Board of Land Commissioners of the 8th day  
of May 1853 confirming your claim to  
the land called  
Cañada de San Felipe y  
San Animas*

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 *5th* day of *January*, in the year of our Lord, one thousand eight hundred and fifty-*seven*, at Los Angeles aforesaid.

*C. S. ...*  
**Clerk.**  
*J. H. Coleman*  
*[Signature]*



No 332.

Marrabast  
Copying fees 1-60  
Serving same 3.-  
3.-  
C. Co.

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

Chas Weber appellee  
a07  
The United States appellants

SUMMONS.

Filed January 10th 1857  
C. Jones or

I served this Summons, along with the proper copy of the Petition, upon *F. Billings*  
*att'y for appellee* by his acknowledging service of same  
at *Los Angeles*, in the Southern District of California, on  
the *10th* day of *January*, A. D. 1857.  
Sworn to and subscribed before me, this *10th* day of *January* 1857  
*J. Medeman* Clerk.  
*Edwards Hunter* U.S. Marshal.  
*R. McGoodman* Deputy.

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

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The United States

Appellant

vs

C. M. Coburn

Appellee

No. 332

Trans. No. 333.

C. M. Coburn, the above named appellee,  
appears by his attorney, and for  
answer to the petition of the United  
States filed herein says,

That his title to the  
tract of land called "Ciénaga de San  
Felipe y Las Animas", claimed by  
him in this case, as set forth and  
described in his petition to the Board  
of Land Commissioners and in the  
documentary and other evidence in  
this case is a good and valid.

He prays this Honorable  
Court to affirm the decision of said  
Board of Land Commissioners, and  
to declare his title to be valid

By his atty

Hallack Pease & Billing

No. 332

The United States  
Appellate

vs

C. M. Snow  
Appellee

Complainant to the  
Court.

Filed this 21<sup>st</sup> January  
1857  
Clerk  
J. H. Coleman  
Dep

Hall & Knappe  
Attys.





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

The United States

Appellant

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vs

No. 332

C. M. Weber

Appellee

Trans. No. 333.

C. M. Weber, the appellee above named  
appears by his attorneys and for  
answer to the petition of the United  
States filed herein, says,

That his title to the tract  
of land called "Cerro de San  
Felipe y Las Animas" as set forth  
and described in his petition to the  
Board of Land Commissioners and  
in the documentary and other evidence  
in this case is a good and valid  
title, but he avers that the land so  
described by him and claimed by  
him in this case is situated in the  
Northern Judicial District of  
California and without the jurisdiction  
of this Honorable Court.

He therefore prays this  
Honorable Court to dismiss the appeal  
taken by the United States in this  
case

By his atty

Walter MacFarland

No. 332

The United States

Appellate

vs

C. M. New

Appellee

Answer, denying

Jurisdiction of facts

Filed this 21<sup>st</sup> January  
1857

Colvin clk  
J. H. Coleman  
Dep

Walter H. H. H. H.

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

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Hon Isaac S. H. Ogden Judge

December Term 1856

The United States  
Appellant }  
vs } No. 332.  
Charles M. Weber }  
Appellee }

Transcript from the Board of Land  
Commissioners No. 333.

This cause coming on to be heard, on  
appeal from the decision of the Board  
of Land Commissioners to ascertain and  
settle private land claims in California,  
upon the Transcript of the proceedings  
and decision of said Board and  
the documentary and other evidence  
upon which said decision was founded  
and counsel for the respective parties  
having been heard, this

Ordered, adjudged  
and Decreed

That the decision of said  
Board of Land Commissioners declaring  
valid and confirming the claim

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of the above named appellee, Charles M. Weber to the land set forth and described in his petition to said Board and in the documentary and other evidence in this case be and the same hereby is affirmed, and that the title of said Charles M. Weber to said land is a good and valid title.

The land of which confirmation is hereby made is situated in the County of Santa Clara, is known by the name of <sup>Comandancia de</sup> "San Felipe y Las Animas", is of the extent of two square leagues and no more, and the same granted on the 17<sup>th</sup> day of August 1839 by Manuel Jimeno to Thomas Bonn, and is bounded by the Ranchos of Don Jose Bernal, Don Jose Chevolla, Don Juan Alvarez and the Sierra of Santa Isabel <sup>according to the grant and map in the expediente to which reference is made for a more particular description</sup> in the land within said boundaries exceeds in quantity two square leagues the confirmation hereby made is made to two square leagues and no more - but if less than two square leagues then the confirmation hereby made is made to such less quantity.

Francisco Ogden  
U. S. District Judge  
Justice of the Peace

No. 332.

The United States  
Appellant  
vs.

Charles M. Weber  
Appellee

Decree.

Affirming decision of  
Land Commissioner and  
Confirming Claim.

Reverend in page 152

Filed July 23<sup>d</sup> 1857

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California Land Claims  
Attorney General's Office  
4 Feby, 1857.

Sir:

In the case of the claim of  
Charles M. Weber, confirmed to  
the claimant by the Commission-  
ers, case no. three hundred and  
thirty-three, (333), appeal will  
not be prosecuted by the United  
States.

I am,  
Respectfully,  
Ours,

William A. R. E. G.  
U. S. Attorney  
Los Angeles.

No. 332,

Filed 4 March 1858.  
by James Bell,  
for W. W. Stetson  
Depty.