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*J. B. Valentine*  
*517 Clay St. S. F.*

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BEFORE THE

**United States Surveyor-General**  
OF CALIFORNIA.

---

*IN THE MATTER OF THE*

**Rancho Corte Madera del Presidio.**

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**TESTIMONY  PROCEEDINGS.**

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THE PETER AND ROSELL HARVEY  
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*Before the United States Surveyor-General for California:*

THURSDAY, June 3d, 1875.

Pursuant to notice duly given by the attorneys, the case of the contested survey of the Rancho Corte Madera, Juan Read, heirs' confirmee, is duly called.

Present, Jas. T. Stratton, U. S. Surveyor-General; J. A. Robinson, U. S. Commissioner.

W. H. Patterson appearing for S. R. Throckmorton.

S. L. Cutter appearing for Edward Gardner.

J. W. Shanklin appearing for S. R. Throckmorton.

John B. Howard appearing for John I. Cushing, F. D. Barlow, Thomas L. Riley.

B. S. Brooks, by Mr. Leviston, appears for Valentine and Throckmorton, and for the Claimant.

Sol. A. Sharp appears for the heirs of Juan Read, claimant, Mrs. Ylaria Read, Lyford, Mrs. Deffebach, and John J. Read.

Application by Brooks for continuance, opposed by Jno. B. Howard and Sharp, who insist upon his motion to strike out the opposition of those parties named in his application to strike out, on file herein.

Resisted by Patterson.

Peter Gardner appeared in his own behalf.

Walter Van Dyke, U. S. District Attorney, appearing for the U. S.

Case continued by the U. S. Surveyor-General, till Tuesday, July 13th, 1875, at 10 o'clock A. M.

Continued till July 27th, 1875, at 11 A. M.

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TUESDAY, July 27th, 1875.

Corte Madera del Presidio.

The case is resumed.

Present James T. Stratton, U. S. Surveyor-General; J. A. Robinson, U. S. Commissioner.

B. S. Brooks appears for claimants, and for Thos. B. Valentine.

Sol. A. Sharp, Esq., appears for Benj. Lyford and wife, John Read and Inez Deffebach, children and heirs of said John Read, deceased, who are the claimants of the rancho in this case.

S. L. Cutter appears for Edwin Gardner, Thos. Collins.

John B. Howard appears for John I. Cushing, F. D. Barlow, Thos. L. Riley, and for Walter Van Dyke, U. S. District Attorney, in his absence.

Mullen & Hyde, attorneys for claimants, under State University locations.

Peter Gardner, attorney for himself.

J. W. Shanklin, attorney for S. R. Throckmorton.

Mullen & Hyde, for Antonio De Silva, W. T. Coleman, A. B. Forbes.

J. B. Southard appears for Wormouth.

John B. Howard appears for Leonard B. Story, claiming tide lands, under State locations.

Brooks says he represents the claimants.

Sharp replies, that he is the only attorney for the heirs of Juan Read, and has done for twenty years.

Sharp objects to Brooks' appearing for claimants, and insists that Brooks designate and name who he appears for.

Brooks says he appears for all the claimants of the Read Rancho.

Upon inquiry, Mr. Sol. A. Sharp says he appears for John Read and Benj. Lyford, and for all the heirs except Mrs. Deffebach, and asks that question be suspended till he can see Mrs. Deffebach.

Mr. Brooks asks that his name be erased from the protest on behalf of Mr. S. R. Throckmorton.

Mr. Sharp objects to the erasure of the records of this office.

The Surveyor-General rules that Mr. Brooks be allowed to erase his name from said protest, for Mr. Throckmorton.

Mr. Sharp objects to his erasing his name, as it is altering the records of this office.

J. W. Shanklin here enters his appearance as attorney for S. R. Throckmorton.

The Surveyor-General rules that Mr. Brooks must define the names specifically and individually for whom he appears in this case.

Mr. Brooks says he appears for the claimants, and T. B. Valentine.

Mr. Sharp denies his right to appear for claimants, and calls for his authority to appear.

Mr. Sharp moves for a continuance for two days, that all parties may show their authority, and protests against any proceedings till it is done.

Motion granted, and case continued till Thursday, at 10 o'clock A. M.

---

THURSDAY, July 29, 1875.

All parties present.

The Surveyor-General decides that Mr. B. S. Brooks has the right to appear for the claimants as to the land which lies outside of the former survey, known as the Mathewson Survey, subject to and under the contract with James C. Bolton, and that Mr. Sol. A. Sharp has the right to appear for the claimants as to the land inside of the said survey.

John J. Williams, Esq., enters his appearance as of counsel for S. R. Throckmorton.

B. S. Brooks claims the right to appear for Mrs. Deffebach in the whole case, by appointment of her husband, now present.

Objected to by Mr. Howard, on the ground that Mrs. Deffebach has filed a notice with the Surveyor-General, that no attorney appears for her, or is entitled to appear for her, in this controversy.

Sol. A. Sharp claims to appear for John J. Read, Inez Deffebach, Ylaria Read Lyford, claimants of the Rancho Corte Madera del Presidio.

Walter Van Dyke appears in person on behalf of the U. S., the preemptors, and General J. M. Schofield.

J. J. Williams, on behalf of S. R. Throckmorton, moves that the present survey be so modified as to include the land sold by the claimants to S. R. Throckmorton, which he contends is within the limits of the juridical possession.

Objected to by S. L. Cutter, attorney for Edwin Gardner, on the ground that the survey is not within the juridical possession.

J. B. Southard, attorney for Wormouth, makes the same objection, and the further objection, that the deed to Throckmorton was made with the view and in reference to the line established by the present survey, and not with a view of extending the line further north-west than it is at present, and that said deed was made by way of compromise.

Messrs. Mullen & Hyde, attorneys for certain parties, file herewith a written motion to discontinue all further pro-

ceedings, on the ground that no legal survey has been made by the U. S. Surveyor-General.

Mr. Sharp objects to the motion, that it is not in time, and is defective in its allegations, and asks that the survey be now confirmed, as it now stands.

The Surveyor-General rules that the survey in this case is not vitiated or illegal on account of the adoption by the Deputy Surveyor of the tide land survey, without any actual survey in the field. All of the counsel in the case, except Mr. Howard and Mr. Brooks, object to the ruling.

Here the Attorney-General adjourns the case to await the decision on the above point, with ten days from this day to file briefs, and fifteen days' notice to be given counsel of the decision, to prepare for trial, and of the date when this investigation will be continued.

This adjournment is agreed to by all the attorneys, except Mr. Howard, for the purpose of obtaining the opinion of the Department on the above question of survey.

Mr. Howard, for his clients and Mr. Sharp's, excepts to the ruling and continuance, and appeals directly to the Commissioner on the merits of the survey, and asks that all the papers and plat, and ruling of the Surveyor-General be sent up.

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October 15, 1875.

Notified all parties to appear Tuesday, October 26, 1875, at 10 A. M.

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TUESDAY, 26th October, 1875.

Case called and continued by consent, to 10½ o'clock A. M. to-morrow, October 27, 1875.

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WEDNESDAY, October 27, 1875, at 10½ o'clock A. M.

All the parties being present, the case is called, and the examination commenced.

J. B. Howard reads and files a motion that the case be sent up to the Commissioner General Land Office, without the taking of any testimony.

The Surveyor-General denies the motion. Counsel excepts to the ruling.

Sol. A. Sharp, Esq., counsel for certain claimants, moves that all the objections filed be struck out, on the ground that they were filed too late.

The motion denied by the U. S. Surveyor-General.

Counsel excepts to the ruling.

Counsel Sol. A. Sharp objects to any testimony being read in opposition to the survey, on the ground that it is too late.

Objection overruled by the U. S. Surveyor-General. Counsel for claimants excepts to the ruling.

Messrs. Mullen & Hyde offer a written motion, asking that the survey be sent to the Commissioner, and that all proceedings be suspended in this office, until a decision of the Commissioner General Land Office, and his reply be received.

J. B. Howard files an objection to Messrs. Mullen & Hyde's motion.

Mr. Sharp objects to the Mullen & Hyde motion, as coming too late, and being without any authority of law. Also, that it is inconsistent. He files them as objections to the survey, and says, at the same time, there is no survey. Also, that it is incumbering the record, being in the form of an argument addressed to the Commissioner at Washington.

J. B. Howard objects to said motion because the U. S. Surveyor-General has no jurisdiction, as both parties represented by Mullen & Hyde. 2d. Because said parties are not disclosed. 3d. Because said parties do not claim or show any interest in the land embraced within the survey. 4th. Because the objections are not filed in time. 5th. Because no party to the record, and showing any interest, has objected to the form of survey. And, 6th. Because the case is closed.

B. S. Brooks objects that the matter of the Mullen & Hyde communication presents no ground for a continuance in this case.

The motion by Messrs. Mullen & Hyde for a continuance, is overruled by the U. S. Surveyor-General, and orders the paper and plat filed, but refuse to respond to the proceedings. To which ruling counsel excepts.

J. B. Howard files a motion to strike out the papers filed by Mullen & Hyde, for the reasons on file.

Mr. Mullen now having, by his affidavits, shown that he represents parties not entitled to appear in this case, Mr. Brooks objects to his filing his affidavits, or appearing at all in this case, for the parties therein named.

The Surveyor-General reserves his ruling on the matter of Messrs. Mullen & Hyde's affidavit, until 10 A. M. to-

morrow, to allow Mr. Mullen to file his authority to appear in this case.

J. W. Shanklin, attorney for S. R. Throckmorton, and S. L. Cutter, attorney for Edwin Gardner, and Peter Gardner, for himself, here enter their protest against the order of the U. S. Surveyor-General to take the testimony in the case at this time, on the ground that the preliminary question of the validity of the survey should be first settled by the Commissioner General Land Office.

The Surveyor-General directs that the testimony of the witnesses of contestant T. B. Valentine be first taken in this case.

T. B. Valentine calls as a witness in his behalf, Candelario Valencia, who being duly sworn and examined by Louis Prince, sworn as an interpreter in this case.

Q. 1. What is your name, residence and occupation?

A. My name is Candelario Valencia; residence, Mission Dolores, which is in San Francisco. My age is 70 years, and occupation none.

Q. 2. Did you know Juan Read in his lifetime, and if so from what time? A. Yes. I have known him since forty or fifty years ago.

Q. 3. Did you know the Rancho Corte del Presidio, and if so, from what time? A. I served as a soldier in San Francisco, and had known the Rancho Corte Madera del Presidio ten (10) years prior to my entering as a soldier.

Q. 4. When did you enter service as a soldier, and at what point were you stationed? A. I served as a permanent soldier at the Presidio of San Francisco for ten years and four months. I do not remember the year.

Q. 5. Were you stationed there as a soldier at the time the Bear Flag was raised in Sonoma, in 1846? A. No. I was in San Francisco.

Q. 6. How long before that had you been discharged? A. About ten or eleven years.

Q. 7. How did you know Juan Read? What was your intimacy with him? A. He was a nephew of my wife.

Q. 8. Did you ever visit him at his Rancho Corte Madera del Presidio, while he resided there? A. Yes. I went to see him, during his lifetime, at the mill which he had on his rancho.

Q. 9. How frequently did you visit him? A. We were invited to the Rodios then every year.

Q. 10. How long did you stay there on those occasions? A. From eight to fifteen days, while the Rodios lasted.

Q. 11. Why were you invited to the Rodios? A. We were invited as members of the family, to assist him in marking cattle.

Q. 12. Where did you stay during those visits? A. At the adobe house of Juan Read.

Q. 13. Do you know the peninsula which fronts Angels Island, and is connected with the main land by a narrow neck? A. I know it. It was called the Point Tiburon.

Q. 14. At the time you speak of, during the life of Read, was this peninsula occupied, and if so, how? A. It was occupied by Read, with cattle pastured in it.

Q. 15. Here the official plat of the survey of the Rancho Corte de Madera, now in question, is shown the witness, and he is asked to point out the land of which he is speaking? A. The point projecting into Richardson's Bay is called "Punta Almejas," and this point is called Point Tiburon. The point designated as Point Tiburon, is the tract shown on the plat of the official survey as "Peninsula Island."

The Counsel for the U. S. here objects that this is not the best evidence of the fact.

Q. 16. Was any special, particular use, made of this Peninsula Tiburon? A. It was occupied by cattle, which were taken from said peninsula to the Rodio, for the purpose of marking.

Q. 17. Was any particular class or kind of cattle kept on this island? A. There were about a hundred head of cattle kept there.

Q. 18. Were the cattle on the peninsula separated in any way from those on the other part of the rancho? A. They went in and out. Some remained inside, and some went outside.

Q. 19. Then I understand you that the cattle on this peninsula, and on the rancho, were not separated, but passed in and out?

Objected to by Mr. Cutter, as leading.

A. Yes.

Q. 20. Do you know the Arroyo Jolon? A. No.

Q. 21. Was there any fence or bars on the Tiburon, or causeway leading to it? A. There were none.

*Cross-Examination.*

Here adjourned for one hour, for lunch.

*Cross-Examination.*

Q. 1. Do you understand this map, (the official plat is here shown to witness)? A. I understand it as it is presented to me.

Q. 2. Can you read anything on this map? A. Very little.

Q. 3. Did you use your spectacles this morning when you testified? A. No.

Q. 4. Can you see well without your spectacles? A. No; not very well.

Q. 5. Could you see well enough to understand the map without your spectacles? A. No; now I can with my spectacles.

Q. 6. Did any person point out anything on this or a similar map to you, before you testified this morning? A. No.

Q. 7. Which point do you say is Point Tiburon, after looking at the map through your glasses? A. Now, that I can see with my spectacles, I find that this is the Point of Tiburon, pointing to the most eastern point on the plat, and is marked "Point of Tiburon" on the plat, and this was the Potrero Tiburon connected with the main land, pointing to the "Peninsula Island," shown on the official plat.

Q. 7, repeated. A. Witness points to the whole eastern end of the tract embraced in the survey marked "Point Tiburon."

Q. 8. Did the tide ever ebb and flow over the narrow strip connecting Tiburon Potrero with the main land? A. The water comes up to on both sides but never passed over the neck.

Q. 9. Was there any fence across that strip? A. Yes; there was about half way, to keep the cattle and stock in on the place marked "Peninsula Island."

Q. 10. Was you ever in the Potrero Tiburon; if so, how often? A. Yes; every year we went there for the purpose of taking out cattle for marking or killing them.

*Cross-Examination by S. L. Cutter.*

Q. 1. Have you had any conversation with any person concerning this map during recess to-day? A. No.

Q. 2. Have you had any conversation concerning the land in question to-day? A. I have not.

Q. 3. Have you had any conversation concerning Point Tiburon to-day? A. No.

Q. 4. Has any one spoken to you concerning a fence across the isthmus to-day? A. No, sir.

Q. 5. Will you point out on that map the place you designated in your testimony this morning as Point Tiburon? A. This is Point Tiburon, and this is Potrero Tiburon. (Witness points to the places designated as such on the official map.)

Q. 5, repeated. A. This, pointing to Peninsula Island, belongs to Point Tiburon.

Q. 5, repeated. A. I did not see well; now that I have my spectacles on; now, that I can see, I can point to the correct spot.

Q. 5. Is what you say now derived from your knowledge of the land, or from what you see laid down on this map? A. Now, that I see well, I say that this is the Potrero, (pointing to the Peninsula Island) appertaining or belonging to Point Tiburon.

Q. 7. Where was the house in which Juan Read lived in 1835 pointed out on the map with a pencil? A. Witness pointing to the Estero, says, here is an Estero; the house was on the margin of the Estero. The Estero he designates is on the extreme south-western corner of the official survey in question.

Q. 8. Was there more than one Estero near the house? A. This water reaches very nearly to where the house was. Witness pointed to the arm of the bay above the word "*Mount*" on the plat.

Q. 9. Do you remember if there was one or more streams of fresh water near the house? A. There was a stream ran up from the bay near the house.

Q. 10. How far from the house at its nearest point? A. About 200 yards, more or less. The Embarcadero was about 500 yards distant from the house, more or less.

Q. 11. On which side of the house was the Estero—east or west? A. The Embarcadero was in sight. You could see it from the house. It was on the east side.

Q. 12. How far north of the house did the rancho extend toward the mountain? A. I do not know. I can not tell.

Q. 13. Have you seen the place where the house stood in 1835, recently? A. About three months ago.

Q. 14. What is there at that point at this time. A. The same house, and an orchard.

Q. 15. Do you mean the same house that stood there in 1835? A. Yes, the same house.

*Re-Direct Examination.*

Q. 1. Describe more particularly the fence that was across the neck of land connecting the Potrero with the main land? A. About half way from the main land to the peninsula.

This question is objected to by Walter Van Dyke, District Attorney, on the ground that they seek to include lands not embraced in the survey.

Q. 2. What is this fence made out of?

Same objections as to last question.

A. The fence was made of redwood. It had an opening closed by bars.

Q. 3. How far on each side of the bars did the fence extend?

Same objection.

A. From water to water.

Q. 4. In what year did you first see these bars there?

A. I do not remember.

Q. 5. Do you remember to have seen it, at any time, any different during Juan Read's lifetime? A. No. I do not remember.

Q. 6. Did the fence exist there the first time you ever saw it? A. Yes, Sir.

Q. 7. Do you know the Arroyo Corte Madera del Presidio? A. I do not.

Q. 8. Was there an arroyo came down into the estero you have spoken of? A. Yes. That is the arroyo that comes down from the Sierra, on one side of the house.

Q. 9. Was there a Corte Madera on that arroyo? A. There was a saw-mill there.

Q. 10. Question 9 repeated. A. Yes. The deceased cut timber for fences and corrals.

Q. 11. Do you know the Punta de Sausal? A. Yes. It is on one side of the house.

Q. 12. How near was that sausal to the arroyo? A. All along the arroyo.

Q. 13. How near was the Punta de Sausal to the estero? A. I cannot tell the difference. It was not far off.

*Re-Cross-Examination by J. B. Howard, Esq.*

Q. 1. Was there a redwood forest near the house of Read? A. Yes.

Q. 2. Were there redwood trees above the house, a little to the left, as you go from the house? A. There was at that time. They may have been cut down since.

Q. 3. How far from the house were the redwood trees? A. About one hundred yards from the house of Read.

CANDELARIO <sup>his</sup> X VALENCIA.  
mark

This witness says he knows how to write, but his hand is disabled, and he signs with his mark. COMMISSIONER.

Here adjourned till 10 A. M. to-morrow.

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THURSDAY, Oct. 28, 1875.

Met pursuant to adjournment. All present.

Jose Ramon Valencia, a witness called by T. B. Valentine, being first duly sworn deposes and says :

Q. 1. What is your name, age, residence, occupation ?

A. My name, Jose Ramon Valencia ; my age is 45 ; residence, San Rafael, Marin Co., Cal. ; occupation, farmer.

Q. 2. When were you born, and where have you resided since your birth, and how long at each place respectively ?

A. I was born in the city of San Francisco, Cal. ; I was born in 1829 ; I have resided at the Presidio of San Francisco till 1840, when we removed to the Mission Dolores in San Francisco ; I lived at the Mission Dolores until 1865 ; I at that date removed to Marin Co., Cal., and have resided in said county continuously ever since said date.

Q. 3. Did you know Juan Read in his lifetime ; when and how did you become acquainted with him, and what was the extent of your intimacy with him ? A. I knew Juan Read in his lifetime ; I became acquainted with him in 1835 or 1836 ; he was married to my aunt, Ylaria Sanchez, at the time we were living at the Presidio.

Q. 4. Was Juan Read at that time occupying the Rancho Corte Madera del Presidio ? A. Yes ; he was.

Q. 5. What was the extent of your intimacy with Juan Read ? A. I knew him well ; I was living with him at his rancho at times ; he often came to the Presidio and stopped

there while I was living there; I often went to his rancho, to the rodeos, and assisted him in marking and killing cattle.

Q. 6. Did you know the Rancho Corte Madera del Presidio; when and how did you become acquainted it, and what was the extent of your knowledge respecting it? A. I knew said rancho; I became acquainted with it first in 1839 or 1840; I became acquainted with it by rodeoing cattle on it; I knew well enough to describe every part of it, almost.

Q. 7. Did you know the place called Tiburon? A. Yes, sir.

Q. 8. Where was it? A. It was in Marin County.

Q. 9. Point it out on the official map in contest? A. The witness put his hand on the extreme eastern point of the survey, and moves his hand along the survey and says it extends up to the Holon, to the Corte Madera; it is called Corte Madera de San Pablo.

Q. 10. Do you know a point which, at that time, was known as the Punta del Tiburon? A. Yes, sir.

Q. 11. Which was it? A. It was all the point surrounded by the bay.

Q. 12. Did you know the creek called Holon; if so, how is it designated on the survey? A. Yes, sir.

Q. 13. How is it designated on this map? A. It is marked on the official map "Arroyo Holon;" it runs from Tamalpais Mountain and discharges itself into a creek at the end of the Arroyo Holon. The creek goes up to Ross' Landing; this creek empties into the bay.

Q. 14. Do you know the peninsula fronting Angel Island, and connected with the main land of the rancho, which is marked on the official map as Peninsula Island? A. Yes, I know it.

Q. 15. When and how did you become acquainted with it? A. It was in 1839 or 1840. I became acquainted with it by putting cattle and horses on it for Juan Read.

Q. 16. Was there any special use made of that tract? A. Yes, sir.

Q. 17. What use was it put to? A. It was used to put in some fat cattle and some horses.

Q. 18. Was it in any way enclosed, if so, how and by whom? Yes, sir. By a fence made by Juan Read, and afterwards it was inclosed by myself and one of the De Harro family.

Q. 19. Was the fence you speak of there when you first saw this piece of land—this peninsula? A. Yes, sir.

Q. 20. Where was this fence? A. The fence I first saw was near the main land of the peninsula.

Q. 21. What was the means of access to the peninsula? A. There were bars in this fence.

Q. 22. When did you and the De Harro build the fence? Where was it, and for whom did you erect it? A. I think it was in 1845. It was at the narrowest point of the neck. The old fence had become broken, and we put it there, as it took less fence. We were doing the work for the interest of the rancho. Francisco De Harro was the mayor domo. He was a son of Francisco De Harro, the Alcalde. He was one of the twins afterwards killed in the war.

Q. 23. By what name, if any, was this piece of land designated at that time? A. It was called El Potrero.

Q. 24. What is the meaning of the word Potrero, as used by the Californians? A. It means field; an enclosure where you put in stock or cattle.

Q. 25. Are potreros usually used for a particular class of cattle? If so, what class? A. It is used to put in some fat cattle that are to be killed every year. It is used to put in the bell-mare with the horses. Also to keep the tame cows when they have them.

Q. 26. In what manner were the salt marshes bordering this rancho used, and by whom? A. It was used by Juan Read's stock, and for a landing on some of the creeks by Juan Read.

Q. 27. Did you know the Corte Madera del San Pablo? If so where was that? A. It was at the creek called the Arroyo Holon.

Q. 28. Did you know the Corte Madera del Presidio? If so, where was it? A. Yes. It is marked on this map Corte Madera del Presidio.

Q. 29. It was on that arroyo? A. Yes, sir.

Q. 30. Did you know the Punta de Sausal, lying near the estero, east of the house? A. Yes, sir.

Q. 31. How is it designated on the map? A. It is close to the entrance of this creek. Witness points to a point marked "C. M. P. 177," on the official plat.

Q. 32. How far did that sausal extend inland, and how near to the arroyo? A. It extended all along the creek, for a distance of, I think, a mile and a half.

Q. 33. Did it extend as much as a mile originally, when you first knew it? A. It might have been as much as a mile.

Q. 34. How near did that reach to the edge of the

forest of redwoods, called Corte Madera del Presidio? A. They were close by.

Q. 35. Did you know a peak called "Palmas," if so, by what other name is it known? A. It is called now "Tamalpais."

Q. 36. Did you know the remains of a Rancheria called "Animas," if so, where was it, with respect to the house of Juan Read and the creek and sausal? A. Yes, sir; it lies between the house and the creek; it was closer to the creek than to the house; the creek now washes the bank of it, but it did not then in 1839 or 1840, but was close to it.

Q. 37. Did you know the Punta Caballos; if so, by what name is it now known? A. I know the point, it is in the Rancho Saucelito.

Q. 38. Do you know Luni Point? A. No, sir.

Q. 39. How did Point Cavallos lie with respect to Fort Point? A. Directly opposite; I have not been there since they have been given their new names; but Point Cavallos was directly opposite the old Spanish Fort.

Q. 40. How was the Potrero connected with the main land of the Rancho? A. By a natural causeway of sand and gravel.

Q. 41. Do you know of any of that gravel having been taken away from there? A. I don't know of my own knowledge.

Q. 42. Was that causeway ever overflowed by the tide? A. No, sir.

Here the proceedings are suspended to hear a ruling on Messrs. Mullen & Hyde's application to be heard in this case.

The Surveyor-General holds that Messrs. Mullen have a right to appear and represent his client; but the protest filed by Messrs. Mullen & Hyde, having been filed after the expiration of the 90 days, the Surveyor-General rules that even under this circumstance, Messrs. Mullen & Hyde can and may appear for his clients and object to the surveyor's question. To which ruling counsel for claimants excepts.

Messrs. Mullen & Hyde withdraw their appearance for A. F. De Silva, he appearing in person herein.

Mr. J. B. Howard withdraws his appearance for Mr. A. F. De Silva, he appearing in person herein.

Messrs. Mullen & Hyde consent to the withdrawal of the objections filed July 29, 1875, so far as Antonio F. De Silva is concerned, and Mr. De Silva insists upon his objections herein filed in this case, May 1875.

*Cross-Examination of J. R. Valencia :*

Q. 1. By U. S. Attorney.—Did Juan Read have Peninsula Island occupied with stock since the American occupation? A. Yes, sir.

Q. 2. How long since? A. Up to 1848, I was then mayor-domo of the rancho at that time.

Q. 3. Has it been occupied adversely since you left there? A. I do not know; I left there in 1848; I don't know about its occupation since I left.

Q. 5. Did you ever see the diseño of this rancho? A. No, sir.

Q. 5. Do you know the juridical possession of this rancho? A. I was not there and don't know anything about it.

Q. 6. Did Juan Read ever point out to you the juridical possession? A. Yes, sir.

Q. 7. By Mr. Cutter? Where did Juan Read's house he occupied stand? Point it out on the map. I mean the old house. A. When I first went there he had a frame building. It was quite near—about fifteen feet—from the point marked Juan Read's house on the official map. He then built an adobe kitchen to that, and afterwards he built the present adobe house.

Q. 8. Which way did the land slope from that house? A. Towards the city. Towards the bay. Towards the rancheria.

Q. 9. Which direction was the rancheria from the house? A. Towards the west; between the house and the creek.

Q. 10. How near were any redwoods to the rancheria? A. There were a few redwoods in the willows. I could not give the distance. It might be a half a mile or more.

Q. 11. Do you remember the position of a gate near the rancheria? A. Yes. There was a gate cross the lane.

Q. 12. State if there were a clump of redwood trees near that gate. A. I do not recollect of any.

Q. 13. By Mr. Van Dyke. The question 6 I intended to ask you was, Did Juan Read ever point out to you the monuments of the juridical possession? A. I never saw any. He just pointed out certain creeks as boundaries.

Q. 14. By J. W. Shanklin.—Please to state what creeks he pointed out to you as boundaries.

Objected to by J. B. Howard, as being incompetent, immaterial, and not the best evidence.

Objected to by Sol. A. Sharp, Esq., on same grounds.

Question withdrawn.

Q. 15. Where is Point Cavallos, and what is its extent?

Objected to for same reasons as last question.

A. It is on the Saucelito Rancho. I don't know its extent. It points towards the Presidio of San Francisco.

Q. 16. What does the word Tiburon mean in English?

A. It means "Shark."

Q. 17. Why did they call it Shark Point? A. Because there were plenty of sharks at that place.

Witness designates the place as "Raccoon Straits."

Q. 18. Do you know of a high hill called Mount Tiburon, on this peninsula? If so, point it out on the map. A. No, sir. I don't know it by that name.

Q. 19. Where is the high hill you speak of, and how far does it extend? A. There is a ridge commencing at the extreme eastern point, and extending along the Tiburon to the black line (township line). The highest point is close to Station No. 537.

Q. 20. By Capt. Mullen. Do you know of a line of fence that formerly ran across the Point Tiburon, in 1839, 1840, or about that time? A. The only fence I ever saw was the fence across the neck of land connecting Peninsula Island with the main land. There was a fence built across the land, from one side of the marsh land to the other, in 1858 or 1859. I do not recollect very well.

Q. 21. Do you know of any fence in that vicinity earlier than 1859? A. No. There was no other fence, except the corral, near the rodio ground.

Q. 22. Was not there a fence earlier than 1855, and before 1848? A. No. I never saw any fence there, except the corral at the house, corral at the rodio ground, and the fence at the narrow neck connecting the potrero with the main land.

*Re-Direct.*

Q. 1. What were the boundaries of the juridical possession, as pointed out to you by Juan Read?

Objected to by Howard, as incompetent, irrelevant and immaterial.

A. It was the creek called the "Arroyo Holon," another creek called the "Arroyo Coyote," the orders from him were to rodeo the cattle within these two boundaries; this

Point of Tiburon was included in these boundaries; this Point Tiburon was surrounded by the bay.

Q. 2. Did he point out to you the boundaries on the other two sides? A. No; he pointed out to me these two creeks.

Q. Did he point out to you "Raccoon Straits" as one of the boundaries? A. Yes; he pointed out the place marked "Raccoon Straits" on the map.

Q. By Mr. Gardner.—Please point out the Arroyo Coyote on this map? A. It is not on this map.

Chas. Brown is called by B. S. Brooks, and being first duly sworn, deposes and says: My age is 61 years; residence, San Francisco; occupation, real estate dealer.

Q. 1. What country are you a native of? when did you come to California? how long have you lived in each place respectively? A. Born in New York; come to California in 1829; have lived in San Francisco, Cal., since 1849, continuously; I came to San Francisco in 1829, staid here then only a short time; crossed the bay then, and lived between Pinole and Sonoma and San Rafael and the Read Rancho, different places, for seven or eight years; then came to San Antonio, opposite San Francisco, staid there till the fall of 1838; then went to the redwoods above Redwood City, San Mateo Co., now called Searsville, where I resided till 1849, when I came to San Francisco and resided till 1849, at Mission Dolores.

Q. 2. Did you know Juan Read in his lifetime? A. I did.

Q. 3. When and how did you become acquainted with him? A. The first time I got acquainted with him was in 1834, at Saucelito; I met him there when I went after some beef; I was working on his rancho.

Q. 4. Did you see him afterwards; if so, how frequently and how well did you become acquainted with him? A. I saw him afterwards very frequently; I became intimately acquainted with him from that time till the time of his death.

Q. 5. Did you know the Rancho Corte Madera del Presidio? A. I did.

Q. 6. When did you first become acquainted with it? A. In 1834.

Q. 7. What was the extent of that rancho? A. I worked on the rancho, and made shingles for Mr. Yount, then.

Q. 8. Did you become acquainted with boundaries of the rancho, and the natural objects within those boundaries? A. I did not.

Q. 9. When did you make the shingles, and out of what? A. On the Read Rancho, out of redwood.

Q. 10. How could you make shingles out of redwood, on the Read Rancho, without becoming acquainted with some of the natural objects?

Objected to, as the witness says he does not know the boundaries of said rancho.

A. I knew the trees were there, but I did not know the boundaries of the rancho.

Q. 10. Question 10 repeated. A. I became acquainted with the timber, and the land I was on.

Q. 11. Did you participate in any the rodios on that rancho? A. I was there as a looker-on, but was not engaged in the rodio myself.

Q. 12. Did you become acquainted with a stream called the Corte Madera del Presidio?

Objected to by Mr. Howard, as being incompetent, irrelevant and immaterial, and because no stream is mentioned in the juridical possession.

A. I don't think I know it. I knew a Corte Madera de San Pablo, when I worked on the other side, for two years.

Q. 13. On the other side of what? A. You go on the east side of the Point Tiburon, and go up the Corte Madera Creek. I had to go up the creek to get to the Corte Madera.

Q. 14. Was the Corte Madera de San Pablo on the Corte Madera Creek, or on a branch leading into that? A. I don't know the names of the creek. I know the wood was up in there, and we cut there and delivered the wood down at the landing.

Q. 15. What landing? A. At the landing at the creek called Embarcadero, where the boat came to get the lumber. I hauled the lumber to the Embarcadero of Corte Madera Creek. I have not been there for (30) thirty years.

Q. 16. Was the Corte Madera where you cut the lumber, or on a creek? A. No. It was not. I had to go a mile for lumber, from the creek.

Q. 17. Did you know the point called Punta de Tiburon? A. Yes, sir.

Q. 18. Where was it? A. Opposite Angel Island.

Q. 19. Did you know the place which is marked on the map as Peninsula Island?

Objected to by the U. S. as irrelevant and immaterial.

A. Yes, sir. It was known as the Potrero of Point Tiburon. It was all called Point Tiburon.

Q. 20. Was that occupied at that time? If so, and how?

Objected to by Messrs. Mullen & Hyde, as incompetent and immaterial.

A. The cattle of Juan Read had free access to all of that potrero, from 1835 to the time of his death.

Q. 21. When was that? A. I think in 1842 or 1843.

Q. 22. Do you remember whether or not there was a fence, with bars, or gate, across the neck of this potrero?

A. There was.

Q. 23. Did you know an arroyo that came down near the house of Juan Read? A. I do.

Q. 23. Do you know what that was called? A. I do not.

Q. 24. Do you know if there was a Corte Madera on that part? A. There was. It had a mill and—

Objected to by Mr. Howard, as being incompetent, immaterial and irrelevant.

Q. 25. Was there a high mountain thereabouts called Las Palmas? A. There was a mountain there called Tamalpais. I never heard it called Las Palmas. It might have been.

Q. 26. Did the stream you have last spoken of come down from that mountain?

Objected to by Mr. Howard, representing the U. S. District Attorney.

A. I never followed it up to its head, but I suppose it does.

Q. 27. After leaving the forest of redwoods, did this arroyo flow through a sausal, or willow swamp? A. It ran through a sausal.

Q. 28. Into what did it empty or discharge itself? A. It empties into the mud in the creek.

Q. 29. Did it communicate with the salt water? A. It ran out into salt water.

Q. 30. Did you know the house of Juan Read?

Objected to for the same reason as before stated, and because the objector calling the witness has disclaimed and withdrawn all objections to the western boundary line.

A. Yes; I know the house of Juan Read.

Q. 31. When you last saw that house, was it in the same place that you first saw it? A. It was not in the same place, and it was not the same house; there was a wooden house facing the east; the present adobe house, was in the course of construction when he died; it was about 15 feet from the old wooden house, which faced to the east.

Q. 32. Did you know an estero to the east of that house? A. There was an estero to the south-east of the house.

Q. 33. Did the arroyo that you have spoken of, communicate with that estero? A. It did not; there was an estero on the south-west side.

Q. 34. Did you know the Punta de Sausal? A. Yes, sir; the Punta de Sausal by Read's house.

Q. 35. How did that lie, with respect to the two estero mentioned? A. It lay almost due north from the estero which was on the south-west side of the house, and distant about 150 yards.

Q. 36. How is that point designated on the official plat? A. It is marked "Willow Thicket" on the map.

How is the point of the sausal designated, or noted on that map? A. I can't tell; the willows used to extend further down than they do now; they extended down to the shell mound; there might have been a few scattering willows down in the marsh; the shell mound was about due west of the house.

Q. 38. Did you know the remains of an ancient Indian rancheria called "Animas?" A. I know an old Indian rancheria at this old shell mound, lying west of the house, near the creek; I did not know the name of it; there was no other in that neighborhood that I knew of.

Q. 38. Did you know an enciñada which ran up between Point Cavallos and Tiburon? A. I knew a cove running up between those points; I do not know what it is called now.

Q. 39. What is it called on that map? A. I cannot tell; I have not been there for 30 years.

Q. 40. Was the causeway leading from the mainland to the Potrero of Tiburon ever overflowed by the sea? A. Not so that you could not get on it; at least I never saw it.

Q. 41. Was it a natural causeway? A. Yes, sir.

Q. 42. How was the marsh land adjoining the ranch land occupied, and by whom? A. It was marsh land not

occupied by anybody at that time; it was a part and parcel of the rancho.

Q. 43. Was it occupied by cattle; and if so, whose? A. As far as cattle could go on it, Read's cattle occupied it.

Q. 44. Was the potrero used for any particular kind or class of cattle?

Objected to as incompetent.

A. It was; any time they wanted to pick out any cattle for killing they put them in there; when the grass was good they left the gate open.

*Cross-Examination.*

Q. 1. Do you know by whose permission, or by what authority, Read occupied the potrero by you spoken of? A. I do not know.

Q. 2. Please look at the official map and point out thereon all the land which you say was all Point Tiburon, where it began and where it terminated? A. The witness points to the map and says: This was all included as Point Tiburon, (the line he draws is from station 443, across the land to 288; on the opposite side the land is bounded by this line and Richardson's Bay, Raccoon Straits and San Francisco Bay, as shown by the official map.)

Q. 3. In your last answer, do you mean the land you described was called Tiburon, or Point Tiburon? A. It was called Point Tiburon.

Q. 4. Point out on the map Punta del Tiburon. A. All the land I pointed out was called Punta Tiburon. The potrero was included. I never knew that one single point was Point Tiburon, but that all taken together was the Point Tiburon.

Q. 5. Where was the point—the extreme point? A. Witness points to Station No. 385, at the extreme eastern point of the survey. Witness says: If I was going through Raccoon Straits, I should call the Station No. 343 and No. 360 Point Tiburon, should I land at either of these places. I should call Station No. 385 the Para Punta.

Q. 6. How far west from the embarcadero did you cut timber under the permission of Read, on the Corte Madera de San Pablo? A. A good long mile up under the foot of the mountain.

Q. 7. Do you remember any sausal lying east of Read's house? A. No, Sir.

Q. 8. Do you know where the old corral of Juan Read's was? A. It was between the two houses of John, Sr., and John Read, Jr.

Q. 9. Do you know of any willows near that corral? A. No. It was so long ago I can't remember.

CHARLES BROWN.

Here adjourned till 10 A. M. Monday, October 1st, 1875.

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MONDAY—Met and adjourned till Tuesday, at 10 A. M.

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TUESDAY—Met and adjourned to 10 A. M. to-morrow.

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WEDNESDAY, November 3d, 1875.

Met pursuant to adjournment. All present.

Messrs. Mullen & Hyde, attorneys on behalf of Hart, Coleman, *et al.*, and on behalf of the United States, now offer in evidence a duly certified copy of the original espediente translation and diseño in the case of Jose M. Limentour, No. 549 Land Commission, together with the opinion and decision of said Land Commission, as filed February 12th, 1856, confirming said lands to said Limentour.

Objected to by the claimants and the heirs of Juan Read, and by J. B. Howard, representing the United States, because said record is incomplete, as it does not include the record in that case on appeal to the U. S. District Court, and the decision of the said Court, pronouncing the said claim of said Limentour to be wholly forged, fraudulent, and counterfeit, and wholly manufactured, subsequent to the acquisition, by the United States, of California.

Objected to by Judge J. B. Southard, on the same grounds as stated by Mr. Howard, for claimants, and for the United States, and for the further reason that it is irrelevant and immaterial, and refers to the case of Limentour *v.* The United States, Vols. 1, 2, 3 and 4.

Mr. Brooks' objections are reserved.

Here adjourned till 10½ A. M. Monday, 8th inst.

WEDNESDAY, Nov. 8, 1875.

*Examination Resumed.*

Claimants' examination suspended to accommodate Mr. De Silva.

Antonio F. De Silva, being first duly sworn, deposes and says:—I am 58 years old; I reside on Sim's Island; have lived there since 1859; occupation, chicken-raiser and farming.

Q. 1. By J. B. Howard, attorney for F. De Silva.—Can you point out your land on the official plat of survey of the Rancho Corte Madera del Presidio? A. Yes; I can.

Q. 2. Describe the island? A. Witness points out the island between courses No. 153 and No. 164, and says the neck should be represented as marsh land.

Q. 3. What is your title to the island? A. United States patent, cat. No. 3866; recorded vol. 6, page 447 records, General Land Office, dated Oct. 15, 1873. A copy of said patent is on file in this case.

Q. 4. What is the connection with the main land? A. At high tide I have to take a boat, or I will wet my legs sometimes to the knee, and sometimes half way to the knee.

Q. 5. Who claims to own the tide land between the island and the main land? A. I do; I have a deed from the Tide Land Board of this State, dated August 24, 1872, being No. 131, 3d series.

Q. 6. Do you know of any other title to the marsh and tide lands or the island? A. No, sir.

Q. 7. The deed is offered in evidence and marked Exhibit to De Silva's Island claim, J. A. R.

The witness being shown the protest signed A. F. De Silva, dated and filed May 21st, 1875, is asked, Is that your protest and signature thereto? A. That is my protest and my signature thereto.

Q. 8. Do you claim to own the island and the marsh land intervening? A. Yes, sir; I do.

*Cross-Question.*

Q. 1. What is the nature of the land that connects the island and the main land? A. It is marsh land.

Q. 2. Does this marsh land connect it with the main land? A. It does.

Q. 3. Is this marsh land similar to the marsh land along the bay? A. It is of the same character.

ANTONIO FERREIRA DA SILVA.

Mr. Brooks concurred in the objection made by J. B. Howard and J. B. Southard, in their objection to the exhibit offered by Messrs. Mullen & Hyde, on the 3d inst. The question as to the admittance of said exhibit is argued and submitted to the Surveyor-General. The Surveyor-General: that the exhibit be admitted as filed.

The claimants (Read heirs), here state that before the admission of the above exhibit by the Surveyor-General, the said Read heirs, by their counsel, exhibited, and showed and offered to read to the Surveyor-General the final decision of the U. S. District Court rejecting the claim of said Jose Y. Limentour, as being forged, fraudulent, antedated and counterfeit in all its parts, and referred to Hoffman's Reports, volume I., being reports of land cases determined in the U. S. District Court, for the Northern District of Cal., by Ogden Hoffman, U. S. District Judge, No. 389 to 451 inclusive, and also volumes I, 20, 3d and 4th, of the reported cases of the U. S. vs. Jose Y. Limentour, and notwithstanding the Surveyor-General admitted in evidence said forged exhibit, to which the said Read heirs except, and give notice that they will move the Hon. Commissioner General Land Office to strike out the same, and to enforce the provisions of the Act of 1858, relative to the use of forged titles in Cal., as evidence in land cases. 11th U. S. Statutes, page 291, etc.

J. B. Howard, attorney for Cushing, Riley and Barlow, and the United States, join in the motion and notice.

J. B. Southard, on behalf of Wormouth, makes the same objection.

Mullen & Hyde, on behalf of Hart, Coleman, and the United States, excepts, and calls attention to the fact that one of the objects of the introduction is not to set up or to establish any claim in this case *against* the United States, but for the purpose of showing, establishing, maintaining and defending a claim in behalf of the United States, whose claim thereto Hart and Coleman recognize and respect, and that motion of counsel is made either in ignorance of the law and the object of its passage, or is intended as a threat or intimidation, which is irrelevant.

2d. Because it goes to show the traditions of the country, to the effect that there was vacant land at Point Tiburon.

R. C. Hopkins is called by B. S. Brooks, as a witness, and being first duly sworn, deposes and says: My age is

fifty-nine; residence, San Francisco; occupation, Clerk of Spanish Records.

Q. 1. How long have you been in charge of the Spanish archives in the U. S. Surveyor-General's Office? A. I have been constantly conversant with the Spanish archives in the office of the U. S. Surveyor-General for California, for the last twenty years.

Q. 2. To what extent have you become familiar with the language of said archives? A. I have such familiarity with the language of the archives as a man of ordinary intelligence would have, who twenty years had a good knowledge of the Spanish language, and whose daily business for the last twenty years has been mostly in connection with the Spanish language.

Q. 3. Have you had occasion during that time to search said records, and how frequent? A. For the last 20 years I have had occasion and have been constantly called upon to make searches in said archives.

Q. 4. Have you during that time been called upon by the government to make searches through said archives for record evidence on particular subjects, and how often? A. I have. How often I cannot say, but a great many times.

Q. 5. Did you make any such examination and report in regard to the Limentour claims? A. I spent nearly the whole of the year 1858 in making investigations in relation to the Limentour claims in connection with the late Hon. Ed. M. Stanton, who was sent out by the government to examine those claims in that year.

Q. 6. Did you, under his direction, select from the grants and espedientes in the archives and arrange certain classes of espedientes? A. I do so.

Q. 7. How much of the volume Jose Y. Limentour vs. U. S., archives exhibits, is your work? A. I think the archive exhibits was all my work.

Q. 8. Did you make the collection contained in the Land Commission Exhibits? A. I think so.

Q. 9. Did you perform similar services in the Pueblo of San Francisco? A. I think I did.

Q. 10. In the Castilien Almaden case? A. Yes sir; I presume in those three cases I gave five years of steady hard labor. I was also employed in the Bolton and Barron case.

J. W. Shanklin, for Messrs. Mullen and Hyde, objects to the examination on the ground that it is irrelevant.

Q. 11. Did you in the course of these investigations become familiar with the Limentour seal? A. I did.

Q. 12. Did you become familiar with the hand writing of the Mexican officials, and particularly of that of Micheltoarena? A. I did.

Q. 13. Did you examine the Espediente No. 549 offered in evidence by Mullen & Hyde Nov. 3d inst, in this case, and admitted to-day by the U. S. Surveyor-General? A. I did so.

Q. 14. Is that a genuine or fabricated espediente? A. It was fabricated.

Q. 15. What are the badges of fraud that distinguish it as fabricated? A. This espediente is written upon paper bearing the Limentour Custom House seal. The records in the archives show that in Feb. 1843, there was no stamped paper in the Department of California, and that there was none used till May, 1843. The Limentour grant to the City of San Francisco, bears date Feb. 22d, 1843, and is written upon paper, identical, printed heading and seal, with the paper on which this is written. The seal upon this paper is not the genuine Custom House seal. The written petition, grant and signature is that of Jose Yoes Limentour; the marginal writing or order, on the first page, is certainly in the hand-writing of Don Manuel Micheltoarena; but inasmuch as I have seen a number of sheets of paper bearing the same seal blank, except the marginal order, written and signed by Micheltoarena himself, I do not consider the fact that this marginal order, which was in the hand-writing of, and signed by Gov. Micheltoarena, is any evidence that the document is genuine, or made at the time it bears date.

Q. 16. Are you acquainted with the Rancho Corte Madera del Presidio? A. I am.

Q. 17. When and how did you become acquainted with it? A. First: for the last twenty years I have been familiar with the original title papers. Secondly: I have been twice upon the grounds during the last three years.

Q. 18. How long have you resided in this city? A. For twenty-five years; said rancho is in sight of the city.

Q. 19. How long have the majority of those calls, mentioned in the title papers, been familiar to you?

Objected to by Mullen, on the ground that this witness has not testified as to the calls. I have been familiar with the calls mentioned in the title papers for the last twenty years; I can repeat them without the record.

Q. 20. Please do so. A. The calls of possession are as follows:—"Commencing at the solar, situated near the skirt of a redwood forest, known as Palos Colorados, in a northerly direction as far as the arroyo called Holon, where there is another redwood grove, called the Arroyo de San Pablo, and from thence to the Point of Tiburon; thence there are two more calls to the point of beginning. From the point of the sausal, which lies near the house (east of the house); from that point 16 cordeles to the point of beginning." I will give, now, the boundaries given of the grant to Read, are:—"The Mission of San Rafael and the Port of San Francisco."

Q. 21. Do you know the bay, or cove, formed by the Point Tiburon and Point Caballos? A. I do.

Q. 22. What is the meaning of the word *ensenada*? A. It means a small bay or cove.

Q. 23. How long have you known that, and by what name is it called? A. I have known it for the last 25 years; I only know it by the name of Richardson's Bay; for a long time I did not know it by any name.

Q. 24. Do you know the short estuary, in which that bay terminates? A. I know that this bay terminates in a *cañada*, which continues up to a grove of redwoods.

Q. 25. Did you know the *Corte Madera del Presidio*? A. I know a place where there is, or has been, a forest of redwoods, which I learned that in ancient times was called *Corte Madera del Presidio*.

Q. 26. Entering the cove between Point Tiburon and Point Caballos, passing up to its head and through the short *estero*, and continuing on in the same direction, following the *cañada*, how does the redwood forest you have spoken of, lie, with respect to the *cañada*? A. My recollection of the locality is not sufficiently distinct to be able to answer this question accurately; farther than that, following the *cañada* up some distance, I think you reach the redwood forest; how this forest lies, in relation to said *cañada*, I cannot answer, as my memory does not serve me.

Q. 27. What is a *cañada*? A. It is a narrow valley. It is from the word *cañon*.

Q. 28. What is a *corte de madera*? A. It is a place where timber is cut. It is from *corte*, to cut; *mudera*, timber.

Q. 29. What is "cerro alto"? A. It is "high hill."

Q. 30. Was there not in that direction a high hill, and

how was it known? A. There was in that direction a high hill, which is now called "Tamalpais."

Q. 31. How long have you known that? A. For the last 20 years or more.

Q. 32. Do you know the Pueblo de San Rafael? If so, how long have you known it? A. I know the Mission of San Rafael, and have known it for the last 25 years.

Q. 33. Was there a village there when you first came to the country? A. There was.

Q. 34. How has it ever since been known, and now known? A. It has ever since been known as San Rafael.

Q. 35. Did you know another redwood forest lying to the north of the one spoken of, and called Corte Madera de San Pablo? A. A place has been pointed out to me as the spot where formerly stood a grove of redwood trees, formerly called Corte Madera de San Pablo.

Q. 36. What do you understand by the meaning of the words: "*por la parte del oriente terminando en la dicha Punta del Tiburon?*" A. On the side of the east, terminating at the point, or in the Point of Tiburon.

Q. 37. Does that convey exactness of location to a certain point?

Objected to by Cutter, it being simply a matter of opinion.

A. It does.

Q. 38. What is that certain point? A. The word is La Punta. The Spanish word la punta means a point, such as the point of a needle. In other words, it is an imaginary or mathematical point. El punto, on the other hand, means a place or locality. Hence, the word used there. Terminando en la dicha punta, means terminating at said mathematical or imaginary Point of Tiburon.

Q. 39. What is the signification there of the word terminan? A. They terminate.

Q. 40. What is the meaning of the words *hasta la Punta del Tiburon?* A. As far as the Point of Tiburon.

Q. 41. To what portion of Point Tiburon, wherever that may be, would such a course extend?

Objected to by Cutter as immaterial.

A. It would extend to the uttermost or extreme point of land, where it joins the water.

Q. 42. What is the force of the expression "*que dijeron ser termino?*" A. Which they said was the "terminus."

Q. 43. In speaking of the Arroyo San Pablo, it is spoken of "*dijeron ser lindero;*" while speaking of la punta, the ex-

pression is "deieron ser termino;" what is the difference of the signification of those two expressions? A. The first is, "they said was the boundary;" and the second is, "they said was the terminus." I think they convey the same meaning.

Q. 44. What is the force of the expression, "se continuo la medida, hasta la punta del Tiburon?" A. It means that the measurement was continued as far as the point at Tiburon.

Q. 45. Well, how far is that? A. To the ultimate or extreme point, where the land and water meet.

Counsel Mullen & Hyde move that the foregoing answer be stricken out, as being incompetent.

Q. 46. What is the significance of the expression, "y serviendo de termino y señal decha punta?" A. It means, "and said point serving as a terminus and sign."

Mullen & Hyde move to strike out last answer as incompetent.

Q. 47. What is the exact meaning of the word "señal?" A. Sign or mark.

Q. 48. When did you first visit the rancho of Corte de Madera? A. I was on the land for the first time about three years since, but I have seen it from the bay many times during the last twenty-five years.

Q. 49. What was your object in visiting the rancho on the occasion of your first visit?

J. B. Howard objects to question on behalf of the United States, on the ground of immateriality.

A. I went at the request of parties interested, to examine the same at the boundaries, as called for in the original title papers.

Q. 50. Did you have with you any of the original title papers at that time? A. I did.

Q. 51. Did you have with you the record of juridical possession? A. I had the original or a copy.

Q. 52. Who accompanied you on that occasion? A. To the best of my recollection, Mr. Valentine, Mr. José de la Cruz Sanches, Dr. Lyford, Mrs. Lyford, and perhaps some others.

Q. 53. In that visit, did you enter the encinada between Point Tiburon and Caballos? A. We did.

Q. 54. Did you proceed up to the head of the encinada? A. We did, by land from Saucelito, which is situated on the western shore of the encinada, a short distance inside, at the entrance of the same.

TUESDAY, November 9th, 1875.

J. R. Valencia's cross-examination resumed.

Q. 43. What position, if any, did you occupy on the Rancho Corte de Madera del Presidio, prior to 1859? A. I was then living with my aunt and John Read in 1857 and 1858; I worked around the rancho.

Q. 44. Were you on said rancho prior to 1858? If so, in what capacity? A. I was there in 1839, '40, '41, and in 1845, '46, up to 1849. I left there in October, 1849.

Q. 45. Was your aunt, the wife of John Read, the claimant of said rancho? A. Yes, sir.

Q. 46. In what capacity were you occupied on said rancho during said times, if any? A. Helping rodeo cattle, helping to kill cattle, and in 1846 I acted as mayor-domo of the rancho.

Q. 47. Who was mayor-domo when you first went on this rancho? A. There was no mayor domo.

Q. 48. Whom did you find in general charge of said rancho and the property thereon? A. John Read.

Q. 49. Do you know how long thereafter he continued in such charge? A. I think until he died; I think in 1842 or '43. It might have been in 1844.

Q. 50. By whom were you appointed mayor-domo? A. By Mrs. Read.

Q. 51. Did Mrs. Read ever point out to you any monuments on this rancho as boundary, or marking boundaries of the same? A. She never pointed it out to me, but she told me how far she claimed.

Q. 52. Did any one ever point out to you the monuments marking the boundaries of said rancho? A. I was shown by John Read the lines how far he claimed.

Q. 53. Did you ever see on said rancho any structures of masonry more than a vara high that were put as bounds or boundaries of said rancho? A. I only saw one.

Q. 54. How high was that one, and describe it. A. It was not very high. It was a pile of rock on the top of a small ridge on the side of the hill Tamalpais.

Q. 54. You state you first went to this rancho in 1839, and that John Read died in 1842 or 1843; during these times did you have any conversation with John Read in relation to any structures of masonry established by him, marking the boundaries of this ranch? A. Only these natural boundaries and this pile of rocks I have just mentioned, and a cross he put in on the top of Tamalpais.

Q. 55. On page 36 of your direct testimony, Answer No. 22, you state that Francisco De Harro was the mayor-domo of this rancho, and that he was the son of Francisco De Harro the Alcalde. How do you explain that you were the first mayor-domo between 1840 and 1846, and yet in this answer state that Francisco De Harro was mayor-domo in 1845? A. I never said I was mayor-domo prior to 1846. I went there in 1846. From the time of John Read's death in 1842, or '43, Francisco De Harro was the mayor-domo till he (De Harro) died in 1846. Then I was appointed mayor-domo of said rancho, and continued to act as such to October, 1849.

Q. 56. Please describe the length of the land (beginning at Raccoon Straits) which was called "La Punta del Tiburon."

Objected to by Howard, that it does not appear from the evidence that there ever was a tract of land call "La Punta del Tiburon."

A. I cannot describe it without a map.

Mullen & Hyde here show to witness the official survey of the Rancho Corte Madera del Presidio, as surveyed by Ransom & Allardt in 1874, and question No. 56 is repeated.

A. This is the Point of Tiburon (pointing to the extreme point of land in the survey). It runs back towards Tamalpais Mountain.

Q. 57. How many varas in length, from Raccoon Straits and in the direction of Tamalpais Mountain, would be what is called La Punta del Tiburon?

Objected to by Howard—

1st. It does not appear from the evidence that there is any place called La Punta del Tiburon, and it does appear that the counsel has confused "Tiburon," being the body of land with the boundaries or limits of said land.

2d. Because it is not the best evidence, as it is shown, both by the official plat of survey and by the original diseño, that said tract of land, designated by the counsel as the Point of Tiburon, is called simply Tiburon; and the point is designated as the place where this land joins the Raccoon Straits, being a mathematical point or line.

3d. Because it is incompetent, immaterial and irrelevant to the issue.

4th. Because the witness is removed from the room in which testimony is being taken, for the purpose, as alleged by counsel, of preventing the question from being fully ex-

plained and made known to him in assisting his understanding thereof.

5th. Mr. Brooks adds: The said witness being of Mexican descent, and the English not being his mother tongue, it is only fair to all parties that all the counsel should see that he understands the meaning of the questions asked him.

Mullen & Hyde here state that this witness is ordered to leave the room, in order to avoid having his answer dictated in the objection of counsel.

A. I could not tell the number of varas. I never measured it.

Q. 58. Please point out on the map the length of what was called La Punta del Tiburon. How far did it extend inward or inland? A. The witness points to the extreme eastern point of the land and says, 'This point I can tell you, but how far it extends from said point westerly I don't know; I never measured it.

Q. 59: About how far does it extend from Raccoon Straits inwardly; I mean the La Punta del Tiburon? A. Just as I said before, I cannot say. If you ask me in miles, I could tell, more or less.

Q. 60. How many miles, then, from Raccoon Straits, does the point called La Punta del Tiburon extend? A. It extends from 3 to 5 miles; I know it extends over 3 miles. How much more I can't tell.

Q. 61. How wide, from water to water, is what is called La Punta del Tiburon, and one mile distance from Raccoon Straits? A. It may be a little over a mile in some places; perhaps a mile; in other places over a mile.

Q. 62. Describe the country lying between California City Point and the Head of Richardson's Bay. Give a general idea of the face of the country? A. It is some hilly, and some level. The largest portion is hilly.

Q. 63. Please describe the land lying between Raccoon Straits and a line drawn from California City Point to post marked No. 272? A. On the California City Point side it is very steep. There are some little cañons running down to the Bay. There is a big ridge not far from the letter in red ink, "W," at the end of the words "T 1. NR 5 W." The highest place is between stations 580 and 550. From this ridge, on the side towards Richardson's Bay, the land is not so steep. There are some little flats, near the Bay.

Q. 64. In your judgment, would what is called "La Punta del Tiburon" extend from Raccoon Straits, to about a

line down from "California City Point" to Post No. 272 on this plat, or to a line from California City Point to a point between stations No. 242 and No. 243?

Objected to by Howard, because the witness has designated the extreme point of land as Point of Tiburon, and a point is incapable of measurement.

A. Starting from here it runs farther inland. It would go even farther than that.

*Re-direct Examination.*

Q. 1. To what point inland did you consider or understand the place Tiburon to extend? A. I consider that it extended to the western boundary of the Rancho Corte Madera, as surveyed, and as shown on the official plat.

Q. 2. Where do you understand a line to terminate, measuring from *Holon hasta La Punta del Tiburon servienda de termino y señal dicha punta*.

Objected to, because the call as described is incomplete, and the whole thereof not expressed, to wit: the distance that they measured, 200 cordeles, the same being an essential portion or part of said call.

A. It commenced at the Arroyo Holon, and would terminate at the water at Raccoon Straits.

Q. 3. How was the stone monument you have spoken of situated with respect to the place marked on this map in the western boundary post in stone mound marked "C. M. P."?

A. It is further west than that point, and not shown on this map. It is close to the Holon near Tamalpais; it is on the top of a ridge that comes down from Tamalpais, running eastwardly, crossing the county road.

Q. 4. Was there pointed out to you as a boundary mark an oak tree near the angle of the Holon? A. The oak tree was not pointed out to me, but the creek and pile of rocks were, that I spoke of before—the creek down to the bay, the Holon Creek.

Cross-examined by Mullen & Hyde:

Q. 1. Suppose the distance from Holon "*Haste la Punta del Tiburon serviendo de termino y señal decha punta*" of 200 cordels, of 50 Castillian varas, should be measured along the line of the bay on the east, where then would be the end of the line of boundary of said rancho in that direction?

Objected to by Mr. Brooks as being a question of law, and not of fact, it being a maxim of the law that course and distance yield to a call for a natural monument or object.

A. I don't know, I cannot tell.

Q. 2. Would not the end of said boundary line be at the end of a line of 200 cordels, of 50 varas each, measured from the Holon?

Same objection.

A. It would be at the end of the 200 cordels, of 50 varas each.

*Re-Direct.*

Q. 1. If the call was to run as far as the point, and that the point itself should serve as termino y señal, and a number of cordels was given as the measurement, where would be the end of that line? A. It would be at Raccoon Straits.

Witness points to the extreme point of land in the official survey on Raccoon Straits.

Mr. Cutter moves to strike out this answer, as the witness has not shown himself an expert in measuring distances.

Q. 4. Look at the diseño in the original espediente of this rancho now shown you, and say if you recognize the objects thereon delineated?

Mullen & Hyde object, on the ground that said diseño bears upon its face evidence of having been tampered with in this, that the ink used in marking certain lines thereon is different from the ink used in the general body of the diseño.

S. L. Cutter objects on the ground that the diseño offered is not the diseño belonging to the papers in the claim of the claimants to the Rancho Corte Madera del Presidio, and that this is shown on the face of the said diseño. That the diseño offered is a loose paper, showing no connections with the espediente No. 27, in connection with which it is brought forward, but bears upon its face marks that it belongs to other matters, and has been altered to suit the supposed requirements of the espediente with which it is now offered:

J. B. Howard objects to the paper presented, and to the witness testifying to the same, unless it is first offered as an exhibit, or made a part of the record, or shown to be.

Mr. Brooks proposes to file a certified traced copy of the said diseño, being the diseño in espediente No. 27, entitled "espediente sobre el paraje nombrado el Sausalito solicitado per Don Juan Reid."

Mullen & Hyde interpose the same objections as those made by Mr. Cutter, as made on pages 98 and 99.

A. Yes, sir.

Q. 25. What are the small objects marked on the diseño between the figures 35 and the point? A. It is a rock there, close to the point.

Q. 26. What point is that? A. It is what is now called Kashaw's Point.

Q. 27. Point it out on the map of the official survey.

Objected to by Mullen & Hyde as incompetent, and because there is no such corresponding representation on said official map, which said question assumes.

A. Witness points to the extreme southeast point at the peninsular island on said map.

Q. 28. Do you recognize on the diseño the small oval object marked between the figures 1 and 1½? A. I do.

Q. 29. What is that? A. Another rock; a kind of white rock.

Q. 30. Where does that lie? A. It lies on the Saucelito side.

Q. 31. Saucelito side of what? A. Of this peninsular island?

J. R. VALENCIA.

Peter Gardner moves to strike out all the testimony given by this witness, as to the boundaries of said rancho on the west and easterly sides and their length and termini, as incompetent and being in contradiction of the record of judicial possession.

Jno. B. Howard moves to strike out the testimony of Valencia, on the ground that it was signed by him without either being read to him or reading it over himself.

Examination of Hopkins resumed. Continued from page 84.

Q. 55. What points of the rancho did you see on the occasion of your first visit? A. My recollection is, that we went by land from Saucelito to the Read Ranch House; from thence to the redwood grove, to a point on the creek where there is the remains of a saw mill; from this point we went, by a round-about way, to the Arroyo Holon, near the northeastern corner of the rancho as surveyed; and from thence to the neighborhood of the southeastern extremity of the rancho as surveyed. In this expedition I saw perhaps nearly the whole of the rancho.

Q. 56. In locating the calls of the grant, and the natur-

al objects mentioned in the expediente of juridical possession, did you require any aid outside of the said record ?

(Objected to by Mullen & Hyde, on the ground that it does not appear that this witness visited said rancho in any official capacity, or was instructed by any official authority of the U. S. to visit and examine said rancho for any purpose connected with this survey.)

A. Without oral testimony there might be some difficulty in locating the solar, which is called for as the point of commencement in the juridical measurement; the other points called for, to wit: the Corte de Madera de San Pablo, the Point of Tiburon, the estero and the cañada, I think could be ascertained by an inspection of the original title papers and an examination of the premises.

Q. 57. Could you, unaided, find the boundary on the side of the port of San Francisco to the south, the cove which is formed by points Tiburon and Caballos which, flowing in from east to west, terminates in a short estuary, and a valley which follows the same direction as far as a wood of redwood trees? A. I could.

Q. 58. Could you, unaided, find the house of the rancho, the estuary east of the house which disembogues in said cove, the sausal near to it, the point of said sausal, and the arroyo flowing into the estero through the cañada, the margin of the wood of high redwoods at the foot, and between the same cañada and some ravines which form the base at the high peak called Palmas ?

Objected to by Mr. Gardner as leading.

A. I think I could; however, the point of the sausal, and the margin of the wood at high redwoods, may have changed during the last forty years.

Q. 59. Within what margin would these calls enable you to locate a place called Solar? A. The solar referred to must be situated on the skirt at a redwood grove, standing at or near the foot of a high hill or mountain. I cannot say how much margin this would give in making said location; the calls are too general to locate the solar exactly from the title papers.

Q. 60. Would you locate that Solar somewhere in the cañada between the ranch house and the foot of the mountain? A. I would.

Q. 61. If you locate it anywhere in the cañada, and run north, to an arroyo called Holon, where is found another wood of redwoods called Corte de Madera de San

Pablo, would you require any assistance in finding that call? A. No.

Q. 62. Is there any uncertainty about the call of the "Serro Alto?" A. I think not.

Q. 63. What is that call now named? A. Serro, or mountain of "Tamalpais."

Q. 64. Continuing the measurement as far as the point of Tiburon, the said point serving as a terminus and mark, with the *diseño* before you, and being on the ground, is there any uncertainty as to that call?

Objected to by Mullen & Hyde; 1st, because said call is not fully named in said question, it failing to state that the length of said call in said question was 200 cordels of fifty Castillian varas each; 2d, that the only guide for the U. S. Surveyor-General in this case, in making a final survey of this rancho, is the decree of the U. S. District Court, entered therein; and, 3d, because the said *diseño* of itself was not intended by said deed to be the only guide before the Surveyor-General (and therefore incompetent to be such for this witness) when making his final survey of this ranch; 4th, because it is incompetent.

A. I think not.

Q. 65. Where does that line terminate, according to that call?

Objected to by Mullen & Hyde for the same reasons as above set forth, and for the reason that said call has not been read to this witness, nor has he at this time and in this connection been called to it, and to the *whole* thereof; 2d, incompetent until said specific call, and the whole thereof, is either read to this witness or until it should appear that this witness is fully acquainted with each and every part, and the whole of said call as named, described in the record of juridical possession.

A. According to that call it would terminate at Tiburon, that is at the point where the land and water meet.

Q. 66. Of what is the *espediente* marked "*Espediente sobre el parage nombrado el Sausalito Solvetado por Don Juan Read, 27?*" A. It is the concession to Juan Read of the rancho of El Corte de Madera del Presidio.

Q. 67. Why is it entitled in this way? A. Because, in the first place, Juan Read petitioned for the place of "El Sausalito," as is shown by the first petition in said *espediente*.

Q. 68. What was the result thereof? A. Failing, as set forth in his second petition, to obtain the place of "El

Sausalito," he asked for the place of El Corte de Madera del Presidio.

Q. 69. Where does this second petition appear? A. In the same espediente above referred to.

Q. 70. Did he, with his second petition, present a new diseño?

Objected to by Mullen & Hyde as incompetent, and not the best evidence.

A. The records seem to show that he did not.

Q. 71. Will you please translate here the 7th page of the espediente referred to?

To the Señor General of the Territory of Alta California :  
I, Juan Read, an Irishman, before Your Honor with all due respect, present myself and say: That, since I have not been able to obtain the place called "El Sausalito," I pray you to be pleased to concede me the place at "El Corte de Madera del Presidio," as far as the point of Tiburon, as is shown by the diseño or plan that Your Honor has in your possession. Wherefore, I pray Your Honor to grant my petition, in which I shall receive grace and favor.

Pueblo of San Rafael, September 4th, 1834.

JUAN READ.

Marginal Order.—Monterey, September 23d, 1834. Let this be annexed to its antecedents.

FIGUEROA.

Q. 72. How does this tract of land appear by the diseño or plan which His Excellency had in his petition? A. The diseño or plan referred to, is a picture showing a tract of land, forming a peninsula; the extreme point of which, is marked "Pta," point, written on what is represented as the water, and the word Tiburon, written on what is represented by the picture as land; the tract, as shown, is bounded totally by the waters of the bay, and on the northwest by a line drawn upon said diseño through what is represented as a grove of timbers, at which place is written the words Corte de Madera.

Q. 73. From what circumstances does it appear that this diseño was in his Excellency's possession at that time? A. From the circumstance that it is found in the espediente belonging to the archives of the Secretary of State of the former Mexican Government of California.

Q. 74. Does it appear from the espediente that a diseño was presented with the original petition of Juan Read for "El Sausalito?"

Objected to by J. B. Howard, because the original peti-

tion of Juan Read is not in the record of testimony, as presented to the Commissioner of the General Land Office, upon which the re-survey was ordered.

Objected by Mr. Mullen, because the question is ambiguous, no particular expediente being referred to, and because it is not the best evidence, and further, because the *diseño* concerning which witness is called upon to testify, is a loose sheet of paper, not attached to any expediente whatever; nor does it bear any internal evidence that it was ever attached to or formed a part of any expediente.

A. The *diseño* shows, besides the tract of land now known as the Corte de Madera del Presidio, or Read Rancho, another tract, situated to the west, and which is now known as El Sausalito. On this tract is written the words: "Terreno que solicita, Don Juan Read al otro lado del Pto de San Franco"—land petitioned for by Don Juan Read, on the other side of the Port of San Francisco. I think, from this description, that this *diseño* was presented by Read, with his petition, to the Governor, for El Sausalito. The petition of Read for El Sausalito, sets out that he presents a *diseño* with the same.

Q. 75. How does it appear that this is the same *diseño*?

A. I think it so appears upon its face, as set forth in last answer.

Q. 76. Is not the original map the work of Read himself? A. I have always supposed that it was—only circumstantially, however.

Q. 77. Are not these various corrections made in the words used on said *diseño* the corrections made by De Harro, to correct the spelling of the words? A. There are several corrections that appear to have been made in the spelling of the words, and these corrections appear to have been made by Franco De Harro.

Q. 78. Specify those words, the original spelling and the corrections. A. 1st. The word found near the point, originally written "*tiberun*," is corrected to "*Taberon*." 2d. In the words written originally "*ya de los Angeles*," the abbreviation "*ya*" is corrected thus, "*ysla*." Several other words are not corrected by rewriting, the writing or spelling being simply amended. In the word spelled "*prosidio*," the spelling is not corrected. On a closer examination, I find that in both cases, where the words "*corte*" are found, the words were originally written "*curta*," and the word Sausalito was originally written "*Sousolito*."

– Q. 79. Do those errors indicate a native or a foreigner? A. They indicate that the writing was originally done by a foreigner.

Q. 80. Does the work on the map indicate that the same was made by a landsman or a sailor? A. From the fact that the soundings appear to be given on the map, it would seem to have been made by some one used to the sea.

Q. 81. Are the soundings given in feet or fathoms? A. I think in fathoms.

Q. 82. Do you know what profession Read's was? A. I have understood that he was a seafaring man.

Q. 83. How long has this map been in this expediente? A. I have seen it in the expediente for the last twenty years; and there is a certified traced copy in the files at the Land Commission, made, I think, in 1852 or 1853.

Q. 84. It has been spoken of as a loose paper. Does it differ in this respect from other papers in the archives? A. There are many other diseños in the archives in a like condition.

Q. 85. Why are they so? A. For the last twenty years it has constantly been necessary to make traced copies of these diseños, and to do so it is necessary to separate the sheets of the expedientes.

Q. 86. How does this diseño compare with the majority of those on file in the archives?

Objected to by Mr. Gardner, on the ground that those on file are the best evidence.

A. It is a more correct representation of the country that it purports to picture than are a majority of the diseños in the archives of the places designed to be represented by them.

Q. 87. Can you, without uncertainty, identify the objects delineated thereon? A. I think that I can.

Q. 88. What are the small objects represented in front of the three points in the entrance to the harbor, and the point near the figures 35? A. I presume that they existed at the points referred to, at the date of this expediente, since the cluster of rocks represented by the several dots near the figures "35," are found there at present, and I think are plainly visible from the beach at Saucelito.

Q. 89. Where are the rocks near figures 35 situated? A. They are situated, I think, near the shore of the peninsular island, that is, the western shore, near the point of said island.

Q. 90. Describe the objects delineated on this diseño, commencing at the south head. A. 1st, Point Lobos; 2d, Fort Poin—at which there was anciently a fortification; and where the fort is now situated; to east of which was the former anchorage of vessels entering the port of San Francisco; to the east of which is a sand point, sometimes called Strawberry Island; inside of which is an estuary or creek; south of which is a figure representing the location of the old Presidio, still occupied by the U. S. troops; the next point to the east of same point is point San José, on which there is a fortification; the objects in front are, respectively, Alcatras, Bird Island, and Arch Rock; the cove immediately east of Point San José forms what is now called North Beach; following this, is North Point; to the south of which is the point known as Clark's Point; which is followed by the cove of Yerba Buena; which is followed by Rincon Point; the island to the east of which is known as Goat Island, or Yerba Buena, the opposite shore being called Contra Costa. The figure on the diseño placed near the numbers "10" and "12," represents what is known as "Red Rock;" and the six dots, situated between that rock and the shore, represent a reef; the point to the east, represented on the diseño as Pta de San Pablo, is still known by the name of San Pablo Point; and the two small islands represented as being near the same are known as "*the two brothers.*"

Opposite the Point of San Pablo is found the Point of San Pedro; between which two points are the two islands described on the diseño as Yslas de Maron, which are now called "*the two sisters.*"

On the upper right-hand corner of the diseño is the picture of a church, which shows the location of the Mission of San Rafael; near to which, on the coast of the bay, is the entrance at the San Rafael Creek, from which point, following the coast to the westward, is reached the point of "San Quentin;" opposite to which is the representation of an island, which is the point at which the San Rafael steamer lands; being now connected with the main land; from which point, following the coast towards the northwest, is reached the mouth of a creek, running down from what is represented to be a wood or grove; from this point, following the coast towards the west, the mouth of another creek is shown, which also flows down from what is represented on the diseño as a grove or wood, and along this creek is drawn a line, which represents on the diseño the eastern boundary of the rancho

of El Corte de Madero ; from this point, following the coast to the south, there is a straight projection shown on the diseño, about midway between the mouth of the creek above referred to and the point marked on the diseño "Pta Tiburon," which midway point is now known as "California City Point." Continuing along the coast to the south, the place marked "Punta Tiburon" is reached, and south of which is situated the island known as Ysla de los Angeles. Between Point Tiburon and the southwestern extremity of the peninsula, there is a small bay or cover, as shown upon the diseño ; reaching the extreme southwestern point of the peninsula, there is found near the same a cluster of rocks, as shown upon the diseño.

From the point last referred to, following the coast of the ensenada to the north, the mouth of a creek is reached at the head of said ensenada, which creek is represented as flowing down from a grove of timber ; in point of fact, two creeks are shown upon the diseño as running into said ensenada ; one of these creeks is now known as the Arroyo del Corte Madero del Presidio.

Following the eastern shore of this ensenada towards the south, about two-thirds of the distance from the head of the same and its entrance, and near the shore, is represented a house, marked Sausalito ; following the coast, its extreme southern point is reached, which was formerly and now called Point Caballos, the next point thereto being known by the name of "Lime Point."

From this point, following the shore to the westward, is reached Point Bonito, which forms the northern boundary of the entrance to the harbor of San Francisco.

Besides the objects above described, there are represented on said diseño certain lines which, I presume, are intended to represent boundary lines, together with figures of lines, etc.

Q. 91. How does this diseño correspond, in scale and topography, with the actual position of these objects on the ground ? A. I think that it is approximately correct, and that it is a very good rude picture of the tract of country intended to be represented thereby, and is one among the most correct diseños found in the Spanish archives.

Q. 92. Is the peninsula, the Potrero of Tiburon, included in the boundaries of the rancho on this diseño ?

Objected to by Mullen & Hyde, as it does not appear in this record that this witness has defined any boundaries of this rancho, as represented upon or deduced from this diseño ;

the most that has been said by said witness, a presumption that certain lines represented on said *diseño* he presumes are intended to represent boundary lines, but not necessarily boundary lines of this or any other rancho.

A. I think that the picture represented by the *diseño* embraces the potrero referred to in the question.

Q. 93. Look at the *diseño*, of which a copy is filed herein, and the original is found in State papers, Vol. X. Missions, 1830 to 1846, and state what it is? A. It is a map showing the common lands of the Pueblo of San Rafael; and is accompanied by a record found in the volume referred to, showing the proceedings taken in measuring and setting apart said lands by the government authorities; said map also shows portions of surrounding country.

Q. 94. Is the potrero, designated the official map as "*Peninsular Island*," represented on said *diseño*; if so, how? A. It is; by a well defined small peninsula, connected with the main land by a narrow neck.

Q. 95. Look at the *diseño*, a traced copy of which is filed herein, and state what it is? A. It is a copy of the Rancho El Sausalito, certified to be correct by José Z. Fernandez, acting as Secretary of State.

Q. 96. Please translate certificate endorsed thereon. A. I, the undersigned, Secretary of the Departmental Junta of the Californias, temporarily incharged with the office of the Secretary of State, certify that the foregoing plan or map is faithfully taken from its original, which is found in the respective *espediente*, upon which was made the concession, given by the government to the interested party, and the approval of the Most Excellent Junta, which is found in the said office of the Secretary, of which I am temporarily in charge. In witness whereof, I give the present certificate in Monterey, on the 20th of October, 1840.

JOSE Z. FERNANDEZ.

Q. 97. Does the said potrero appear on said *diseño*; and if so, how?

Objected to by Mullen & Hyde as immaterial.

A. It does—as a small peninsula, connected with the main land by a narrow neck—that is, the main land described on said *diseño* as "*Tiburon*."

Q. 98. Look at the *diseño* in the *espediente* of Saucelito, of which a certified copy is filed herein, and say if the said potrero is represented thereon, and if so, how? A. It is; as a small peninsula connected with the main land of Tiburon by a narrow neck.

Q. 99. Is Tamalpais Mountain represented on the certified copy, and what is it there called? A. It is, and is called Cerro de San Rafael.

Q. 100. Do you find on that map the name of Tamalpais; and if so, to what is it applied? A. I find the name of Tamalpais on said map; it is placed at or near a spot marked by a small circle, at the southwestern skirt, or on the southwestern slope of the Cerro de San Rafael, as marked on said diseño; what this small circle indicates, I do not know.

Q. 101. Did you locate the call for the rancheria "Animas," or the remains of a rancheria called "Resgumos de las Animas? A. I do not think that I did so, as to be able now to identify said place on the diseño.

Q. 102. Do you find the same name on either of the other diseños—and if so, to what is it applied? A. I find it on the map of the common lands at the pueblo of San Rafael; on which map the place "*Animas*," is located, on the southern boundary of the lands of said pueblo, as shown on said map referred to, at a point nearly north of the point shown upon said diseño, as the southwestern extremity at Tiburon, and on the eastern slope of what is designed to represent a high hill or peak.

Q. 103. Did you see any remains, or indications, such as are sometimes called remains of an Indian rancheria; if so, where? A. I saw such remains, but cannot now designate, on the map, the place; that is, I saw shell mounds, which are sometimes called remains of Indian rancherias.

Q. 104. Did you visit this rancho again; and if so, when and with whom? A. I did; about two years since, with Col. Leander Ransom and Mr. Valentine—Mr. Thomas B. Valentine.

Q. 105. For what purpose? A. For the purpose particularly of examining the northern boundary of the rancho, as called for in the record of juridical possession.

Q. 106. In what capacity? A. I went at the request of the parties in interest, and also at the request of Col. Ransom.

Q. 107. In what capacity and for what purpose did Col. Ransom go there on that occasion? A. He went as a U. S. Deputy-Surveyor, for the purpose of making a preliminary examination of the tract to be surveyed.

Q. 108. Did you at any time visit the said ground in company with any of the parties to the juridical possession? A. I did.

Question 108 objected to by Mullen & Hyde as incompetent.

Q. 109. When and with whom ?

Same objection as above.

A. On the occasion of my first visit, with José de la Cruz Sanchez, one of the parties present at the giving of juridical possession.

Q. 110. Did he accompany you in your examination of the ground ?

Objected to as incompetent and immaterial, by Mullen & Hyde, it appearing that this witness visited the premises in a private capacity, and at the request simply of some parties in interest, without naming these parties, and is irrelevant.

A. He did.

Q. 111. Did he point out to you the extent of the juridical possession on the east, south and southwest, and if so, what was it ?

Same objection, by Mullen & Hyde, as made to question 110.

A. He did ; on the east, the Arroyo Holon and the bay ; on the south, the Point Tiburon, and on the southwest, the ensenada and the creek.

Q. 112. How does the extreme line of the salt marsh correspond with the line of ordinary high water ?

Objected to by Mullen & Hyde, because it is not shown that this witness is an expert on such matters, or as a surveyor, or that he visited said rancho for the purpose of making such examinations, or that while there he made such examinations.

A. I think, from my general knowledge of such matters, that the exterior line of the salt marsh corresponds approximately with the line of ordinary high water ; however, I did not make an examination of this question in this case.

Q. 113. Do you know what has been the effect of hydraulic mining upon the rivers of California ?

Objected to as immaterial by Mullen & Hyde, and indefinite.

A. I have understood, and believe it has been, to cause the channels of the rivers to be to some extent filled up ; and I know that the water from this cause has become charged with mud, which I presume is deposited somewhere before the waters of the rivers enter the ocean.

Q. 114. Do you know what effect this cause has had upon the marsh and tule lands on the Bay of San Francisco ?

Objected to by Mullen & Hyde as irrelevant, as it does not appear that any of the calls of this rancho, as recorded in the record of juridical measurement, were measured to or bordered on any tule or marsh lands of the Bay of San Francisco.

A. From personal observation, no.

Q. 115. As a scientific fact?

Objected to, as not calling for the best evidence.

A. From my knowledge of the physical laws of nature, I think that the effect would be to fill up such places on the shores, where the currents would naturally cause such deposits to be made.

*Cross-Examination by Mullen & Hyde.*

Q. 116. What official position do you now fill under the Government of the United States? A. I am not now in the employment of the Government.

Q. 117. Give the date when you first became acquainted with the land itself, now called Rancho del Corte de Madera del Presidio. A. I was first on the land about three years since.

Q. 118. Had you, prior to said date, any knowledge of the boundary lines on the ground, or the calls of juridical possession on the ground of said rancho? A. I had not; the only knowledge I had was acquired from an examination of the original title papers.

Q. 119. You state, that you have been familiar with the calls of the boundaries of this rancho for the last 20 years; I will now read you in Spanish the first call, as set forth in the record of the juridical possession at said rancho: "Die-ron principio á dha. medida desde el solar que mora á la parte del poniente; y puestos á la falda y pié de las lomas que quedan á dho. rumbo y á orillas del monte de Palos Colorados llamado el Corte de Madera del Presidio; se dió principio á dha. medida, y caminando de sur á norte, se medieron hta. un arroyo llamado Holom, donde se halla otro monte de palos colorados que llaman Corte de Madera de San Pablo, noventa cordeles, de cuarenta varas, donde el interesado fijando un punto conocido por señal, dijo que allí pondria una mojonera." What is the meaning in English of the words "y caminando de sur á norte se medieron hta. un arroyo llamado Holom, donde se halla otro monte de palos colorados que llaman Corte de Madera de San Pablo, noventa cordeles, de cincuenta varas," as set forth in the

said call? A. The portion of Spanish last above quoted, means: "and proceeding from south to north, the measurement was made as far as the arroyo called Holom, when there is found another wood of redwoods, called Corte de Madera de San Pablo, ninety cords, of fifty varas each."

Q. 120. What then was the length of this first call of the juridical call of the juridical possession of this rancho? A. Ninety cords of fifty varas each.

Q. 121. What is the meaning in English of the following words in Spanish: "donde el interesado, fijando un punto conocido por señal?" A. Where the interested party, fixing a known point as a sign.

Q. 122. What is the meaning in English of the following words in Spanish: "dijo que allí pondria una mojenera?" A. And he said that he would place at that point a monument, or land mark.

Q. 123. At what point was that at which that monument was to be placed? A. At the end of the line, as above described.

Q. 124. Is your last answer expressed by and included in the Spanish word "allí," as written above? A. It is.

Q. 125. Would not a line of measurement of this rancho, therefore, be a line drawn from the solar going northwardly, and in length ninety cords of fifty varas each, to a point where the interested party fixed a known point as a sign on the Arroyo Holon, and at which point a monument or land mark was promised to be placed by the party in interest?

Objected to by Mr. Sharp, as being a question of law, and not leading to elucidate any issue of fact in this case.

A. I think that the point at which the sign was placed by the interested party, as the place the monument was to be placed, would designate the terminus of the first measurement above referred to.

Q. 126. What was the object, under the Spanish customs in California, of establishing mojeneras at the ends of lines of measurements when giving juridical possessions of ranchos, and which fact is so often referred to in the archives of this office? A. For the purpose of segregating the land granted from the public domain, and to establish the boundaries of the grantee with his colindantes.

Q. 127. Explain how the establishment, at a well-known point, of a monument, say, for instance, of masonry, would be the establishing a boundary of a rancho with a colindante? A. Practically, there would be no necessity for the

establishment of an artificial monument of masonry at a *well-known point* to fix a boundary with a colindante.

Q. 128. You say that the word "punta" means point; does it not also mean headland or promontory, and is it not often used in California, as, for instance, Punta de los Reyes?

A. It is impossible to conceive of a point, when used in the sense above referred to, except in connection with some matter: thus, we say, the point of a needle, the point of a sword, &c.; and so in all cases in which it is used: thus, we say, the point of a headland, cape, &c.; the term is often applied to headlands in all parts of the world.

Q. 129. What is the meaning in English of the words in Spanish, "*hasta el fin de la punta?*" A. It means, "to the end of the point."

Q. 130. Assuming that the word "*punta,*" as used in this case when the words "*punta del taburon*" are used, if it was the intention of the measurers of the Rancho of Corte de Madera del Presidio, in measuring from the Arroyo Holon, to go to the end of the headland or promontory of Tiburon, would they not have used either the words "*hasta el fin de la Punta del Tiburon,*" or some words similar thereto, and would they have ceased their measurements before reaching said point, and, if they had done so, would not so have expressed it? A. I do not think that in making such measurement the words "*hasta el fin de la Punta del Tiburon*" would necessarily, or should be used; and, supposing the line to have been exactly measured, then, if the measurement stopped short of the point called for, the discrepancy between the measurement and the point called for should be explained.

Q. 131. What do you mean by "*exactly measured*" as by you used in the foregoing answer? A. I mean being carefully measured by a surveyor's chain or cord, or by triangulation.

Q. 132. Suppose that in this case the measurers of the Rancho of "Corte de Madera del Presidio," in going from the Arroyo Holon southwardly, should have exactly measured two hundred cordeles of fifty varas each, would it have been necessary to establish at the end of said line, and place there a corresponding artificial monument, say of masonry, if a well-known point marked there the end of such line of measurement as a *mojonera*, according to your own theory, as expressed on page 132? A. Practically, it would not have been necessary.

Q. 133. Please look at the official map, made from the Ransom Alardt survey, of September and October, 1873, and June, 1874, and state whether Richardson's Bay is not formed by the headland of Tiburon and headland of Caballos, with the main land. A. It is.

Q. 133. From your long and intimate familiarity with the custom of the Mexican Government in making grants of land in California, and especially to persons therein of foreign birth, does it appear that said government made grants of land at prominent headlands or points, of value for military purposes, especially in and around the Bay of San Francisco, having no reference to this rancho (Corte de Madera)? A. I find the grant made to Richardson of El Sausalito, who was a naturalized foreigner. I don't now think of any other made to foreigners of lands embracing prominent points on the bay of San Francisco. Angel Island, situated opposite Point Tiburon, was granted to Antonio Ma. Osio, who was a Mexican citizen, which was, however, rejected by the courts of the United States.

Q. 135. What is the meaning, in English, of the Spanish words: "Corte de Madera del Presidio?" A. The place of timber cutting of the presidio.

Q. 136. What presidio do you think was referred to in this name? A. The presidio of San Francisco. I think the presidio occupied the place now occupied by the U. S. troops, which is near Fort Point, and marked presidio, in the diseño referred to in my testimony.

Q. 137. It appears in evidence in this case that the peninsula or head land, represented on the official plat and extending northwestwardly towards the figures and letters in red ink "T. 1, N. R. 6 W.," is now, and for a long time prior to this date, was called Tiburon; and that the place called Corte de Madera del Presidio has been fixed by witnesses in this case as being near the Arroyo del Corte de Madera; do you know of any reason why the applicant Read, in this case, in making his petition for a grant, should describe it as Corte de Madera del Presidio, in preference to calling it Rancho de Tiburon? A. The only reason that I can give, is that the "Corte de Madera" was probably a more noted place than Tiburon, since, from early times it was the place from whence supplies of timber were received for the use of the presidio and other places.

Q. 138. Was it not the custom in California for petitioners for land to describe or name the same, either according to the special names they bore, at the date of the peti-

tión, or arising from the uses or purposes to which said places were appropriated by the petitioners at the date of the petition? A. The ranchos petitioned for, when not named after some saint, generally took their names from some use, legend, or circumstance connected therewith.

Q. 139. Is there any timber at the present time growing on the place called Tiburon, or are there any evidences that any timber has grown on said place; and by Tiburon I mean the headland or peninsula heretofore spoken of; and by timber I mean madera, or building material. A. I do not think that there is any building timber found upon the southern portion of the tract referred to as Tiburon, but I have never examined the place to ascertain the fact in relation thereto.

Q. 140. What is the force of the expression, "Se continuo la mededa hta la punta del Taboron, I se mederon doscientos Cordeles?" A. It means "The measurement was continued as far as the point of Tiburon, and there were measured two hundred cords.

Q. 140. Supposing each cord was fifty varas in length, what would be the length of the line as mentioned in the second call of the juridical possession in the case of this rancho? A. Ten thousand varas would be the length of the call of 200 cords.

Q. 141. What would be the length in varas of the second line of measurement, as measured by those who gave juridical possession of this rancho, as set forth in the record of the juridical measurement thereof? A. The second line, as called for by the measurement, is 10,000 varas.

Q. 142. Please examine the original record of juridical possession and state whether the said measures placed or promised to place at the end of said line of measurement a land mark. A. They did not place or promise to place at the end of said line a land-mark; but they said that said point should serve as a terminus and sign.

Q. 143. What is the meaning in English of the words in Spanish, "Oficio poner alli la correspondente mojona?" A. He offered to place there the corresponding land mark or monument.

Q. 144. Does not the word *there* mean the place where the measurers terminated or ended the measurement of the line at measurement of ten thousand varas in length, and extending southwardly from the point on the Holon, where they promised to place the first land-mark, at the end of the first line of measurement? A. The measurers, or the

interested parties, doubtless offered to place the land-mark at a point which they considered as the southern boundary of the land to be measured.

Q. 145. Suppose that there lay to the east of the Arroyo of Holon, a body of *firm* land, say of the extent of ten miles to the eastward; and suppose that there was an extent of firm land south of the Holon, and for twenty miles, and out of which the rancho of Corte de Madera del Presidio was to be carved, would not, in that case, be the ends of the calls in this record of juridical possession, be at the *ends* of the lines, where the lines of measurement terminated? A. They certainly would, unless there were some prominent points called for as land-marks, and as boundaries, in which case the *certainty* of the land-marks would control *uncertain measurements*.

Q. 146. What is the meaning in English of the Spanish word "del?" A. It means "of the," being a combination of the preposition "de" (of) and the article "el" (the).

Q. 147. What then do you understand the translation in English to be of the words: "*la punta del tiburón?*" A. They mean "*the point of the Tiburón.*"

Q. 148. Are you acquainted with a Spanish dictionary compiled by Mariano Velasquez, commonly known as the Dictionary of Velasquez? A. I have some acquaintance with said dictionary.

Q. 149. Is it recognized as one of the standard authorities for the purposes of translation? A. I think it is in general use for such purpose.

Q. 150. Will you please turn to a copy of said dictionary, and read the first three definitions of the word "*punta?*" A. 1st, Point, the sharp end of an instrument; 2d, extremity of anything which terminates in an angle; top, head, summit; 3d, Point, headland, promontory.

Q. 151. Please look at the new dictionary of the Spanish language, published by the Spanish Academy, 3d edition, as annotated by Don Vicente Salva, and write in Spanish the words there given as a definition of the word *punta*, beginning with the word "Un pedazo," and ending with the word "promontorium," and give us your translation in English. A. Un pedazo de tierra que reá angostando y entrando dentro del mer, "*promontorium*," the translation of which is: "A piece of land which goes on narrowing and entering into the sea."

Q. 152. How does the dictionary rank as an authority for the meaning of words? I refer to the last dictionary

from which you have read—that is, the dictionary of the Spanish Academy. A. It is considered as a standard work.

Mr. Valentine objects to question 151, reserving the reasons, to be given by his attorney, Mr. Brooks.

Q. 153. In the light of the authorities from which you have read, would not the words "*la Punta del Tiburon*" be also translated by the words in English as follows: "the top of the tiburon?" A. Taking the definition of the words "*la punta*," as given by the dictionary of the Spanish Academy, I think not.

Q. 154. Taking the definition of the words, as given by Velasquez, would not the words "*la Punta del Tiburon*" be translated into English by the words "*the top of the Tiburon*?" A. I think not.

Q. 155. Taking the definition of the words "*la punta*," as given by Velasquez, would not the words *la Punta del Tiburon* be also translated into English by the words, the *promontory* of the Tiburon? A. It might be so translated; but if so, I do not think that it would convey the meaning intended to be given said words by the writer thereof.

Q. 156. Taking the same words, as given by the same authority, would they not be translated into English by the words, the *headland* of the Tiburon? A. If so translated, it would not be correct. It might be translated the point of the headland—that is, to correctly convey the meaning of the writer.

Q. 157. Please look at diagram or plat of the rancho of "*Corte de Madera del Presidio*," which is attached to the field notes of Leander Ransom, of November and December, 1873, which is marked in blue pencil "383," and also marked in red ink "*including the marsh land*," and upon which is topographically represented a place marked "*Mount Tiburon*." Please state if said measurers of Corte de Madera del Presidio, in measuring a line from the Holon of 200 cordeles of fifty varas each, should have terminated their measurement at, or near the foot or summit of said Mount Tiburon, would not such fact have been expressed by the words, "*hasta la punta del Tiburon, y sirviendo de termino y señal dicha punta*?"

Objected to by J. B. Howard, for the U. S., and the U. S. District Attorney, on the ground that the field notes referred to are not filed in the case. 2d. That the plat attached to said field note refers to a survey made in October, 1873, whereas the field notes refer to a survey made in November and December, 1873; said plat excluding the

marsh lands, and said field notes including the marsh lands; and because said papers, as exhibits, are not offered, and are immaterial, irrelevant and incompetent.

A. I think not.

Q. 158. Please look at same map and state whether you can indicate thereon, and if so, please do so, a line which, drawn from the Arroyo Holon, represented on said diagram, and extending southerly, "*hasta la Punta del Tiburon*," would measure 10,000 Castilian varas, taking as your unit of measure a surveyor's chain, which is 23.73 varas long, at or near what point on said diagram would the end of such line reach? A. By referring to said map, and applying thereto a scale, I find that a line drawn from the Holon southerly 10,000 varas would not reach "*hasta la Punta del Tiburon*" (as far as the Point of the Tiburon), but would terminate short of said point, and near a place marked on the diagram referred to, "*Mt. Tiburon*."

Same objection by Mr. Howard, for the U. S., as to question 157.

Q. 159. Placing yourself on the official plat of the survey of the Rancho of Corte de Madera del Presidio, and a place marked Post 480 thereon, what would a line, extending from said point to the west, and 94 cordeles of 50 varas each in length, reach? A. Ninety-four cordeles measured to the west, from Post 480, would reach a point in the bay, a little to the south of Strawberry Point.

Q. 160. Taking the first map referred to and placing yourself at a place marked thereon "*Mount Taboron*," and measuring the same number of cordeles, to-wit, 94 of 50 varas each, and measuring westwardly towards the head of the "estero," which is near the base marked "House of John Read," and represented east of said house, and state where on said ranch the end of said measurement would terminate?

Objected to by Mr. Howard for the U. S. and pre-emption claimants, on the ground that the natural monument being established as Point Tiburon, and the point of the Sausal, courses and distances are subordinate, and the question immaterial.

A. Looking at the first map referred to, and applying a scale thereto, I find that a line measured westwardly from the point on said map marked "*Mount Taboron*," a distance of 4,700 varas, in the direction of the point on said map marked "*Juan Read's adobe house*," ends at a point on said map, between B and E, which point is about ten chains

short of the point on said map marked "*Juan Read's adobe house.*"

Q. 161. It has been stated in evidence by a witness in this case, who has known the the same for thirty-five years, that Tiburon, or the place Tibuñon, to the western boundary of the official plat. Now will you translate into English the Spanish words, "*Corte de Madera del Presidio?*"

A. The words referred to mean in English, "The timber cutting of the Presidio."

Q. 162. How far distant from Raccoon Straits is there any timber growing at the present time on the land in question? A. I cannot say.

Q. 163. What particular kind of timber is referred to in the title papers of this case? A. Redwood timber.

Q. 164. What is the official name of the ranch that Juan Read petitioned for in this case—or the land that he petitioned for? A. "El Corte de Madera del Presidio."

Q. 165. You state, that the ranchos, when petitioned for, generally took their names from some use, legend or circumstance connected therewith, when not named after some saint; do you not suppose that this particular rancho derived its name from the particular use to which it was appropriated, or to its contiguity to lands where timber-cutting was carried on? A. I have in my answer to a former question stated that I presumed that the rancho in question derived its name from the place at which timber was cut for the use of the Presidio, the Mission Dolores and other places.

Q. 166. Assuming to be true, as has been stated in evidence in this case, that all the land represented on the official plat, from Raccoon Straits to its western boundary was called Tiburon; and assuming to be true, that part of said tract was called "Corte de Madera," in this petition, would the entire tract called Tiburon have been granted by the Mexican Government, or only the particular place called Corte de Madera? A. It would depend upon the descriptive calls of the title papers.

Q. 167. Are you acquainted with a place on the point of land projecting into the Bay of San Francisco, and lying to the south and east of a straight line drawn from California City Point, as represented on the official map, to post No. 272 thereon, and called, or named on the diagram attached to Ransom's field notes "*Mount Tiburon?*" A. I do not now remember the location of said point, I heard of such a place, and may have seen it, but I cannot give its exact locality.

Q. 168. Assuming that there is on said point on the

ground such a place as Mount Tiburon, and that the top thereof, as represented on the Ransom diagram, is correctly located, and that its position on said diagram is identical with the place marked Loma Alta, as delineated on diseño in Exhibit "X. Y. Z.;" and supposing that the measurers, when terminating the measurement of the second juridical call, terminated the same at the extremity of Mount Tiburon, would or would not such fact be expressed in the use of the words "hasta la punta del Tiburon?" A. I think not.

Q. 169. If the diseño in this case had not been found with the papers in the case, please state whether said diseño bears any internal evidence of its pertaining to this case more than to any other case? A. It applies as well, or better to the Rancho of Saucelito than it does to this case; but it is manifest *per se* that it is a representation of one of these ranchos, or both, as it is.

Q. 170. Is it not also a fair representation of the headlands at the entrance of the Harbor of San Francisco, and certain points and islands in the bay of same? A. It is.

Q. 171. To this extent, might it not be regarded as a rough nautical chart, especially taken in connection with the figures thereon representing fathoms? A. I think not, because I find on the diagram the words "tereno que solicita Don Juan Read al otro lado del Pto. de San Francisco."

Q. 172. Did you ever visit this rancho in any official position, under the authority of the United States? A. I did not.

Q. 173. Have you any knowledge or information as to who made or compiled the body of the diseño in this case? A. I have no positive knowledge; nothing more than a conjecture.

Q. 174. I call your attention to question 94 of your direct answer thereto; please state whether the diseño, which purports to be the diseño in this case, or had you reference to the diseño in some other case? A. I referred to the diseño at the Pueblo of San Rafael and the diseño in the Saucelito, and not to the diseño in this case.

Q. 175. You state, in answer to question 109, that you visited this rancho with José de la Cruz Sanchez; is said man now living? A. I understand that he is.

Q. 176. Was he related to John Read, or to his family, in any manner? A. I think he was the brother of Mrs. Read, widow of John Read.

Q. 177. Do you know if he has any claim or any interest in any part of this rancho? A. I do not know.

Mullen & Hyde move that all the questions and answers on page 125, from question 108 to question 112, be stricken out, as incompetent.

Question by Mr. Shanklin :

Q. 178. From your knowledge of juridical measurements, set forth in the various papers in this office in relation to the measurements of lands, have you found that the direct line of measurement between any two points, such as in the Read grant, from the "Solar" to the "Holon," and from the Holon to "La punta del Tiburon," is used to designate the boundary line of the rancho, or that the measurement was merely intended to mark the extremities?

Mr. Howard, for the United States, requests counsel to state if the witness is being examined as an expert.

Counsel answers that this witness has been called on behalf of the Read heirs, on account of his acquaintance with the records of the office and his acquaintance with the Spanish language, and he has been questioned in relation to the juridical measurement of the Read Rancho, in direct examination; and for the purpose of cross-examination I have asked this question, to test his knowledge in construing juridical measurement, as customarily made by the Spaniards, and as containing the intention of such measurements.

A. The manner in which juridical surveys were to be made under the Spanish laws, and how the records of such surveys were to be made, is laid down and fully explained in a work entitled "*Medidas de Terras y Aguas*," compiled by one Galvan.

The instructions given in this work for making a survey of a rancho or tract of land are: To take some interior spot as an initial point, from which lines were run to the four cardinal points, the distance required, at the termini of which lines land marks were placed; this having been done, the exterior boundaries were to be run, making a square or oblong, or such other figure as the topography of the country might require.

In making juridical measurements of lands in California, but little regard appears to have been given to the rules laid down by Galvan, save in the manner of making up the records of such measurements. In fact, the measurements of lands in this country, as shown by the field notes of the same, have been made in almost any manner—sometimes, by measuring a line for the length, and another for the width of the tract, by which an estimation at the area was

made; sometimes, two lines were measured, one on each side. Always the measurements were carelessly made, and hence incorrectly; so that as to course and distance, nothing can be more uncertain than the courses and distances given in the field notes of juridical surveys, as executed in California, during the time of the Mexican Government; so that it is impossible to deduce any certain rule or custom, as practiced by the Mexicans, in giving juridical possession of ranchos in California. In making these measurements, the line of measurement was not always run upon the boundary of the rancho, or designed to represent the same.

Q. 178. Please to look at the *diseño* of the Pueblo of San Rafael, found in Vol. 10 of Missions, page 365, which has already been shown you in your direct examination, and state whether or not the ranchos Saucelito and Corte de Madera del Presidio are represented thereon; and if so, state their relation to each other, and to the Pueblo of San Rafael, as shown by said map. A. The places Saucelito and Tiburon are shown on said map; they appear in the form of two peninsulas, running out into the bay, joined together on the northwest—the peninsulas being separated by an *ensenada*, or small bay, and being separated from each other on the main land by the representation of a creek; and both being bounded on the northwest by the line of the pueblo lands of San Rafael.

Q. 179. Please to examine the *diseño* of the Rancho of Saucelito, as filed in case No. 104, a copy of which is filed as an exhibit in this case and marked \_\_\_\_\_ and state whether the same two ranchos are represented thereon; and if so, describe their situation and relation to each other as represented therein. A. They are represented on said *diseño*, their relations to each other being similar as those described in answer to last question.

Question objected to by J. B. Howard, as irrelevant and incompetent: 1st. Because said *diseño* does not form part of the Mexican archives. 2d. Because it does not appear from the archives that there is, or ever has been, any grant represented as lying west of the Read Rancho. 3d. Because it is shown by the archives that no such grant as that referred to, namely, case 104, ever existed; even the title papers relative thereto, as in *espediente* No. 111, are shown to be antedated, forged and fraudulent in all respects.

Q. 180. The *diseño* filed with the petition of John Read for a grant of land, as referred to in his second petition, and a copy of which is filed in this case as exhibit \_\_\_\_\_, and

question asked, please look at said *diseño* and state whether, in your opinion, there are any lines drawn thereon which did not form any part of the original *diseño*; if so, designate them, so that we can understand their location. A. I think that all of the straight lines shown on the *diseño* referred to was placed thereon after the making of the other portions of the map; how long afterwards I cannot pretend to say. The straight lines, intended to mark that portion of the Read Rancho not bounded by the waters of the bay, are made with different ink from the lines designed to show the boundaries of the Saucelito Rancho; *these lines* are in different ink from that used in making the map. I think that the lines in pale ink, representing the boundaries of the Read Rancho, were made subsequently to the lines representing the boundary of the Saucelito Rancho.

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MONDAY, Nov. 15th, 1875.

All present.

S. R. Throckmorton, a party to this case, moves to expunge from the record and strike out so much of the objection to question No. 179 as refers to paper No. 104 named in said objection to expediente No. 111 referred to in said objection, for the reasons that said assertions therein made, referring to said papers so numbered, are slanderous, libelous, and maliciously false and untrue, and have no foundation in truth, for such objection or justification therefor, the said cases therein referred to having been decided by all the courts of the country to be good and valid.

J. B. Howard, for the U. S. and pre-emption claimants, hereby accepts the issue tendered by S. R. Throckmorton, and will undertake to prove that the case referred to, as case No. 104 of the late U. S. Land Commission, and expediente No. 111, for the Rancho of Saucelito, alleged to have been granted to the late Wm. A. Richardson, and now claimed by S. R. Throckmorton *et als.*; and all the title papers relative thereto, are fraudulent, ante-dated, forged or counterfeit; that the said exhibit, purporting to be a plat or *diseño* of said rancho, is part of said case No. 104; that no juridical possession was ever given to any person or persons by the Mexican Government; that the possession claimed was given of a small portion only of the lands embraced in said exhibit, without authority of law, and by a person, Salvador Vallejo, whose authority to give juridical possession or exercise the functions of a justice of the peace under the laws of Mexico was expressly denied by the Sup-

reme Court, Fiscal, and Governor of California; that the grant on which said title is claimed is filed in said case No. 104; that it is dated February 11, A. D. 1838, signed by Juan B. Alvarado, Governor, and Francisco Arce, as 1st Official to the Secretary of State; that at the date of said grant the said Alvarado was not Governor, and Francisco Arce was not 1st Official; and other reasons of equal force, showing the invalidity of said exhibit; wherefore said exhibit being introduced for the purpose of aiding in the ascertainment of the juridical possession of the Rancho Corte Madera del Presidio.

The United States objects to the introduction of a forged or fraudulent paper for the purpose of determining a question of boundary, or any other question pertaining to the issues of this cause, under the law and the decision of the Secretary of the Interior, of January 6, 1872, by which the rancho was ordered to be resurveyed.

Silas Lent being called as a witness by Messrs. Mullen & Hyde, and being first duly sworn, deposes and says: My name is Silas Lent; I reside at 2105 Mason St., San Francisco. My occupation is capitalist.

Q. 1. Are you acquainted with the land in Marin County, California, claimed as the Read Rancho, and called the Corte Madera del Presidio? A. I am.

Q. 2. Please state the date when you first became acquainted with said lands, and the circumstances under which you became acquainted with the same? A. In 1856 I first became acquainted with it. Goodall, Hinckley & Curtis and myself, located 320 acres on the peninsula, bounded on Raccoon Straits, as Government land. We had the title searched by Mr. Wilson. He said—

Objected to by Mr. Brooks, that the matter of this answer is irrelevant and incompetent.

Objected to by Mr. Sharp on the same ground.

He said the claim was Limentour's. I inquired of Capt. Richardson [Capt. Wm. Richardson], of the Saucelito Rancho, if he knew where the southern boundary of the Read Rancho was situated. He pointed out a large bunch of rocks, or a rock on a flat, a short distance above Kershaw Causeway. He lived on the island. The pile of rock lay to the north or northeast of this causeway, and that Richardson said that he was with the surveyors at the time it was surveyed, and that he helped pile a pile of stones onto this rock of which I have spoken as a boundary, as the southern boundary. That he said to Read at the

time, Why did not you apply for the whole of the land, meaning the point. Read replied: I was afraid to ask for too much, for fear I would not get any.

Mr. Brooks moves to strike out the whole of the answer after the words "Goat Island," in his answer No. 2, as irrelevant and incompetent.

Mr. Sharp makes the same motion.

Q. 3. Please state whether thereafter you went upon said land at said point spoken of by you as Government land, and if so, what did you do thereon? A. I went there under the impression that it was Government land, built a house, and lived there between three and four years, until driven off by the Reads.

Q. 4. Have you returned to said lands to reside there since you were driven off by said Reads? A. I have not.

Q. 5. Was the fact that you were so driven off by the Reads, the only reason why you left said land? A. It was.

Q. 6. You state that Capt. Richardson, of the Saucelito Rancho, said that he was with the surveyors at the time said southern boundary of the Read Rancho was surveyed. What surveyors have you reference to? A. The surveyors under the Mexican Government.

Q. 7. What did you understand said pile of stones to indicate?

Objected to by Mr. Brooks, as irrelevant and incompetent. Same objection by Mr. Sharp.

A. The southern boundary of the Read Rancho.

Q. 8. Did you ever see upon said peninsula, and at the place and position by you described, any pile of rock? A. I never went upon the top of said rocks to see if there was a pile of rocks there; I have been all around it, shooting quail.

Q. 9. Was there any high or prominent land mark near to the place pointed out to you by said Richardson? A. No, except as I have already stated.

Q. 10. Describe, as well as you can, as near as you can, the land mark you mention. A. It is some length of time since I saw it. It is a bunch of rocks, I should judge to be from 15 to 25 feet in height, somewhat in a circular form, and had around the top some stunted bay laurel.

Q. 11. How was said land mark or pile of rock situated as to distance with reference to water on either side of the peninsula? A. I should judge it to be from 100 to 300 yards from the shore of the bay called Saucelito.

Q. 12. Did said pile of rocks appear as if piled there by hand, or artificially, or did the same bear the appearance of

being a natural pile of rocks. A. They were a natural pile of rocks, with a pile of rocks placed upon the top, as I was informed by Richardson.

Objected to by Mr. Brooks as incompetent hearsay, and inadmissible.

Same objection by Mr. Sharp.

Q. 13. Was said place and pile of rocks as prominent as any other land mark in that vicinity? A. More prominent, I should judge, it being peculiar in its shape and location.

Q. 14. Who was Kershaw? A. He was a gentleman that lived on the island—"Kershaw Island."

Q. 15. Was he related to the Reads? A. Not to my knowledge.

Q. 16. Do you know if he occupied for himself or for said Reads? A. He pretended to own it.

Q. 17. Do you know by what name this island was called when you were there? A. No, I do not. Sometimes it was called Tiburon. Kershaw's Island was sometimes called Tiburon.

Q. 18. Have you known the island to be called Tiburon as often as the point itself? A. I could not say.

*Cross-Examination by Sharp.*

Q. 1. When did you have the conversation with Capt. Richardson? A. In the early part of 1856.

Q. 2. State where, and who was present. A. A number was present. It was on the Saucelito tug and water boat; I was engineer at that time; I cannot name a single person who was present at that time.

Q. 3. Where was the boat when this occurred? A. She was crossing from Saucelito; she was about a  $\frac{1}{4}$  of a mile from the Saucelito side.

Q. 4. Had you any acquaintance with that section of country prior to 1856? A. No; only I had been shooting over there.

Q. 5. When was it the Reads drove you off? A. In 1860, I think.

Q. 6. Was you a defendant in the suit in U. S. District Court? A. No, sir.

Q. 7. How was it? By suit? A. No; Read came there and required me to leave or pay rent?

*Cross-Examination by Mr. Brooks.*

Q. 1. When did you first go upon that land? A. In

1856, to settle. About a year before I was there shooting.

Q. 2. How was it occupied at that time? A. There was no one living there at that time; there was no house.

Q. 3. Didn't the cattle of Reed occupy it? A. Not that I knew of.

Q. 4. Was there anything to prevent the cattle of Reed ranging on that land as well as on the adjoining land? A. There was nothing.

Q. 5. From the Point of Tiburon west to the mountain was there anything in the way of a building or a fence when you first saw the land? A. I never knew where the Point Tiburon was. Some called it Kershaw's Island; some called the point at the east entrance of the strait, and some called the whole point of land as the Point Tiburon.

Q. 6. Assuming the point to be the front on Raccoon Straits, was there any fence or obstruction to the range of cattle from said straits to the western limit of that promontory or that tongue of land? A. None, to my knowledge.

Q. 7. What was the exact point that you located upon? A. I built a house about the place on the official map (here shown witness) marked "t" in the word Point, between the figures in red ink, sections 5 and 6, T. 1, S. R. 5 W.; I was there when the Mathewson survey was made.

Q. 8. Then am I to understand you that from 1855 to 1860 you were in the habit of frequently passing over the land shown in the official map from the place marked on the map Tiburon, to the neck marked "T. 1, N. R. 6 W.," in red ink? A. Not from '55, but from '56 to '60 I had frequently passed over it; prior to that I had been on the point; I was in the habit of hunting over the ground from 1856 to up to 1860. I had frequently been over the ground.

Q. 9. Then I understand you to say that you have no recollection of seeing any fence crossing that land during those years. A. I never did, but referring to the causeway, I saw a fence there, but not on the main land.

Q. 10. At the time you spoke to Richardson and had the conversation with Richardson, had it become generally known that the Limentour claims were fraudulent and fabricated? A. I could not say whether it was generally known or not.

Q. 11. Was it known to you? A. We supposed it to be a fraudulent claims and paid no attention to it whatever, as it included "Angel Island," "Alcatraz," "Farallones," "Yerba Buena Islands," and we thought that such a claim was preposterous.

Q. 12. What I desired to know was whether the fraudulent character of these claims had at that time been shown in Court? A. I think that it was after.

Q. 13. Have you not placed your house too far back from the water? A. It was about 100 to 150 yards from the water. Its position is shown on the plat of the Mathewson's survey of this rancho, and I think it is correct. It is marked S. Lent's house.

*Re-Direct Examination.*

Muller & Hyde here requests the U. S. Surveyor-General to produce for the purposes of use in this case, the diagram inclosed with and that accompanied the communication of Commissioner of the General Land Office, of February 5th, 1872, addressed to this office, and upon which diagram were marked the dotted blue lines, representing approximately the eastern boundary of the Rancho Corte Madera del Presidio, according to the 2d hypothesis set forth in said communication, and which dotted blue lines extended from near meander course No. 105 to near meander course No. 24, as said courses are marked on the Mathewson's survey of 1858, as set forth in said communication.

Objected to by Mr. Brooks, that this is an illegitimate and irresponsible method of putting assertions on the record, unsupported by any testimony and foreign to the issues now under examination.

Sol. A. Sharp joins in said objection.

Q. In the absence of the map which I have referred to, please look at the Mathewson's survey, now before you, and state how a line drawn from the end of course No. 105 to the end of course No. 24, would correspond as to position or location on the ground with the position or that location of the land mark or pile of rocks mentioned by you in your? A. It would not correspond at all. That would be too far north and west; that is, from the pile of rocks of which I have made reference to.

Q. Indicate on said Mathewson plot the position of said pile of rocks, as near as you can. A. Between course 98 and 99 on this map there is an arroyo and a buckeye tree standing. I should judge that pile of rocks to be located between No. 98 and 99 stations on said map, and from 100 to 300 yards from the shore.

Q. How long after your first entry upon the lands of Point Tiburon was it before you were disturbed by the Read family? A. After the Read family came into possession, and after the Mathewson survey.

Q. Then you were on these lands three (3) years before you were disturbed by the Read heirs? A. Yes, about that time.

Q. Were you there before or after the date of the failure of the Limentour claim was rejected? A. I don't know.

Q. Please give the date when you left these lands in consequence of the claim thereto set up by the Read family. A. In November, 1860.

Q. How long prior to said date did the Read family set up claim to possession to the land which you occupied? A. Several months prior to that.

Q. Was it before or after the Mathewson survey? A. It was after the date of the Mathewson survey.

*Cross-examined.*

Q. Could you from the tug-boat a quarter of a mile out from Saucelito see the pile of rocks you have spoken of? A. Yes, sir; I think I could see it, and know I did see it at that time.

Q. What time did you, during 1856, was it you went to reside at Tiburon Point? A. About September.

Q. How long previous was it you had the talk with Richardson? A. I think it was about April or May.

Q. Could it have been as early as March? A. I think not, sir.

Q. How long prior to his death? A. I could not say.

SILAS LENT.

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TUESDAY, November 16th, 1875.

All present.

Thomas B. Valentine being called as a witness by the U. S., being first duly sworn, deposes and says: My name is T. B. Valentine; my age, 45 years; residence, San Francisco; occupation, speculator.

Q. 1. Are you interested in the matter now in controversy; if so, what is the nature and extent of your interest? A. I am. I claim an interest in all the land within the juridical possession given to the late Juan Read in November, 1835, under the grant to him of October 2d, 1834, situated outside of the survey made by R. C. Mathewson, October, A. D. 1858. Said Mathewson was a Deputy U. S. Surveyor.

Q. 2. Please examine the plat of the survey of the Rancho Corte Madera del Presidio, as made by R. C. Mathewson, Deputy U. S. Surveyor, in October, 1858, and

state whether all the lands you claim are represented on said map or plot; and if not, state what other lands, if any, you claim.

Objected to by J. W. Shanklin, that by his answer this witness cannot bind other claimants from the same source of title whose claims are outside of the Mathewson survey. Also by a statement of what he now claims he cannot off other claimants outside of the Mathewson survey who have derived title from himself.

Objection concurred in by Mr. Brooks; and he further objects that the extent of Mr. Valentine's claim appears by his claim and intervention filed in the papers in this proceeding, and the extent of his rights in the land is a matter of law depending upon the construction of documents in evidence.

Objected to by Messrs. Mullen & Hyde, as being incompetent.

A. They are not.

Q. 3. Are any of the lands you claim represented on said plat? A. Yes; some of them are. I point out Peninsula Island, another small peninsula, called Island, on said map between Peninsula Island and the main land. Another peninsula called Island on said map lying opposite post C. M. P. No. 145, on said map. Also all the salt marsh lying adjacent to the main land on the north, south, and west of the rancho, and east of the estero, spoken of in the juridical possession, and the land as shown on said map lying northwest of the N.W. line of said survey.

Q. 4. Please examine the official plat of said rancho as made by L. Ransom and G. F. Allardt and state what land on that map you claim within the survey therein represented? A. I claim all the following peninsulas within said survey: The peninsula opposite Peninsula Island, lying between it and the main land; also the peninsula upon which is marked "De Silva's Wharf." All.

Q. 5. Do you claim any other lands within said survey as represented on said plat? A. Yes; I claim a piece of land known or designated as the "Gardner place," between stations No. 603 and No. 564.

Q. 6. Please state if you were a party in interest claiming title under the confirmees pending the former survey which was disapproved by the Secretary of the Interior, January 6, 1872, upon which order a re-survey of the Rancho Corte Madera del Presidio was ordered to be made—I mean up to, and prior to, January 6, 1872, at any time?

Objected to as immaterial by Messrs. Mullen & Hyde.

A. I was, as shown by my deeds on file in this case.

Q. 7. Please state whether you were, at any time prior to January 6, 1872, represented in person or by counsel in the application upon which said re-survey was ordered at that date? A. I was represented in person. I made application in person for the re-survey, and also by counsel as well.

Q. 8. State who, if any other persons or interest was represented with you in said application.

Objected to by Cutter on the ground that the record is best evidence.

A. I think the Read heirs were making said application. The record shows all the facts—that is my impression; I am not positive.

Q. 9. State who it was that paid or defrayed the expenses of the re-survey represented on the official plat now before you. A. The Read heirs, myself, and Mr. J. B. Howard, a portion.

Q. 10. State when and where, and to whom, said payments were made, so far as you know. A. The first payment of \$417 was paid into the office of the U. S. Surveyor-General some time in October or September, A. D. 1873, by the Read heirs and myself. Subsequently, it was found that that amount was not sufficient to complete the survey; then additional sums were paid by the Read heirs, J. B. Howard, and myself.

Q. 11. In whose behalf did J. B. Howard represent the payment made by him as being his principal, or in whose interest was the payment made by him, as represented?

Objected to because it does not appear that Mr. Howard made any payment for any person connected with the rancho—simply that he made a payment.

A. In behalf of Thos. Luke Riley, who was represented to me to be a pre-emption claimant.

Q. 12. For what lands? A. For lands lying west of the west line of the official plat.

Motion now made by J. W. Shanklin to strike out Questions 11 and 12 and the answers thereto, because they show that the deposit or payment made by Mr. Howard was not made in behalf of parties claiming an interest in the Read rancho, as required by law, prescribing who shall make payments for the survey of Mexican grants. And further, because they have developed the fact that the money was not deposited, as required by law, in the U. S. District Court;

the Surveyor-General having no authority to receive money for such survey.

Q. 13. Please state who made the payment referred to in behalf of the Read heirs. A. Dr. Benj. Lyford, the husband of one of the daughters of the late Juan Read, grantee or claimant of the Rancho Corte Madera del Presidio.

Q. 14. State what was the agreement, the terms and conditions exacted by Dr. Benj. Lyford and J. B. Howard as a condition and consideration for said payment. A. It was with a view of expediting the case. It was to be the last payment to be made.

Q. 15. Was it not understood and agreed expressly at the time that the survey then made should be final and conclusive on all parties? A. I don't recollect that. My recollection was that we would not pay any more money for the survey.

Q. 16. Please state if you were present at the time the late Leander Ransom, Deputy U. S. Surveyor, went upon the ground near post No. C. M. 181, and began the re-survey of said rancho? A. I was present when a preliminary examination for the survey was made of said rancho by L. Ransom. Dr. Benj. Lyford, Mr. G. F. Allardt, Deputy Surveyor, S. R. Throckmorton, Peter Gardner were all present. I don't recollect the others present. I am not sure that Allardt was there. I will examine my memorandum. I can give the exact date of this from my memoranda.

Q. 17. Please state for what purpose you went there. A. We went there for the purpose of fixing a starting point for the re-survey.

Q. 18. Please state what conclusion was arrived at by all or any of the parties present as to the initial point of re-survey.

Objected to by Shanklin, as it could only be determined by the Deputy U. S. Surveyor, and by him made a matter of record. This witness' recollection cannot determine the fact.

A. I don't think that there was any definite conclusion arrived at.

Q. 19. Question repeated. A. That is my impression.

Q. 20. State, as nearly as you can recollect, what the suggestions of the respective parties were?

Objected to by Shanklin as being immaterial and irrelevant, as not calling for the best testimony.

A. I think the impression that I had was, that the line was fixed or determined upon in the ejectment suits of

*Bolton vs. Van Reynegom et al.*, in the U. S. Circuit Court.

Objected to as not being responsive to the question.

Q. 21. Point out the line on the official map fixed on in the ejectment suit?

Objected to by Mr. Shanklin as irrelevant, immaterial, and because the U. S. Deputy-Surveyor could not be bound in making his survey of the grant, by any such proceeding referred to, and because the witness has not testified that any definite line was agreed upon, pointed out, or agreed upon at the time referred to; and further, because it is not shown that the records in the case sworn to were in the possession of the parties on the ground when the preliminary examination was made, or that an examination was made by them of the papers in the case referred to, as the basis of their action. And further, that it was not shown who the parties were at the time making the suggestions, or that their interests were sufficient to bind the parties in this case.

A. I could not do it; I was only supposing that that was the line. I don't know that there was any line fixed in the ejectment suit. I suppose that the starting point was the point fixed by Judge Sawyer; I myself pointed out that.

Mr. Sharp here objects to all the testimony of this witness as to all agreements made by this witness with J. B. Howard and Dr. Benj. Lyford, and as to all the testimony relating to any payments for the survey, and by whom made, and also to all of the testimony as to what he, the witness, claims in the premises in controversy, or any adjacent thereto, as being incompetent, irrelevant and immaterial, and as not tending to prove any fact in this issue, and moves to strike the same out on said ground.

Cutter, and P. Garden, for himself, make the same objections and motion as made by Sharp.

Q. 22. "(Question No. 3) Are any of the lands you claim represented on said plat?"—the question referring to the Mathewson survey of 1858, and the land referred to being the 4,460 21-100 acres thereon represented. Please read over your answer to your question No. 3, and say if it is correct? A. I was under the impression in answering the question, I suppose it referred to all that was on the paper, and not that which was on the surveyed plat. I now state that I claim none of the lands within the surveyed plat referred to; I never have claimed any of the land represented on said Mathewson survey.

The plat of the Mathewson survey is here offered in evi-

dence by the U. S. District Attorney, Walter Van Dyke, Esq. Mr. Gardner objects to J. B. Howard appearing for the U. S. The plat is also offered in evidence by J. B. Howard, attorney for the U. S., J. J. Cushing, Barlow and Riley. Said plat is marked Exhibit "Mathewson."

Q. 23. Who was the Bolton referred to in said ejectment suit?

Objected to by Gardner, on the ground that said suit is now pending in the U. S. Court.

A. James Clinton Bolton. He sued on a deed for certain lands given by the Read heirs. The papers will show the date. It was about 1865 or 1866.

Q. 24. State if you derived title to any portion of the land you claim from said Bolton. A. I do, as appears from my deeds on file, being a part of the Rancho Corte Madera del Presidio.

By Cutter—Move to strike out that portion of the answer referring to his title and its derivation, as not being the best evidence.

Counsel says the question was only asked for identification.

Q. 25. Please state who is the Van Reynegom, defendant in said ejectment suit, and what relation to or interest in, if any, he and his co-defendant claimed in the land Corte Madera, represented on the official plat before you.

Objected to by Cutter, as not a proper way to show the fact, and not the best evidence.

A. They claimed possessory right, being located upon the land.

Witness, with the official map before him, says: Commencing at post C. M. 180, of the official survey, running some distance west of the west boundary of the rancho as surveyed; and running thence in a northerly direction to the Holon to where the northerly line will strike the Holon, to the section line between sections 16 and 17, T. 1, N. R. 6 W.; thence easterly, along the shore of the Bay of San Francisco, as far as the salt marsh extends—running outside of the plat as far as the salt marsh extends, at post No. 659 of said survey; thence along the west line of the Mathewson survey to the point of beginning. The records will show.

Motion by J. W. Shanklin to strike out the foregoing question and answer as immaterial and irrelevant to the questions at issue in this case; it appearing from the answer that the question relates to a possessory claim not intended to establish the boundaries of the Read rancho, either

as regards the exterior boundaries thereof or the juridical measurement.

Q. 26. Please state whether any of the parties present at the time of the preliminary survey, or view for a survey, viz., Ransom, Deputy Surveyor, Allardt, Deputy Surveyor, S. R. Throckmorton, Benj. Lyford, or Gardner, were party defendants in said ejectment suit; if so, name him.

Objected to by Messrs. Mullen & Hyde, as not the best evidence.

A. One of the defendants, Peter Gardner, was present.

Q. 27. Please state what was the result and decision in said ejectment suit.

Objected to by Cutter as being immaterial to questions at issue in the matter now on hearing.

A. I think the record the best evidence. The result was judgment for the plaintiff.

Q. 28. Was it to the extent of the whole land claimed?

A. The record shows the fact.

Q. 29. Please state if you were present at the time when G. F. Allardt, Deputy Surveyor, made the survey of the west line of said plat or rancho in June, 1874; if so, who was present? A. I was not present, and do not know who was present.

Q. 30. Do you know that said survey was made by said Allardt in the field, referring to the survey of the west line as represented on the official plat? A. I do not, of my own knowledge.

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NOVEMBER 19th, 1875.

*Cross-Examination of R. C. Hopkins, resumed.*

182. Question by Mullen & Hyde. You have testified in this case, relative to various and numerous claims presented to the Board of Land Commissioners, by Jose Y. Limentour, please state whether it appears from the archives that said Limentour made application for confirmation before said Board, to or for any lands that have been confirmed to other and different claimants—not intending that this question should apply to the rancho of the Corte de Madera del Presidio or Rancho de Tiburon? A. I think that all the claims presented by Limentour were finally rejected by the Courts, and so far as I now remember I do not think that the lands covered by the claims of Limentour were subsequently conferred to other parties.

Questions by J. B. Howard.

Q. 183. Please examine the plat or diseño filed herein as exhibited—purporting to be a copy certified to by Secretary of State, plat of the Rancho of Sausalito, Richardson's Claim No. 104, Land Commission, being copy the plat presented by B. S. Brooks and referred to by J. W. Shanklin, Esq., as in question No. , examine also the certificate of José Y. Fernandez on the reverse side of said plat, and state 1st, whether said diseño is there certified to be an exact copy of the original in expediente (111) in the archives; and 2dly, if so, whether said certificate is correct.

Objected to by Mr. Shanklin; 1st, because when said document was offered in this case, no objection thereto was made by Mr. Howard; 2d, because the matter expressed in the question is not proper examination; no questions having been asked either by Mr. Brooks, in connection with the presentation of said exhibit, or by Mr. Shanklin in cross-examination, relating to other matters than the Corte de Madera del Presidio.

Mr. Brooks objects: that what the Secretary certifies will appear by the certificate itself, and whether it is correct, and if so in what respect, will appear by a comparison with the original and a consideration of the use for which it was intended.

A. 1st. The copy of map referred to, is certified by José Z. Fernandez, acting temporarily as Secretary of State, to be faithfully drawn from its original, which is found in the respective expediente. 2d. The copy referred to is not an exact or facsimile copy of the original, as found in the expediente; but it is undoubtedly designed to represent the same tract of country.

Q. 184. State whether it appears from said respective expedientes that any grant or concession issued for the lands represented on said exhibit, west of the straight line drawn after the words Corte de Madera?

Mr. Shanklin moves to strike out foregoing question; first because it is not proper cross-examination, and 2d, because the expediente referred to was not presented in the case.

Mr. Brooks adds, that it is not primary evidence; that it is irrevelant and incompetent. Surveyor-General sustains motion to strike out. Mr. Howard excepts to ruling of Surveyor-General.

R. C. HOPKINS.

MONDAY, November 22d, 1875.

All present.

William H. Davis being called as a witness by B. S. Brooks, is first duly sworn and says: My name is William H. Davis; I reside in Oakland, Alameda Co., Cal.; occupation, real estate and money broker; I am 53 years old.

Q. 1. Did you know Juan Read in his lifetime; if so, when, where and how did you become acquainted with him?

A. I did; I first knew him in the summer of 1838, in Yerba Buena, now called San Francisco; I was clerk and book-keeper with N. Spear, in Yerba Buena, and Mr. John Read traded with us; Mr. Spear supplied him.

Q. 2. Did you at that time understand and speak the Spanish and English language? A. In July, 1838, I only knew a little Spanish; the English was my mother tongue; I soon learned the Spanish language.

Q. 3. To what extent did you speak the Spanish language in 1838? A. I understood enough to hold a conversation readily.

Q. 4. Did you, after that, acquire facility in the use of Spanish language? A. I did. I acquired it easily.

Q. 5. Were your ordinary dealings mostly with the Spanish people? A. Yes; mostly with native Californians.

Q. 6. Do you know the Rancho Corte Madera del Presidio? When and how did you become acquainted with it? A. The Reads' rancho, I suppose; yes, I know Juan Read's rancho; my first visit to Read's rancho was in December, 1838; Mr. John Read doing business with Spear, I visit there in December on business.

Q. 7. How often were you there afterwards? A. my next visit to Read's rancho was in the spring of 1839.

Q. 8. When you visited the rancho in 1838 how long did you remain there? A. Staid over night; about 24 hours.

Q. 9. By whom was it occupied? A. By John Read and his family.

Q. 10. Where did you stay while on the rancho. A. At Read's house, where his family was.

Q. 11. How was the rancho occupied and used? A. Stock-raising—cattle and horses.

Q. 12. Did you go over the rancho in company with Read? A. In the spring of 1838 I did not.

Q. 13. Did he point out the boundaries of his rancho to you? A. In the spring of 1839 Mr. Spear was with me at

the rancho of Juan Reed; he took us over a part of his rancho; Read furnished horses, and we rode over part of his rancho.

Q. 14. Did he at that time point out to you the boundaries of this rancho? A. Our ride was from his house towards the east and along the Point of Tiburon; as we rode along he pointed out Point Tiburon as part of his rancho; we rode to the extreme point.

Q. 15. What was the boundary on the east side? A. I understood from him then that it was Point Tiburon. The margin of the Bay of San Francisco that comes to the East or about the east side of Point Tiburon.

Mullen & Hyde move to strike out the motion and answer as being incompetent to prove the boundaries of this rancho as defined in the record of juridical possession.

The witness, in describing the east boundary in answer to question No. 15, had the official plat of survey before him, and pointed with his hand to the edge of the land opposite to post 557, and says, Here Read pointed out to me all the land within the official survey east of this place to Raccoon Straits as his rancho. We started from Read's old house and rode to the above place or point near station 557, of the survey.

Q. 16. Which was the point to which you rode? A. To Point Tiburon. He took us along the middle of land as far as we could go down.

Q. 17. You have stated in a former answer that you rode to the extreme point. Point that extreme point out on the map. A. We rode to some prominent place very near the extreme eastern point of land within the survey, when we could overlook the Raccoon Straits and could see the Bay around the point. He pointed out to us all this land as his claim, and showed us his horses and cattle all about us.

Q. 18. What did he point out to you as his boundary towards Raccoon Straits? A. Following the margin of the Bay around the entire eastern point of land he said was his boundary on that side. The witness having the official map before him, draws his hand around the extreme eastern part of the official survey and around the "Peninsula Island," and says that was the land he claimed.

Q. 19. What was the boundary of the rancho on the south side? A. On the south. As we stood here at the extreme point, he said, the margin of the Bay all along the Saucelito and Richardson's Bay.

At this point it is announced, by Hon. Walker VanDyke, that a telegram announces the death of Hon. Henry Wilson, Vice-President of the United States, and upon his motion, all parties concurring, further proceedings are postponed till 10 o'clock A. M. to-morrow morning, out of respect to his memory.

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TUESDAY, November 23d, 1871.

Q. 20. How far towards the west along the margin of the Bay did he say the boundary line extended? A. He stated it followed along the margin of the Bay up to the western boundary of his rancho.

Q. 21. How often did you visit the rancho? A. From the year 1838 to January, 1842. I probably visited him five or six or seven times per year.

Q. 22. Were you in the habit of seeing the rancho often when you did not visit it?

Objected to by Gardner as immaterial.

A. Oftentimes when I went to San Rafael and Sonoma on business, landing at Saucelito, I rode through Reed's rancho.

Q. 23. Did you ever at any time hear of any person claiming or exercising any acts of ownership in the tract of land you have described other than Juan Read?

Objected by Gardner as immaterial.

A. I never did.

Q. 24. Did you know his brand? A. I think I did.

Q. 25. Were you in the habit of buying his hides?

Same objections by Gardner.

A. I often received hides from John Read for Nathan Spear.

Q. 26. Over what part of this tract did his cattle pasture?

Same objections.

A. I have seen around his house, some distance from his house, and also on the Point of Tiburon, sometimes called Read's Point, cattle and horses scattered around over the tract.

Q. 27. Where was Juan Read living at that time? A. Living on his rancho. I could point it out on the map here.

Q. 28. Was it the same place and the same house all the time? A. Yes, sir.

Q. 29. Did he rebuild it, or add to it, during that time?

A. When I first visited Read's rancho, there was a house on it that Read lived in; I presume that he built it. The addition to his house I do not remember.

Q. 30. Was there any other house upon the rancho, or any signs of any other, or any ruins of any other? A. I do not remember of seeing any other house on the rancho besides the one that Read and his family lived in.

Q. 31. Were you in the habit of sailing through "Raccoon Straits?"

Same objection by Gardner.

A. Yes, sir, very often.

Q. 32. What was the course of your dealings with the rancheros, and what occasion had you to visit the ranchos?

Same objection by Gardner.

A. Merchants in those days sold goods for hides and tallow. We delivered the goods to the different ranchos around the bay, and received their hides and tallow at the embarcaderos of each rancho; they generally had embarcaderos on the bay. Generally we sold goods on twelve months' credit; generally from killing season to killing season. I visited the ranchos to deliver goods and to receive hides and tallow in payment.

Q. 33. Was it a part of your business to know the standing of your customers, the extent of their land, and the number of their cattle?

Same objection by Gardner.

A. Necessarily it was.

Q. 34. To your knowledge, was the title of Juan Read to the land you have described ever questioned by the Mexican officials or people?

Objected to by Mullen as immaterial and incompetent.

A. No; I never heard it discussed or questioned.

*Cross-Examination by Mullen & Hyde.*

Q. 1. When did you come to California? A. In 1838, to stay permanently; I had visited the coast prior to that, trading up and down the coast.

Q. 2. In what business were you engaged in during the first eighteen months after your arrival in California? A. I was a clerk and bookkeeper for Nathan Spear, of Boston, in Yerba Buena; I attended to his business, as clerk and bookkeeper; also, in going around the bay delivering goods and receiving hides and tallow.

Q. 3. How old were you when you first came to Califor-

nia and engaged in such capacity? A. Sixteen and a half (16½) years old.

Q. 4. At this age, when you visited the ranchos around the Bay of San Francisco, was it under the direction of some other person, or was you in charge of such business?

A. Always under the direction of Nathan Spear, by whom I was employed.

Q. 5. Did he usually accompany you on these trips. A. Sometimes.

Q. 6. When he did not, was there any one else older than yourself who did accompany you? A. I presume the sailors attached to the little schooners were older than I was.

Q. 7. What period of the year was the killing season? A. It generally commenced July 1st and ended October 1st, of each year; they were considered the fattest at that period.

Q. 8. Did you have any business other than that you have stated in your direct examination? A. No, sir; simply selling goods, and receiving the hides and tallow.

Q. 9. If the killing season, as by you stated, was between July and October of each year, please explain to us the object of your first visit, in December, 1838, and also the second visit in 1839, in the spring. A. Oftentimes goods were carried to the different ranchos different times during the year; and, also, hides would frequently be received from the rancheros after the first of October and before the first of July, from cattle they would kill during the above-stated time for their beef and support.

Q. 10. Can you recall at the present time any circumstance that called for the necessity of a ride by John Read and yourself over his rancho at the time you state he pointed out to you the boundaries thereof. A. The rancheros, generally in spring of the year, are fond of inviting comerciantes (merchants) to ride over with them and point out the boundaries of their rancho.

Q. 11. Then it was simply in accordance with a custom which prevailed at that time between rancheros and the merchants with whom they dealt? A. Yes, sir; they were fond of showing their fine horses, letting the merchants ride their fine horses, showing their ranchos and their manados, and their possessions generally.

Q. 12. Did you then, or any time thereafter, ever examine the title papers of the Rancho Corte Madera, claimed by John Read? A. Never did.

Q. 13. Did you know anything of the title of this ranch,

except what you learnt from himself? A. I simply know by report that he had a title to the ranch.

Q. 14. Was your knowledge of the boundaries of this ranch derived from the same character of source? A. My knowledge as to the part I have already described in my direct examination was from John Read himself.

Q. 15. In your dealings with the rancheros as a merchant, what measured the basis of credit that you accorded them in your dealings with them? A. Measured that by the number of cattle each rancho had. The merchants frequently attended the rodios of cattle which the rancheros had; the merchants could generally tell what the rancheros had, and Read was generally regarded as a very high-minded man. The farmers were universally esteemed as high-minded men, and Read was considered as a high-minded man.

Q. 16. Was the extent of credit that you accorded the rancheros also measured or determined by the extent of land that they owned or claimed? A. Yes, sir; but more particularly to the number of cattle each rancho had. The merchants placed more value on their cattle than on their lands.

Q. 17. Did the number of cattle that each rancho owned bear any relation to the extent of land that he owned or claimed? A. Not particularly; generally a rancho would have no more than his rancho would support—about 2,000 head to the league.

Q. 18. About how many cattle did John Read usually rodeo during the time you dealt with him as merchant? A. I think, in 1838, Read had 600 head of cattle, besides horses. Subsequent, up to the time of his death, he had more cattle, 1,200 or 1,500 head.

Q. 19. Did Read ever tell you the extent of land that he claimed? A. I do not remember that he did.

Q. 20. Did he ever point out to you the boundaries of this rancho other than in the direction of Point Tiburon? A. I think he mentioned, during the ride I spoke of in my direct examination, that he was bounded on the south by the Rancho Saucelito; I am not positive to his western line.

Q. 21. Did he point out the northern boundary, or mention it to you? A. While we were out on the side that I have mentioned, he pointed out and said that grove of redwood, pointing northward, belongs to me.

Q. 22. Please look at the official map of the Rancho Corte Madera and point out thereon, and the whole extent thereof, the place called by you Point Tiburon, or the

tongue of land Tiburon? A. The witness, pointing with his hand open, says, from this point "Sandy Flat" on the south side of the main land, and "Station 479," at the word "Laurel" on the north side of the main land, and says: All the land from here down to the extreme eastern end of the land embraced in the survey was called Point Tiburon, and universally known as Point Tiburon by every person, and every sailor that coursed around the Bay in those days.

Q. 23. How many times did you ride with John Read to Point Tiburon, in the manner by you stated? A. Once.

Q. 24. In pointing out the boundaries as by you described, did he do it while sitting on horseback, and by waving his hand; or did he ride along and say this is my boundary here, or boundary there?

Objected to by Sharp as immaterial.

A. As we rode along, he pointed with his hand to the different places.

Q. 25. Do you know whether the knowledge of the land called by you and pointed out, Tiburon, constituted a portion of the Read Rancho, was divided from any other person except John Read himself, and in the ride as by you stated? A. It is always known by all the old settlers as part of Read's Ranch, and I have heard the whole point called Read's Point, as often as I have heard it called Point Tiburon.

Q. 26. Did you ever know any claim set up to a part of Tiburon by Limentour? A. Never did.

Q. 27. Did John Read ever point out to you any mounds or structures of masonry as being the majomers of his rancho? A. He never did.

Q. 28. Did he ever tell you that he had ever established any on his rancho? A. He never did.

Q. 29. Between 1838 and 1843, did Mrs. Read have any cattle separate and apart from her husband? A. I could not tell you.

Q. 30. Did you ever attend any rodeo in Marin County when any cattle were rodeod as Mrs. Read's? A. No, sir. I have attended many rodeos in Marin County. I have been at Tim Murphy's and Ig. Pacheco's rodeos. I recollect the separating of cattle as Juan Read's, but I never knew of any being separated belonging to Mrs. Read.

Q. 31. Do you know whether the cattle called Read's cattle are accustomed to graze at any place other than on the Rancho Corte Madera? A. I do not.

Q. 32. How many times between 1838 and 1843 were you on Tiburon or on the tongue of land you describe as Point Tiburon? A. On horseback, in company with John Read and Nathan Spear, in 1839, once; and only once from 1838 to 1843; but I have landed at the point different times from schooner anchored near the shore, waiting for the turn of tide; and have ridden through on horseback in going from Sancelito to San Rafael, cutting across the most northern part.

Q. 33. Please describe the Read brand, he used in branding his cattle. A. It was the letters J. R.

*Cross-examination by Mr. Throckmorton.*

Q. 1. Are you acquainted with the Punta de San Quentin Rancho? A. I knew of it; Capt. Cooper lived at Monterey.

Q. 2. Do you know whether he was the colindante of the Read rancho on the north. A. I think he was; I think his rancho joined it on the north.

Q. 3. Do you know that of your own knowledge? A. I never saw Cooper's title; I understood it from general report.

Mr. Sharp objects to the answer to this question, as immaterial and irrelevant.

*Cross-Examination by Gardner.*

Q. 1. At what time was Cooper colandante with the Read rancho? A. I knew Cooper in 1838; he was colindante of Reed in 1840; Cooper was the owner of the rancho, but did not live on his rancho.

Q. 2. Where were the men cutting timber, and when was it? A. They were cutting timber at Corte Madera as early as 1840; I cannot put my hand on the spot on the map; they cut lumber for Capt. Cooper and Juan Reed.

Q. 3. Did you see them cutting timber? A. I have been at the Corte Madera when they were cutting lumber on account of Cooper and Juan Read; I have been there with a schooner; the lumber was put on a schooner and brought here to Yerba Buena.

Q. 4. Were these parties cutting wood together? A. No, sir; separate parties.

Q. 5. Point out on the map the point where they were cutting timber. A. I cannot do it; it is so many years ago I cannot remember the exact point.

Q. 6. How far apart was the Read Corte Madera from

the Cooper Corte Madera? A. May have been half a mile apart; I cannot remember. The Corte Madera was all one belt; they were cutting at different parts or places on the belt.

Q. 7. How large and how long was that Corte Madera timber? A. I cannot tell. There was a forest in them. I do not know where Tamalpais is. It was called in early days Read's Mountain, *Sierra Don Juan Reed*; I know where the mountain is, but I did not know it as Tamalpais at that time.

Q. 8. How do you know who was cutting timber for Capt. Cooper or for Read? A. I had occasion to go there and get a load of lumber, many loads of lumber, in 1841 and 1840.

Q. 9. How do you know what timber was cut on Read's rancho or Cooper's rancho, of your own knowledge? A. The men that cut for Cooper brought the lumber, and said it was cut on Cooper's rancho; it was placed to the credit of Cooper. The lumber cut on Read's rancho was brought to me, and placed to the credit of Read.

Q. 10. Do you know the boundary between the two ranchos? A. No, I do not; the lumber from these two places was hauled to one landing, known as the Corte Madera Landing.

Q. 11. On whose land was the embarcadero situated, of which you have spoken as the place at which you received lumber? A. I do not remember now; I am under the impression it was claimed by J. B. R. Cooper.

Q. 12. How far from the embarcadero was the lumber cut? A. I do not know exactly; it may be from one-quarter to one-half a mile.

Q. 13. In what direction from the embarcadero were they cutting this lumber? A. As near as I can remember, from the San Quentin or Corte Madero Embarcadero, Cooper's Corte Madera would be about NW. from the landing, and Read's Corte Madera about South-West or West of South-West.

Q. 14. How many times have you been at that embarcadero for lumber? A. From twenty-five to thirty times; may be more.

Q. 15. Were you ever there in company with Juan Read? A. No, sir.

Q. 16. Can you point out the position of that embarcadero on that survey? A. I cannot point it out; I have not been in there since 1843. My impression is, with the map

before me, the embarcadero was on Corte Madera Creek, near the letter "O," at the end of the word rancho, in the N.W. corner of the map.

*Cross-examined by Howard.*

Q. 1. Please state if you know anything further of the boundaries of the Read rancho than that which you have stated in your direct examination.

Objected to by Mr. Shanklin for the reason that the witness has mentioned boundaries in his cross-examination not mentioned in his direct.

A. No, sir, I do not.

Q. 2. Was not the Corte Madera of which you have spoken identically the same as the creek at the head of San Quentin Bay? A. It was the same. The creek at the head of San Quentin Bay was the Corte Madera. At the upper end was the Corte Madera landing.

Q. 3. Is the Corte Madera of which you speak at the head of the creek on the north side of the official survey now between Point San Quentin and the Read rancho? A. It is the creek. At the end of the salt marsh in the letter O is the Corte Madera landing.

By Mr. Shanklin:

Q. 1. Do you know of any other Corte Madera in the Read rancho than the one you have just described? If so, whereabouts was it?

Objected to by Sharp as irrelevant and immaterial.

A. I think it laid to the west of Read's house. That's my impression now.

Q. 2. Please state what you said in reply to a question of Mr. Howard concerning this Corte Madera and Richardson cutting timber thereon.

Objected to by Mr. Sharp as incompetent and irrelevant, as no such question appears upon the record.

A. My answer to Mr. Howard's question was that I knew of another Corte Madera, which laid about west of Read's house, and the timber on it was cut both by Read and Richardson.

*Examination by J. B. Howard.*

Q. 1. Did you know to whom the land belonged? A. My impression is that it was claimed by Richardson and Read both. Personally I did not know to whom it belonged.

Q. 2. At what time was it that you first became acquainted with Capt. Richardson on the Saucelito Rancho?

A. I first became acquainted with him at Yerba Buena, 1838, and I also met Capt. Richardson at Saucelito in 1838.

Q. 3. Was Capt. Richardson residing at Saucelito in the year 1838, and, if so, where? A. From July, 1838, to the last of that year, about half of the time he lived at Saucelito, and the balance of the time of that year, he lived in Yerba Buena. He lived at Saucelito at (I don't know the name of the place) Richardson's Old Homestead or Ranch House.

Q. 4. Did Richardson's family reside with him at Saucelito? A. Yes, sir.

Q. 5. During that time? A. Yes, sir.

Q. 6. And for how long afterwards did they continue to reside there, to your knowledge? A. Capt. Richardson lived most of the time on the Rancho Saucelito with his family up to the time of his death.

Q. 7. From what date?

Motion made by Mr. Shanklin to strike out question as irrelevant and immaterial, and ruling called for. Further objection made on account of the absence of the Surveyor-General.

Question No. 7 withdrawn.

Q. 8. At what time did you first become acquainted with Juan Read?

On account of the absence, all questions in relation to Capt. Richardson withdrawn.

Q. 8. At what time did you first become acquainted with Juan Read? A. In the year 1838.

Q. 9. Did Juan Read ever point out to you the western boundary of his rancho? A. My impression is now that he did not.

Q. 10. Do you know positively whether he did or did not? A. No; I do not know positively.

Q. 11. Did Juan Read ever state to you that he had another ranch besides the Corte Madera del Presidio? A. No, sir; I do not remember Read ever using the word Presidio. He simply said Corte Madera.

Adjourned till 10 o'clock A. M. to-morrow.

WEDNESDAY, Nov. 24th, 1875.

Examination resumed.

All present.

*Cross-Examination of Mr. Davis by J. B. Howard.*

Q. 1. Whether you know anything further of the boundaries of Read's Rancho than that you have testified to in your direct examination? A. I do not; with exception that in my cross-examination I have stated something about the boundaries that perhaps I did not in my direct examination—or in other words, with regard to the Corte Madera.

Q. 2. By Corte Madera, do you mean the place at the head of the creek flowing into San Quentin Bay, on the northeast side of the rancho?

Objected to by Mr. Gardner that the question assumes a fact not testified to by witness.

A. I mean the Corte Madera claimed by Juan Read and Capt. Cooper, and the landing generally called Corte Madera Landing.

Q. 3. Point out the Corte Madera on the official map. A. The Corte Madera Landing was in the vicinity of the Corte Madera. Witness points to the creek on the north of the map, and says the Corte Madera Embarcadero was about the letter "o" in the word rancho—somewhere there, I don't undertake to locate it exactly. The Corte Madera lay from the landing about a quarter to half a mile distant, westerly.

Q. 4. State if you know of your own knowledge to whom the land belonged in which the embarcadero of Corte Madera was located. A. It was used as the landing for the Corte Madera when timber was cut by Reed and Cooper, or their men.

Mr. Cutter called attention to the fact that Mr. Davis testified as to cutting timber yesterday, before he was cross-examined by Mr. Gardner, and that his answer was not taken down, and asked that his direct testimony be now corrected so that the testimony need not stand as original testimony, elicited by Mr. Gardner, referring to question 2d, page 223, and following being the cross-examination of the Corte Madera and cutting timber.

The witness says: "My recollection is, that I answered the questions of another party than Mr. Gardner, and I think it was Mr. Throckmorton, and stated that I knew of the men cutting timber on Corte Madera for Reed and Cooper; and Mr. Peter Gardner's questions two (2) and fol-

lowing were in cross-examination of matters stated before Mr. Gardner began.”

*Cross-Examination by Gardner.*

Q. Do you know anything, of your own knowledge, of the northern and west boundary of the rancho? A. I do not.

Q. Do you know where the Arroyo de los Esteros is? A. I do not.

Q. Do you know where the Arroyo Animas is? A. I do not.

Q. Do you know where the Arroyo Corte Madera del Presidio is? A. No, sir.

Q. Do you know where the Arroyo Corte Madera del Pablo is? A. No, sir.

By Mr. Brooks:—

Q. Do you know any of these arroyos in any way, or did you ever hear of them before? A. I have probably heard of them, but it is some 30 years ago; I cannot remember them; it is 30 years since I was on the Read rancho; I was there in 1846 the last time.

By Mr. Howard—Objected, as immaterial, irrelevant, and not mentioned in the record of juridical possession.

Q. Was there any fence or obstruction in riding from Read's house to the extreme point of Tiburon?

By Mullen & Hyde—Objected to, as incompetent and immaterial.

A. There was a corral a few hundred yards from his house. It was the only thing I saw in the way of a fence in going from Read's house to Tiburon.

Q. Did you ever travel from the Read house to the embarcadero, or to San Rafael? A good many times.

WILLIAM H. DAVIS.

G. F. Allardt being called as a witness by Mr. Brooks, is first duly sworn, and deposes as follows:

Q. 1. What is your name, age, occupation and residence? A. My name is G. F. Allardt; age, 42; residence, San Francisco; occupation, civil engineer and surveyor.

Q. 2. Did you hold any official position connected with the Tide and Marsh Land Commission of this State—if so, at what time? A. I was Surveyor and Chief Engineer for the Board of Tide Land Commissioners, for the State of California.

Q. 3. During what period? A. From 1868 to 1873.

Q. 4. What lines of the harbor of San Francisco did you survey in that capacity?

Objected to by Capt. Mullen as totally irrelevant, and if answered fully will take all day.

A. I surveyed the boundaries of the salt marsh and tide lands belonging to the State of California.

Q. 5. Did that include the ordinary high water and low water lines, and the line of extreme high tide? A. It did.

Q. 6. How does the exterior line of the salt marsh correspond with ordinary high water mark? A. It coincides or is identical with it, according to my survey.

Q. 7. Can you tell, from your experience as a surveyor in the waters of California, whether the prosecution of hydraulic mining has any effect; if so, what in respect to salt marshes in the bay?

Objected to by Capt. Mullen, unless the locus of the salt marsh is defined, and that it be made to apply to the salt marsh contiguous to the land in controversy.

A. I have not surveyed any salt marshes situated at the mouth of streams on which hydraulic mining is practiced, and have, therefore, not observed any effects upon the marshes of San Francisco Bay from hydraulic mining.

Q. 8. Have you, during the time you have been surveying, noticed any increase or decrease of the salt marshes?

Objected to by Capt. Mullen, unless it is confined to the land in question.

A. I have observed that the washings from the hills partially reclaimed the salt marsh—that is, makes more dry land; but that the action of the waves on the outer edge of the salt marsh had decreased its area.

Q. 9. Did you accompany Leander Ransom to the Rancho Corte Madera del Presidio?

Objected to, unless some time is stated, as irrelevant.

A. I did.

Q. 10. When, and for what purpose? A. In 1873, at his request I did; for the purpose of complying with his request. He requested me to go over there, and I went over.

Q. 11. What did you do then? A. I pointed out to Mr. Ransom the line run by me under Deputy Surveyor R. C. Mathewson in 1858 in the vicinity of Juan Read's old adobe house.

Q. 12. Is that the purpose for which you went over there? A. It was.

Q. 13. Did you survey the exterior lines of this rancho or any of them while acting as surveyor of the Board of Tide Land Commissioners?

Objected to by Mullen as being immaterial and incompetent, unless it can be shown by the records of this office that he, as a Deputy Surveyor, was authorized to make a survey of this rancho so as an officer of the State of California, he was neither authorized or instructed to make any survey of this or any other rancho.

A. I surveyed the salt marsh and tide lands belonging to the State of California around and adjacent to the land that I supposed to be the Rancho Corte Madera del Presidio at that time.

Q. 14. Look at the official plat and state whether you surveyed in that capacity the shore line from the mouth of the Arroyo Corte Madera del Presidio to the Arroyo Holon or any part thereof. If so what? A. I did, I surveyed the entire shore line between those two points.

Q. 15. Did you also traverse the principal streams and estuaries between those two points within the salt marsh? A. I did.

Q. 16. What part did you take in the survey by Mathewson? A. I had charge of his party, during the whole survey.

Q. 17. How far to the west at that time did you carry your survey or reconnoissance?

Objected to as the Mathewson survey shows for itself.

A. We surveyed nearly all the ranchos in Marin County except the Saucelito Rancho.

Q. 18. Question 17 repeated. A. To the Pacific Ocean.

Q. 19. In making that survey, did you not in the first place make a reconnoissance of the exterior boundaries of the rancho.

Objected to by Mullen as he does not designate what survey.

A. Yes, as far as we could ascertain them at the time.

Q. 20. What one of the calls or exterior boundaries did you have any difficulty in ascertaining or finding in the Mathewson survey of this rancho?

Objected by Mullen as it does not appear in the instructions issued to Mathewson that he was directed to make the survey according to the juridical possession.

A. I left that to R. Mathewson, he being the Deputy Surveyor. He decided upon the calls and ordered me to make the survey accordingly.

Q. 21. (Question 20 repeated.) A. We discussed the location of the solar, the willows, the estuary east of the house, and the location of the Corte Madera Creek and the Holon Creek, and compared them with the instructions and the diseño.

Q. 22. Did you run a line from the "solar" to the "Arroyo Holon?" A. I ran a line from the point decided upon by Mathewson as the solar, due north to the Arroyo Holon.

Q. 23. What difficulty was there in ascertaining the estero lying east of the house? A. There are two esteros lying easterly of the house; I presume it was a question which was the right one.

Q. 24. Will you point out on the official plat which one you settled upon as the estero called for? A. I think it was the northerly one; the one marked Embarcadero on the map, as the one lying east of the house.

Q. 25. Where did you find the cañada and arroyo? A. Near the Read house.

Q. 26. The description calls for the solar standing at the slope and foot of the hills. Did you find the edge of the forest of redwoods and the slope and foot of the hill?

Objected to by Mullen that it nowhere appears among the files of this case that Mathewson was instructed to make a survey of this rancho with any such calls as his guide. The same are not contained either in the decree of the District Court nor in the instructions to Mathewson; and that these questions propounded to witness relate exclusively to the decree of the Board of Land Commissioners, which was not furnished Mathewson by the U. S. Surveyor-General.

A. I think we did find them.

Q. 27. You located the solar somewhere? A. Yes.

Q. 28. From that point did you survey a line from thence in a northerly direction to the arroyo called Holon? A. I did.

Q. 29. Did you survey thence by the waters of said arroyo and the Bay of San Francisco, said point serving as a point and a limit. A. We surveyed down the Arroyo Holon to where the line connected with the meanders of the salt marsh (inner line of the salt marsh), which was previously run; the meanders are run first all the way around the peninsula.

Q. 30. From the termination of said westerly line at the Arroyo Holon, did you survey by the waters of said arroyo and the Bay of San Francisco to the Point Tiburon,

said point serving as a mark and limit? A. No; not at that time.

Question objected to by Mullen, as the question omits to state so much of the call as includes the words 10,000 varas.

Q. 31. When did you do it?

Same objection by Mullen.

A. We ran down the Holon to the salt marsh at that time, and connected with our line of meanders, which we had previously run to and around what we supposed was Point Tiburon.

Q. 32. When did you run that line of meanders? A. A few weeks previously, under this same survey.

Q. 33. What point did you locate as Point Tiburon at that time? A. The most easterly point of the peninsula, at station No. 385, as shown on the official (Ransom survey) plot, now before me.

Q. 34. Did you survey a line thence running along the borders of said bay and continuing along the shore of the bay formed by Point Caballos and Point Tiburon to the mouth of the cañada and the point of the sausal, which is near the estero lying east of the house?

Objected to, as said question is incomplete, by purporting to describe a call in the Board of Land Commissioners, and omitting the words 4,700 varas.

A. We meandered along high water mark from Point Tiburon to the point of the sausal lying near an estero east of the house.

Q. 35. Did that meander line include that which is marked on this map "Peninsula Island?" A. It did.

Q. 36. Did the meander line following ordinary high water mark take in the salt marsh? A. It did.

Q. 37. In fixing the position of the various calls, with the exception of the exact location of the "solar," did you require any aid outside of the documents furnished you (including the decree and diseño) and your knowledge of the country? A. I depended upon Mathewson for the determination of those points, and did not at the time pay much personal attention to those points, being occupied with the direction of the surveying party.

*Cross-Examination by Mullen & Hyde.*

Q. 1. When did you arrive in California? A. In April, 1858.

Q. 2. How many ranchoes did you assist in surveying in California prior to this survey? A. I assisted Deputy

Mathewson in surveying several ranchos in San Mateo Co., and in making preliminary surveys or locating ranchos in Marin County, including the "Read Rancho."

Q. 3. Please state what particular part you took in the survey of the Corte Madera known as the Mathewson survey in 1858. A. I had charge of the party, and ran the lines as directed by Mr. Mathewson.

Q. 4. In such charge, and occupying such position, did the duty devolve upon you to examine the calls of the juridical measurement of this rancho? A. I think not.

Q. 5. Did the duty devolve on you to examine the decree of the District Court, the decree of the Board of Land Commissioners, or as contained in the instructions of the U. S. Surveyor-General? A. I think not.

Q. 6. Please look at the return of Mathewson survey, of this survey, and state if the name of G. F. Allardt, signed thereto, is that of your own signature? A. It is.

Q. 7. Were you in anywise responsible for the return of any special boundaries to the Rancho Corte Madera, except such as set forth in said return by said Mathewson?

Objected to by Mr. Brooks, that the Hon. Commissioner may be presumed to know the duties of the officers and employees in his department.

A. I considered myself responsible in returning to Mathewson the correct courses and distances of the survey.

Q. 8. When did Leander Ransom die? A. I think about a year ago.

Q. 9. Please state how many sides there would be to a body of land described as follows: Beginning at a point called solar, and running north 4,500 varas to a point; thence southerly 10,000 to another point; thence westerly 4,700 varas to another point; thence 800 varas to the solar, to the point of beginning? A. There would be no sides to it. It would be merely a straight line 10,000 varas long; as the sum of the other three sides, viz: 4,500, 4,700, and 800 varas is equal to the fourth side, viz: 10,000 varas, and includes nothing.

*Cross Examination by J. B. Howard.*

Q. 1. Mr. Allardt, please examine the plat of Mathewson survey of the Corte Madera Rancho, in evidence, and state whether it is identical with the survey of which you have spoken, and made by you in company with R. C. Mathewson, Deputy Surveyor, in October, 1858? A. It appears to be a correct representation of that survey as finally returned by Mathewson.

Q. 2. Examine the official plat, and say whether the point marked "Post C. M. P., 181," as the initial point correctly represents the location of the solar mentioned in the records of juridical possession, as ascertained in the field by Deputy Mathewson, in 1858, and Deputy Ransom, of 1873? A. The locality of the solar, as located by Mathewson, was at the end of, or near the end of the 3d course. I do not know where Ransom considered the solar to be; but I pointed the same locality out to Deputy Ransom in 1873, when I went over with Ransom to point out the Mathewson lines in that vicinity.

Here adjourns to Monday, at 10½ A. M.

MONDAY, NOV. 29, 1875.

Examination of Mr. Allardt resumed, by Mr. J. B. Howard.

Attorneys present, J. A. Robinson, U. S. Commissioner.

Q. 3. State definitely the location of the solar on the official plat before you, as located by Mathewson. A. Near the end of the 3d course on the Arroyo Corte Madera del Presidio, on said map.

Q. 4. At whose request were you present, in 1873, when you pointed out the solar to Deputy Ransom? A. At the request of Deputy Ransom.

Q. 5. Any other person? A. I think not.

Q. 6. Who were present at the time? A. Ransom, Peter Gardner, and Mr. Wormouth and myself, is all I can remember being present.

Q. 7. Was not Thos. B. Valentine present? A. I think not.

Q. 8. Was not S. R. Throckmorton present? A. I think not, on the ground.

Q. 9. Did you see Throckmorton that day; if so, where? A. I think Deputy Ransom and I took lunch at Throckmorton's house that day.

Q. 10. How far is Throckmorton's house located from the solar? A. About half a mile.

Q. 11. How did you come to go to lunch at Throckmorton's house that day—by whose invitation? A. On our way home I think Mr. Throckmorton invited us in.

Q. 12. Did you or Ransom, on that day, discuss the object of your visit to the Rancho of Corte Madera del Presidio; and, if so, with whom? A. With those present; we did very probably with Mr. Throckmorton.

Q. 13. Did Throckmorton indicate his satisfaction or

acquiescence of the location of the initial point or solar, and of the west line of the Corte Madera rancho?

Objected to by Mr. Throckmorton, for the reason that there was no west line pointed out or suggested by anybody at that time.

A. I do not know; I don't remember what he said on that occasion.

Q. 14. Was there not upon the ground at that day a discussion, in your presence, between Peter Gardner and S. R. Throckmorton, concerning the location of the solar, in which discussion you took a part, the matter having been referred to you by them? A. There was a great deal said by all parties present, while on the ground at the supposed solar, but I think Mr. Throckmorton was not present.

Q. 15. Do you not remember that Mr. Throckmorton, on that day, stood behind a pile of cordwood, and, with a stick or rod, pointed out to you and to the other persons the direction of the west line of said rancho, from the solar north to the Holon? A. No, I do not; some one pointed out the line, but I do not remember who it was; the line has been pointed out to me so often, by different persons who pretended to know the line, but I cannot designate any particular person.

Q. 16. Have you had at any time before, prior or subsequent to October, 1873, or at that time, any conversations with Mr. Throckmorton with reference to said solar or the west line of said rancho? A. Yes, at several times.

Q. 18. What was the nature of the conversations, and the opinion expressed by Mr. Throckmorton?

Objected to by Mullen & Hyde, as being incompetent to establish any boundary of this rancho.

Same objection by Mr. Throckmorton.

A. Mr. Throckmorton theorized upon the subject, and I remember that he contended that the solar was not at the "Old Mill;" that Tracy's survey was not correct; also that he was of the opinion that the west boundary of the Read Rancho should be the Arroyo of Corte de Madera del Presidio, from the solar to its head.

Q. 19. Examine the document in this case marked "No. 1" (383) Petition of Samuel R. Throckmorton in the case of Rancho Corte de Madera del Presidio, herewith offered in evidence, and state what was the nature and character of the affidavit of Geo. F. Allardt therein referred to, the said affidavit being missing from the records of this office. Said Petition is marked filed U. S. Sur.-Genl's Office, California, March 9th, 1869.

Objected to by Mr. Shanklin, as irrelevant and immaterial—inasmuch as the affidavit or document referred to could have cut no figure in determining the correctness of the final survey of the Corte Madera Rancho, said affidavits or documents having been made several years prior to the survey and not offered as data in determining any of the lines of the survey, and from the further reason that the affidavit referred to does not appear in the files as stated in the question? A. I do not remember its nature or contents.

Q. 20. Question repeated. This petition, marked "Ex. Throckmorton," J. A. R. A. I do not remember its nature or contents.

Q. 21. Examine said petition, beginning on the third page. "The measurement of the juridical possession commenced at the solar, the sowing ground or lot, a piece of land usually cultivated near all the old California ranch houses, and within convenient distance. In this particular case it was located in the best place that could have been selected, viz., near the house. They commenced said measurement from the solar, which faces west, and on the edge of the forest of redwoods called "Corte de Madera del Presidio." They commenced the measurement, and going from south to north, they measured to an arroyo called Holon. An examination of the map will settle this question and locate the solar past doubt. It should not escape notice that this very commencement immediately leaves the boundary of the Saucelito Rancho, and travels away from it, nor does the survey and measurement of the juridical possession ever again approach it any nearer until the return to the place of beginning." Please state from your recollection if the substance of your affidavit was not in conformity with that portion of Mr. Throckmorton's petition just read to you; and further, if said affidavit did not substantially indicate the west line of the rancho as on the official plat, and as run by you under instructions from Surveyor-General in June, 1874.

Objected to by Mr. Shanklin, as before.

A. I do not remember the nature or contents of that affidavit. I do not know what it referred to.

Q. 22. Do you recollect that about October 8th, 1869, you made, at the request of Samuel R. Throckmorton, a survey and plat of a part of the exterior boundaries of the Rancho Corte Madera del Presidio? A. I do; I made it October 11th, 1869.

Q. 23. Was said survey made at the request of said

Throckmorton, and paid for by him? A. The survey was made under instructions from the U. S. Surveyor-General, dated October 8th, 1869. I have forgotten whether I was paid by said Throckmorton or the United States.

Q. 24. Who requested the survey? A. I don't remember.

Q. 25. Did not Mr. Throckmorton ask you to make the survey, and was he not present on the ground with you during the making thereof; and present when the plat was made?

Objected to by Mr. Shanklin as immaterial, the survey in question having nothing to do with the lines of the official survey so far as this contest is concerned.

A. He was present on the ground; also, Mr. Deffebach, the husband of one of the Read heirs. He was not present when I made the plat. I can't say whether Mr. Throckmorton requested me to make the survey. It was a survey made to determine a line between Throckmorton and Deffebach.

Q. 26. By Deffebach, you mean Inez Read Deffebach, one of the heirs of the late Juan Read? A. I don't know whether he or she owns the land.

Q. 27. At what point did you commence said survey? A. No post having been established at Station 175 of the Mathewson survey, I commenced at Station 172 of the Mathewson survey, being about at the end of the 34th course on the official plat.

Q. 28. Did you proceed as far as Station 180 of the Mathewson, and course 1 on the official plat? A. I did.

Q. 29. Did you proceed to make said survey from Post "C. M. P. 180," on the Mathewson survey, to Post C. M. P. 181? A. I did.

G. F. ALLARDT.

Peter Gardner called on the part of the United States for the pre-emption claimants, John I. Cushing, Francis D. Barlow, and Thomas Luke Riley.

Peter Gardner, being first duly sworn says: My name is Peter Gardner; my age, 42; residence, Marin County; occupation, farmer, brickmaker and butcher.

Q. 1. Are you acquainted with the Rancho Corte Madera del Presidio, and with the surveys of said rancho, represented respectively by the plat of R. C. Mathewson, Deputy Surveyor, in evidence, and the official plat of 1873 and 1874, by Ransom and Allardt, Deputy Surveyors? A. Yes, sir; I am well acquainted with them.

Q. 2. State if you were present in the month of October, 1873, at the solar represented on said official plat, as in the testimony of Allardt, as Post C. M. P. 180? A. I was present at the discussion to establish the solar in that place.

Q. 3. Who was present there with you at the time? A. G. F. Allardt—who was not Deputy Surveyor at that time, Leander Ransom, Deputy Surveyor at that time, James Cummings, Doctor Benj. F. Lyford, T. B. Valentine, S. R. Throckmorton, Ebenezer Wormouth, I think Leonard Storey, but I am not sure; there may have been some other persons, but those persons, with the exception of Storey, I know were there.

Q. 4. How did Allardt and Ransom reach that point, and with whom did they come? A. I don't clearly recollect with whom they came; they did not all come at the same time.

Q. 5. Can you state the conversation which occurred there between Mr. Throckmorton, yourself, Mr. Allardt, and the others, if any took place?

Objected to by Mr. Shanklin, as immaterial, and further, because it is not shown by the preceding questions and answers that the parties directly in interest, viz: the heirs of Read, were present in establishing the solar or any of the other boundaries of the ranch, or that they engaged in the discussion referred to in the question.

A. I can state the substance of it; it was a long, sharp controversy; Mr. Allardt, he represented that he was there to show Ransom where he had fixed the solar in the Mathewson survey before; the others united with Allardt upon that proposition, because it was the compromise solar by all the parties represented in the Read rancho; that is what they claim to Ransom; it was a compromise previously made and then adhered to; I then objected to their proceedings, because they could produce no proof, neither by the records nor no parol testimony, and that it was entirely contradictory to either the records or the parol testimony; that is where the warm discussion took place.

Q. 6. Who purported to represent the heirs of John Read on that occasion—if you know? A. I hardly know; they were all against me on the proposition; I hardly know who they were representing.

Q. 7. Point out on the official plat the solar as then claimed by S. R. Throckmorton and Thos. B. Valentine and the others—the solar which they call the compromise solar.

Mr. Shanklin objects to question, as immaterial and irrelevant.

A. It was a post marked Post "C. M. P. 181;" point of beginning as on the official plat.

Q. 8. Did they or any of them point out the line from said solar north; and if so, is said line represented in the official plat.

Objected to by Mr. Shanklin as immaterial, and as not binding either upon the United States or Read heirs.

A. Mr. Allardt did; he pointed the line as marked as the western line of the survey of the rancho, on the official plat, and represented to Mr. Ransom that it was a due north line.

Q. 9. Did S. R. Throckmorton or any person present, except yourself, object to said line at that time?

Objected to by Mr. Shanklin, as immaterial.

A. Nobody but myself and Mr. Wormouth.

Q. 10. Did Mr. Throckmorton agree to that line at that time?

Objected to by Mr. Shanklin, unless the language of Mr. Throckmorton in connection with any of these transactions is given specifically.

A. They all seemed to be united against me in favor of that line.

Motion made by Mr. Shanklin to strike out the last answer as not responsive to the question.

Q. 11. Had you any interest at that time, or claim of interest, in the Rancho Corte Madera as represented by the official plat? A. I claimed lands represented on the plat, but claim they were not properly in the ranch.

*Cross-Examination by Mr. Sharp.*

Q. 1. If at the time of this alleged compromise solar and line referred to in your examination in-chief. If the daughters of Juan Read were married then—one the wife of Dr. Lyford and the other the wife of Mr. Deffebach? A. I think they were. Dr. Lyford was there himself. I am not sure whether Deffebach was there or not. I think he was, though I am not sure.

Q. 2. Were either of the ladies referred to present on that occasion? A. One of the ladies came out but not at that place—at the lower end of the line. She came out near the house.

Q. 3. Who, if anybody, represented the United States on that occasion? A. I do not recollect of anybody.

*Cross-Examination by Mr. Shanklin.*

Q. 1. The occasion you refer to, was there any lines run?  
 A. No lines measured. Mr. Allardt had the instruments; I packed them around myself, and I know they were there.

Q. 2. Please give us the day of the week and the date of the transaction you referred to in your last answer. A. I do not exactly remember the day of the week or the day of the month. I will have to refer to my memorandum, and I have not got it here.

Q. 3. Please to state the conversation of Mr. Throckmorton on the occasion that you refer to, if you can, either as to the establishment of the solar referred to by you as the compromise solar, or the establishment of the line represented on the official map, as connecting stations "C. M. P. 181" and post marked "P. Q. 99 and W. R. 203." A. I can't exactly pick out the individual. I took the whole party as one; when one did not say enough the other helped him out.

Q. 4. Can you then swear Mr. Throckmorton personally said anything on that occasion as to whether the solar referred to by you as a compromise solar was correctly located, or that the line referred to in the last question was a correct line for the western boundary of the ranch Corte de Madera del Presidio? A. I don't recollect of Mr. Throckmorton stating about this line being correct (referring to the west line of the rancho mentioned); the principal discussion was on the starting point, and in that he was against me.

Q. 5. What did you claim as being the solar? A. The place where Read lived in 1835.

Objected to by Mr. Howard as not being cross-examination.

Q. 6. Then from your preceding answer (the one before the last), are we to understand that Mr. Throckmorton merely opposed the idea of locating the solar where you thought it should be, without expressing any opinion on his part as to the correctness of the location of what you have named the "compromise solar?" A. I think not, without expressing an opinion. I don't recollect that he said anything as to the establishment of that particular spot. He took it as a proposition against me. I don't recollect which individual used it then, but they all seemed to concur in one theory against me.

Adjourned till half-past 10 o'clock A. M., Tuesday, Nov. 30th, 1875.

PETER GARDNER.

Thomas B. Valentine recalled, by J. B. Howard, attorney for the United States and pre-emption claimants.

Q. 1. Were you present, in October 3d, 1873, with Leander Ransom, Deputy Surveyor, and Geo. F. Allardt, at or near the solar or Post C. M. P. 181 (point of beginning) as on the official plat? and, if so, state what other persons were there present with you on that day, and what was the purpose and object of said assemblage.

Question objected to by Mr. Shanklin, as calling for an opinion of the witness as to the motives and objects of other parties than himself, as being present on that occasion.

Question repeated, and witness requested to state only the facts known to himself.

A. Geo. F. Allardt, Leander Ransom, and S. R. Throckmorton, Benj. F. Lyford, Peter Gardner, was also present.

Q. 2. Did Ransom or Allardt have any surveying instruments on the ground at that time? A. I think Mr. Allardt did; I am not sure whether the instrument belonged to Mr. Allardt or Mr. Ransom—but there was an instrument there; I mean surveying instruments; I don't know that there was anything but a surveyor's compass.

Q. 3. How did Mr. Allardt reach the grounds, and in whose company?

Objected to by Mr. Shanklin, as immaterial.

A. I think he was driven up from Saucelito by Mr. Throckmorton, to his place.

Motion made by Mr. Shanklin to strike out the preceding answer as indefinite.

Q. 4. State the facts so far as you know them. A. I got a pair of horses at Saucelito, and drove up to the Read rancho, taking in Mr. Ransom and Dr. Lyford; that I am sure of; my recollection is, that Mr. Throckmorton took his team in town here, took Mr. Allardt to the boat, crossed over, and then drove him up to his place with his own team.

Q. 4. What was the object of the assemblage? A. The object was to have pointed out to Mr. Ransom the starting point in the new survey, and finding the starting point of the Mathewson survey.

Q. 5. Were all parties present in agreement upon the point and line suggested then and there by Geo. F. Allardt, and now representing "Post C. M. P. 181," on the official plat; and, if not, who were the persons expressing a disagreement thereto?

Objected to by Mr. Shanklin on the ground that the question assumes what the witness has not testified to, viz.:

that the parties were not there to establish a line or a starting point as set forth in the last answer of the witness. Nor does it appear from the testimony of the witness, nor from the testimony of Allardt, that any west or other line was established on the occasion referred to.

A. I don't think it was a question of line there with us ; it was a question of starting point and fixing the solar. Mr. Peter Gardner claimed that we should start at a place lower down. I think he hunted up a few scattering redwood stumps by that point and the Read house, which he contended was the redwood forest spoken of in the juridical possession.

Q. 6. At what time did the party break up, and where did they go? A. We came down as far as the Indian mound, or rancheria, discussed the question then at some length ; discussed also the location of the Point Sausal ; then, upon the invitation of Mr. Throckmorton, several of us went to his house and got lunch.

Q. 7. State who the parties were. A. Dr. Lyford, Mr. Allardt, Col. Ransom and myself. That is all that occurred on that occasion. We returned to San Francisco on 3 P. M. boat, October 3d, 1873.

Q. 8. Did you, subsequently to October 3d, 1873, and prior to the 5th of December, 1874, have any further conversations with Mr. Throckmorton, either in relation to said starting point or to the re-survey of said Rancho Corte Madera by Ransom and Allardt, as represented on the official plat ; and if so, what date, and the nature of the conversation? A. I have no personal recollection now of any conversation with Mr. Throckmorton. When I came back I found that they had not run the lines of the survey on the north and east, and on the south as well, leaving the marsh lands out, as I supposed they were to be run, and not as I construed in conformity with the decision of the Secretary of the Interior. Then we had a meeting.

Q. 5. Where was the meeting held? A. At the office of the U. S. Surveyor-General.

Q. 6. What subject did you there discuss?

Objected to by Mr. Shanklin as immaterial.

A. We discussed the decision of the Secretary of the Interior as to how the ranch should be surveyed, and what should be included.

Q. 7. What were the special objections then made by each of the several parties present?

Objected to by Mr. Shanklin as immaterial and indefinite,

as not having stated who the parties were that were present and engaged in the discussion, nor when it occurred.

A. I called on the Surveyor-General 5th of December, but that was not the time we had the discussion. It was on the 24th of November, 1873. There were present, Sol. A. Sharp, Leander Ransom, R. C. Hopkins, and the Surveyor-General; B. S. Brooks was also present, and the decision of the Surveyor-General was, that the marsh land must be taken in.

Q. 8. Did you, at any time during the period mentioned, viz: from Oct. 3, 1873, to Dec. 5th, 1874, meet Mr. S. R. Throckmorton in the U. S. Surveyor-General's office [objected to by Mr. Shanklin as immaterial and irrelevant], and if so, did your conversation have reference to the Ransom or Allardt survey? A. I have no special recollection of it now. I am under the impression that I did. I must refer to my memorandum in order to be positive.

Motion made by Mr. Shanklin to strike out the preceding answer, 1st, as immaterial; 2d, because the objections of Mr. Throckmorton to the survey in question is a matter of record in this office, and cannot be varied by parol testimony.

*Cross-Examination by S. L. Cutter, Esq.*

Q. 1. In answering question 1, what book did you refer to, to refresh your memory? A. A diary or memorandum book that I keep.

Q. 2. Will you please read from it verbatim the memorandum made there by you, on October 3d, 1873, concerning Mr. Gardner's presence? A. Gardner followed us wherever we went.

Q. 3. Did you have the espediente or any part of it with you—I mean your party—during the discussion of the point of commencement mentioned in your answer to question 5? A. I think we only had a traced copy of the diseño from the espediente.

Q. 4. Did you have the record of juridical measurement or any papers concerning the rancho? If so, state what they were. A. I think we had a copy of the juridical measurement, also a copy of the decision of the Land Commission, with the traced copy of the diseño before spoken of. I think I had pamphlet copy of the "Decision of the Secretary of the Interior, and opinion of the Assistant Attorney-General in the case of the Survey of the Rancho 'Corte Madera del Presidio.' Heirs of Juan Read, con-

firmees. Washington: Government Printer's Office; 1872."

Q. 5. Did you have or were any of the original title papers of this rancho, or copies of them in Spanish upon the ground during that discussion? A. I don't recollect that they were.

Q. 6. Your discussions then were all founded upon translations? A. I think they were.

Q. 7. Do you understand the Spanish language? A. I do not. I relied upon my attorney (B. S. Brooks) for that:

Q. 8. How far from the house (the Read house) was the point of commencement pointed out by your party on that day, and in what direction from the house? A. About 40 chs northwest, as marked on the map.

*Cross-Examination by J. W. Shanklin.*

Q. 1. What time on the 3d of October, 1873, did you and the party leave San Francisco, to go to the Rancho Corte Madera del Presidio? A. On the morning of that day.

Q. 2. About what hour? A. I think the first morning boat over from San Francisco to Saucelito. It is not down in my memorandum book, but I think it was  $\frac{1}{4}$  of nine in the morning.

Q. 3. What time did you arrive at the ranch? A. About 11 o'clock that day.

Q. 4. What time did you go with Allardt and Ransom to ascertain the location of the solar as established by Mathewson? A. Almost immediately after our arrival at the rancho.

Q. 5. How long did you and the company with you, remain at that point? A. I should think from half an hour to an hour.

Q. 6. Was Mr. Throckmorton on the ground when you arrived there, at the solar? If not, how long after you arrived there was it before he arrived? A. I think we all went to the place together.

Q. 7. Did not Mr. Throckmorton go to his house, before he went to the solar? A. I am not sure whether he did or not. My impression is he did.

Q. 8. Did you and your company not proceed directly to the solar, while Mr. Throckmorton went to his house? A. My impression is that we left our horses at Mr. Throckmorton's house, and then walked over to this point of commencement, but am not positively certain of it.

Q. 9. Did Mr. Throckmorton remain on the ground, as one of the party, during the time that you remained at the solar? A. I think he did; and walked with us down to the rancheria, and from there we went to his house to lunch.

Q. 10. What time did you go back, you and your company? A. We went back on the 3 p. m. boat to the city.

Q. 11. In your former testimony in this case, you speak of having employed Mr. Ransom to make a survey of the Corte Madera del Presidio rancho. Did you pay him, for making the said survey, any funds besides the amount you say was deposited in the U. S. Surveyor-General's office for making said survey? A. If I stated in my former testimony that I employed him, I wish now to state that he was appointed by the Surveyor-General to make the survey, and the money for that purpose was deposited with the Surveyor-General, as is usual in those cases.

Q. 12. Now please to answer my question, as to whether you paid Mr. Ransom anything besides what was deposited in this office, on account of the making of the survey of said rancho; and if so, how much?

J. B. Howard objects to the question, as irrelevant and not being cross-examination; and Mr. Valentine objects and declines to answer the question until his counsel, B. S. Brooks, is present.

Q. 13. Then you decline to answer the question? A. I do, for the reason before stated.

Q. 14. With what parties was the agreement made by you, of furnishing the funds to survey this ranch? A. I don't know of any agreement made by me with anybody.

Q. 15. How then came the parties whom you name in your former examination to unite with you in furnishing the money deposited in this office for the survey of the ranch? A. I think I stated that Mr. Howard, in order to expedite the survey, proposed to pay a portion of the expense of making it, Mr. Ransom claiming the amount paid into the office was not sufficient to complete the survey.

Q. 16. What interest did Mr. Howard have or represent in the Rancho Corte Madera del Presidio, for which he was willing to pay a portion to expedite the survey? A. Mr. Howard had a client by the name of Riley, who was located upon some land which he claimed would be west of the line of the Read rancho, and public land, who was desirous of getting a title to his land from the United States, and no interest in the Read ranch.

Q. 17. Was Mr. Howard the only man you accepted

assistance from in obtaining money to make the survey? A. He was the only man outside of the persons claiming under the Read title.

Q. 18. Was Riley the only man that Mr. Howard represented himself as willing to contribute in making the survey? A. He was the only man at that or any other time.

Q. 19. How much did Mr. Howard contribute towards making the survey? A. I don't recollect the amount.

Q. 20. When was it that he agreed to contribute with you towards the survey? A. He did not agree to do it; he proposed to do it and I accepted his proposition.

Q. 21. Please to refer to your diary and refresh your memory from it. A. I have not my diary with me containing that.

Q. 22. What was the proposition made by Mr. Howard as the basis or consideration for his aiding towards making the survey, which proposition you say you accepted?

Objected to by Mr. Howard, on the ground of superfluity, the witness having already answered.

A. I have already answered that it was to expedite the obtaining of Riley's title.

Q. 23. Then in accepting Mr. Howard's proposition, did you agree or not to leave Riley's preemption claim out of the Rancho "Corte Madera del Presidio?" A. I did not; I did not make any agreement about it.

Q. 24. Was the time that this proposition made by Howard the first interview you had with him concerning the Riley claim in connection with the survey of the Corte Madera del Presidio Rancho? A. I think so.

Q. 25. Please to look at the document filed in this case entitled, "The heirs of Juan Read vs. the United States. Objections to survey of the Rancho Corte Madera del Presidio, by B. S. Brooks," filed May 1st, 1875, and state whether said document was filed in your behalf by B. S. Brooks, your attorney. A. It so appears.

Q. 26. The first objection in said document reads as follows: "It leaves out, and does not include, a tract of land lying between the western boundary of said survey and the ranchos Saucelito and Punta de Quentin, or the Arroyo Corte Madera del Presidio and the Arroyo Holon." Please to state why said objection was included in your list of objections, when you had accepted from Mr. Howard, on behalf of Riley, money for the survey of the rancho, so as to allow Riley his pre-emption claim?

J. B. Howard objects—

1st. Because the said document was not offered or referred to in the direct examination of this witness.

2d. Because the reasons for a pleading cannot be inquired into in this manner.

A. The document itself shows all the reasons for objections, and is not offered in evidence.

J. W. Shanklin now offers in evidence, and marks said document "Ex. S. R. T., No. 1."

Adjourned till 10 $\frac{1}{2}$  o'clock Thursday morning, Dec. 2d, 1875.

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THURSDAY, Dec. 2d, 1875.

All present.

Continuation of the examination of Mr. Valentine by Mr. Shanklin.

Q. 1. On the margin of the first objection referred to in last question appears this memorandum: "1st objection withdrawn. B. S. Brooks. Aug. 3, 1875." Please state the cause of the withdrawal of this objection by your counsel, B. S. Brooks.

Objected to by J. B. Howard, because it appears that said document was filed May 1st, 1875, in behalf of "the claimants," and J. W. Shanklin, Esq., appears for S. R. Throckmorton, who claims, as does the witness, an interest in said rancho—and the question is therefore incompetent.

To which counsel S. R. Throckmorton replies: That S. R. Throckmorton was not a party to the withdrawal of the first objection referred to in the question; B. S. Brooks, who made the withdrawal, having expressly stated before the U. S. Surveyor-General, at the commencement of the hearing of this case, that he was not counsel for S. R. Throckmorton, and his name was erased from the objection as counsel for Mr. Throckmorton; such being the case, he could not make the withdrawal referred to and bind S. R. Throckmorton thereby; because of this state of facts the question is asked to learn the motives which prompted the withdrawal. Further answer to said objection, that J. B. Howard does not appear as counsel for any party or parties claiming under the grant, nor for any parties inside of the present survey, or for any parties who have filed objections to the survey in question; and the ruling upon the objection is asked by the Surveyor-General.

Mr. Howard calls attention to the record and to his appearance therein.

1st. That Mr. Valentine must answer the question.

2d. That the right of Mr. Howard to appear here has already been decided by the U. S. Sur.-Gen'l, as the record in this case will show.

A. I refer to Mr. Brooks for the cause.

Q. 2. A document is here shown witness, signed by B. S. Brooks and J. B. Howard, bearing stamp of the U. S. Sur.-Gen'l's Office, dated November 30th, 1875, and question asked, whether the matters therein referred to were known to you at the time of making said document?

J. B. Howard objects, unless the document is first offered as an exhibit.

A. I refuse to answer because it is a private document and not properly in this case.

Document is here offered in evidence, marked Ex. S. R. T. No. 2.

Q. 3. Question repeated. A. I object to it because it is a private paper, and not filed by any person of whom I have knowledge.

Q. 4. Is the signature of B. S. Brooks to said document genuine? A. It seems so to be.

Q. 5. Was B. S. Brooks at the date of this document attorney for you as one of the claimants of the Rancho Corte Madera del Presidio? A. The documents in the case show for themselves whether he was or not.

Q. 6. Question repeated. A. Yes.

Q. 7. Is the signature of J. B. Howard to said document genuine? A. Yes, I think it is the genuine signature of Mr. Howard.

J. B. Howard admits that he signed said document as for the parties therein represented and with reference to the plat Corte Madera attached to field notes to the final survey of the rancho "El Corte Madera del Presidio" finally confirmed to *Heirs of John Read*, made by Leander Ransom, deputy surveyor in the year 1873, and offers said plat as an exhibit, to explain said agreement, said plat marked L. R. Dep. Sur., said exhibit being simply for the purpose of explaining said agreement and said plat being similar to the official plat.

Q. 8. When did you first see said Exhibit "S. R. T. No. 2" in this office among the papers of this case? A. To-day.

Document is now shown witness, endorsed Rancho Corte Madera del Presidio, Marin County. Notice that claimants insist on their objections to survey, marked with stamp of

U. S. Surveyor-General's office, August 27th, 1875; and question asked :

Q. 9. Are you acquainted with said document and the matters referred to therein? A. I decline to answer, unless the paper is offered in evidence.

Said exhibit is now offered in evidence, and marked "S. R. T., No. 3."

A. Yes, sir.

J. B. Howard moves to strike out the paper, on the ground that it is not competent evidence to establish any fact at issue in this case, and is uncertain and indefinite, and that it does not appear to relate to any paper on the file, and is without date of signature.

Q. 10. Is the signature of B. S. Brooks genuine? A. Yes, sir.

Q. 11. Was Mr. Brooks, at the time of signing and filing said exhibit in the Surveyor-General's office, acting as attorney for you, as one of the claimants of the Rancho Corte Madera del Presidio? A. Yes.

Q. 12. Please to state the nature of the settlement referred to in Exhibit No. 3, in the following words: "which stipulated a settlement of a controversy in manner entirely satisfactory to us." A. I think the paper in the case will give all the facts about it.

Q. 13. Said Exhibit 3 further states in the last paragraph thereof, as follows: "As the settlement agreed upon by the United States and the claimants is not carried into effect on behalf of my clients until said stipulation is wholly carried into effect, I insist upon my objections as originally filed, and I now withdraw and annul the before-mentioned withdrawal, hereby leaving my said objections standing and in full power, as originally made." Was the revocation of the withdrawal, as referred to in said quotation, made by Mr. Brooks with your knowledge and consent, as one of the claimants in the Rancho Corte Madera del Presidio?

Question objected to by J. B. Howard as leading, the examination being direct, and furthermore as being incompetent in determining any issue in the case.

A. Yes, it was.

Mullen & Hyde now call upon the Surveyor-General and demands that there be exhibited to them any stipulation that was entered into and signed by B. S. Brooks and counsel of the United States, in the matter of the final survey of the Rancho Corte Madera del Presidio, and which is referred to in the document in evidence in this case,

marked Ex. S. R. T. No. 3, and which is in words and figures as follows, to wit:

*To James T. Stratton, Esq., U. S. Surveyor-General for the State of California:*

On the 3d day of August, 1875, a stipulation was signed by myself and counsel of the United States, the preemptioners and claimants in the matter of the final survey of the Rancho Corte Madera del Presidio, which stipulated a settlement of the controversy in a manner entirely satisfactory to us; and supposing that settlement would be carried into effect in accordance with its terms, I, as a part of that settlement and to carry it into effect, withdrew my objections to the west line as surveyed.

As the settlement agreed upon by the United States and the claimants is not carried into effect, on behalf of my clients, until said stipulation is wholly carried into effect, I insist upon my objections as originally filed, and I now withdraw and annul the before-mentioned withdrawal, hereby leaving my said objections standing and in full force as originally made.

B. S. BROOKS,  
Attorney for Claimants.

Rancho Corte Madera del Presidio, Marin County. Notice that claimants insist on their objections to survey.

Ex. "S. R. T. No. 3." U. S. Surveyor-General's office, Aug. 27, 1875, S. F., Cal.

Q. 14. Document signed by B. S. Brooks, bearing date San Francisco, Aug. 3d, 1875, and marked with a stamp of U. S. Surveyor-General's office, Aug. 3d, 1875—here shown witness. Question asked: Is the signature of B. S. Brooks, on said document, genuine, and did he have authority to appear for you as set forth in said document?

Witness declines to answer the question until said document is offered as an Exhibit.

Said document is now offered and marked "Ex. S. R. T. No. 4," by Mr. Shanklin, and question repeated.

A. His signature is genuine, and he had authority to appear for me.

Q. 15. It appears by Exhibits S. R. T., Nos. 2 and 4, that they are both dated Aug. 3d, 1875. Do these two Exhibits refer to the same subject matter, and were they both executed with your knowledge and consent? A. The documents themselves show their purport, and they were both made with my knowledge and consent.

Q. 16. Is the settlement referred to in the last paragraph of Ex. 3 the same in all respects as that set forth in Ex. No. 2, which Exhibit No. 3 states was not complied with and for which cause No. 3 was filed [objected to by Mr. Howard, as incompetent and immaterial]; if not, state wherein the stipulations differ? A. The papers show for themselves.

Q. 17. Is that your full answer to the question? A. It is.

Q. 18. Wherein were the stipulations referred to in Ex. No. 2 not carried out, and the act of their not being carried out caused the revocation by your attorney, as set forth in Exhibit 3? A. The papers show for themselves.

Q. 19. Was, or was not, one of the terms of a stipulation referred to in Ex. No. 2, that a final survey of the grant should include, for your benefit, the marsh lying on the NE. part of the ranch and the peninsular island on SE. corner, and on the part of Mr. Howard, in behalf of his clients, that you would leave out for their benefit all the land lying between the west line of the ranch, as laid down on the official map, and the creek known as the Corte Madera del Presidio on the west and the Arroyo Holon on the north?

Question objected to by Mr. Howard as leading, and as suggesting the answer; and furthermore, because the exhibits offered speak for themselves, and the plat referred to also represents the lands to be included and are identical with the official plat.

A. I refer to the papers themselves as the best evidence.

Q. 20. What particular features are set forth in Exhibit No. 2 which were not carried into effect, and the cause of which you, through your attorney, filed Exhibit No. 3? A. I think the papers show all that I can show in the matter.

Q. 21. Was there any other agreement, either verbal or in writing, than what is set forth in Exhibit No. 2, and the refusal to carry out which, caused you, through your attorney, to file Exhibit No. 3, re-ruling the withdrawal of the first objection in Exhibit No. 1? A. No other that I know of, as I understand it.

Q. 22. What party or parties failed to carry out the stipulations set forth in Exhibit 2, which caused you to file Exhibit No. 3? A. The Exhibit No. 3 shows the reasons for filing it.

Question repeated. A. I make the same answer.

Q. 23. Your first objection in Exhibit No. 1, which was re-instated by Exhibit No. 3, reads as follows:

"It leaves out and does not include the tract of land

lying between the western boundary of said survey and the ranchos Saucelito and Punta de San Quentin or the Arroyo Corte Madera del Presidio, and the Arroyo Holon." Please state your reasons as a claimant in behalf of the heirs of Juan Read, for objecting as just set forth in the same. A. The papers themselves state the reasons, and I don't think I am called upon to give my own reasons, other than stated in the papers. I am a party in interest, and don't propose to develop my course of managing the case for the benefit of anybody else.

Q. 24. If your first objection, in Exhibit "S. R. T., No. 1," was made in good faith, and you believed at that time that the survey in question was incorrect in leaving out the land lying between the Arroyo Corte Madera del Presidio and the Arroyo Holon, how came you to withdraw said objections as set forth in Exhibit S. R. T., No. 2 ?

Question objected to by J. B. Howard, for the United States and pre-emptors, as eliciting the opinion of his witness, and as incompetent to determine any issue.

A. The papers show my reasons.

Q. 25. If the withdrawal of said objection, as set forth in Exhibit S. R. T., No. 2, was made in good faith, how came you to revoke said withdrawal as set forth in Exhibit No. 2, and again claim, as a part of the Ranch Corte Madera del Presidio, the land lying between the Arroyo Corte Madera del Presidio and the Arroyo Holon, as a part of said rancho, on behalf of the heirs of Juan Read ?

Question objected to by Mr. Howard for the United States and Preemption Claimants, as incompetent, and furthermore because the counsel cannot question the good faith of his own witness, or inquire into the opinion upon which the pleadings in this case are founded and prepared.

Counsel for S. R. Throckmorton replies to the objection. That the statement of the witness in testifying in behalf of Throckmorton is incorrect, but is legitimate cross-examination of the subject matter brought out by Mr. Howard on direct examination wherein is elicited the fact that the witness stipulated for and received from Mr. Howard, in behalf of his clients, money to apply in the survey of the Rancho Corte Madera del Presidio, and we have a right to enquire into the nature and character of all stipulations made by witness with parties foreign to the grant whereby the interest of the grantees will be diminished in any respect? A. My reasons are stated in the papers themselves.

J. B. Howard, on behalf of the United States District At-

torney, offers as Exhibits, with the official plat of the survey of the Rancho Corte Madera made by R. C. Mathewson Dep. Sur. in 1858, the field notes of said survey marked Ex. Mathewson No. 2, and the certificate of approval thereof of the date of August 15th, 1860, and request the Surveyor-General to have said exhibits copied and filed in this case, to be forwarded to the Commissioner of the General Land Office.

Mullen & Hyde, in behalf of their own clients and in the absence of the U. S. Dist. Att'y Van Dyke, demand to know for what purpose the said Mathewson survey and field notes thereof, are offered at this time, and by J. B. Howard on behalf of the U. S. Dist. Att'y, and demands said reasons be spread upon this record.

Mr. Howard states that the plat itself was heretofore offered by Walter Van Dyke, Esq., U. S. Dist. Att'y, as appears upon the record, pages 192 and 193, and that J. B. Howard now offers the field notes and certificate of approval of said survey of August 15th, 1860. Mr. Howard further states that he is authorized generally to appear for the United States and the Dist. Att'y in behalf of the preemption claimants Cushing, Barlow and Riley, and is further specially authorized by the Dist. Att'y to appear for him and the United States for the purpose of restricting the survey of the Rancho Corte Madera, and is authorized to file the field notes, and certificate of approval of the Mathewson survey, as above stated.

Adjourned till  $\frac{1}{2}$  past 10 o'clock Monday morning, December 6th, 1875.

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MONDAY, December 6th, 1875.

All present.

*Examination by Mr. Howard.*

Q. 1. Mr. Valentine, state if it appears from your diary of October 3d, 1873, that S. R. Throckmorton was present with you at the location of the solar (as ascertained by R. C. Mathewson in 1858) by Geo. F. Allardt and Leander Ransom, Deputy Surveyor. A. His name appears as being with me at that time.

Q. 2. Was the entry made at that time? A. The entry in the diary was made on the same evening or the next morning. That was my custom.

Adjourned till Wednesday morning, December 8th, 1875, at 10 o'clock.

WEDNESDAY morning, Dec. 8, 1875.

All parties present.

*Cross-Examination by J. B. Howard.*

Mr. Allardt recalled.

Q. 1. It is stated in the evidence of Thos. B. Valentine and Peter Gardner, that Mr. Throckmorton was present with you, Deputy Ransom, and other persons, on the Rancho Corte Madera del Presidio, at or near post C. M. P. 181 in the forenoon of October 3d, A. D. 1873. It is further testified to by Mr. Valentine that you came to that place in company with Mr. Throckmorton, and that you came from the Saucelito boat in Mr. Throckmorton's carriage, as far as Mr. Throckmorton's house, and, together with the other persons, walked over from thence to the solar, and that you had with you on the ground surveying instruments. Please state if you now recollect these circumstances, and if so you may correct your testimony on these points heretofore given in your cross-examination by me. A. I do not recollect positively who was present. The persons named may have been there, but I have forgotten. I think we rode up in Mr. Throckmorton's carriage to his house, but I am not positive.

Q. 2. J. B. Howard here offers in evidence "Plat and field notes of part of boundary of the Rancho Corte Madera del Presidio, re-surveyed under instructions dated October 8, 1869, by G. F. Allardt, Deputy Surveyor," marked "Ex. Solar No. 2;" also certified copy of the instructions to G. F. Allardt for re-surveying a part of the line as above, marked "Ex. Solar No. 3," for the purpose of showing the extent of the boundaries of the Rancho Corte Madera del Presidio, which Mr. Throckmorton claimed to be "common to the two ranchos, Saucelito and Corte Madera del Presidio." Please state at what point you began said survey, and what point you closed by actual measurement on the ground, and also what portion of said line you calculated from the survey of R. C. Mathewson.

Mr. Throckmorton objects to his name being used in marking Exhibits offered by Mr. Howard. It is ordered by the commissioner that some other name than Mr. Throckmorton's be substituted.

J. B. Howard marks the Exhibit representing the petition of Mr. Throckmorton to the Surveyor-General, dated March 3d, 1839, locating the "solar" as Exhibit No. 1 "solar;"

and the plat and field notes of part of the boundaries of said rancho under instructions of Oct. 8th, 1869, as Exhibit No. 2 "solar;" and the copy of said instructions, dated Oct. 8th, 1869, marked Exhibit No. 3, "solar;" said Exhibit 1 having been offered heretofore, and two and three of this date, and question 2 repeated.

Counsel for Throckmorton objects to the foregoing question—

1st. Because it is irrelevant.

2d. Because it is not true, as stated in the question, that said survey was made for the purpose of establishing the boundaries of the grants in question, but to ascertain the location of a line that had been run in a previous survey of the grant for the purpose of determining the line of partition or possession between adjacent claimants.

3d. That it does not appear from the document marked "Solar No. 2," that said survey was ordered as a part of the survey of the grant in question, or for the purpose of determining finally any line of said grant Corte Madera del Presidio.

By J. B. Howard—The objection of Mr. Shanklin, taken in connection with the documents themselves, are submitted and the question not pressed.

Mr. Shanklin moves to strike out the question and the exhibits presented as a part of the question, on the ground that the waiver of the question, the objection is sustained, and cannot be considered in the case.

Question repeated, and the witness requested to answer.

Mr. Allardt directed by the commissioner to answer the question, and the motion to strike out is refused.

A. I commenced the survey at Mathewson station, No. 175, and retraced his survey of said rancho to Post C. M. P. 182; no part of my survey was made by calculation or triangulation.

Q. 3. Did you, as deputy surveyor, make a survey in May and June, 1874, of the lands represented on the official plat as "public land?" A. I did.

Objected to by Mr. Shanklin as immaterial, and also, because no subdivided public land is represented on the map referred to.

Q. 4. Did you at said date make a survey of the "public lands," represented as lying west of the westerly boundary line of the Rancho Corte Madera del Presidio, as said line is represented on the official plat? A. I sectionized a

tract of land lying west of said western boundary of the rancho, as delineated on the official plat.

Q. 5. Did you, as Deputy Surveyor, run the said line from Post C. M. P. 180 to Redwood Post "P. Q. 99" and "W. R. 203," being the line represented as the westerly line of said rancho between the points named, and as an easterly line between said points of the "Public Land" adjacent to said rancho?

Question objected to by Mr. Shanklin as indefinite as to the survey, whether in subdividing the land west of said line, or whether he run said line as a boundary of the grant Corte Madera del Presidio.

A. I did not on that survey.

Q. 6. Did you at any time? A. In June, 1874, I retraced that line, as Deputy-Surveyor.

Q. 7. In what case, and under what instructions? A. Under instructions from the U. S. Surveyor-General. I received special instructions from the Surveyor-General to retrace the line.

Q. 8. For what purpose? A. I do not know.

Q. 9. Were the instructions in writing? A. They were.

Q. 10. Have they been returned by you to this office, with the survey so made? A. No.

The witness is requested to produce said instructions at 2 o'clock this afternoon.

Mr. Allardt produces the original letter of instructions, issued May 28th, 1874, by James T. Stratton, U. S. Surveyor-General for California, for the "Re-survey of the western boundary of the Rancho Corte Madera del Presidio," endorsed "Surveyed June 2 and 3, 1874, and field notes returned July 1, 1874. Allardt." J. B. Howard offers said letter of instructions as Exhibit, and files same in evidence as Exhibit "Solar No. 4," a copy thereof to be filed in the record, and the original returned to Mr. Allardt.

J. B. Howard offers in evidence the plat and field notes of the survey of "Public Lands," township 1 N., R. 6 W., M. D. Mer., approved by the U. S. Surveyor-General Nov. 27, 1874, filed with the Register of the Land Office Dec. 5, 1874, and withdrawn therefrom Aug. 13, 1875, upon a telegram from the Commissioner of the General Land Office to the Surveyor-General of California, dated Washington, Aug. 12, 1875. Said exhibit marked "Public Lands Survey," T. 1 N., R. 6 W. Copies of which will be filed on the record.

Q. 11. Does the plat exhibit "Public Lands, T. 1. N. S. 6 W." correctly represent a survey as made by you, in May and June, 1874?

Counsel for Throckmorton objects. 1st, on account of irrelevancy; 2d, because a subdivisive survey made without legitimate authority within the exterior boundaries of a private land claim, before a final survey and approval of the ranch which includes within its exterior boundaries such so-called public land, is expressly prohibited by the instructions of the Department to the Surveyor-General—and cannot be resorted to, to prove the final location of any of the boundaries of the grant.

Commissioner directs Mr. Allardt to answer the question, and overrules Mr. Shanklin's objection.

A. The map shows lines run by me, but I do not know whether they are correctly delineated or not.

Q. 12. Examine said exhibit, and the field notes, and state whether or not the line commencing at "Post C. M. P. 180" and ending at Redwood Post P. Q. 99 and W. R. 203, was run by you as Deputy Surveyor, under instructions from Surveyor-General in the year 1874?

Mullen & Hyde objects, as not calling for the best evidence.

Counsel for Throckmorton objects to any testimony representing the survey of any public land within the exterior boundaries of the Rancho Corte Madera del Presidio as indicated on the suspended map of Tp. 1 N., R. 6 W., said map having been ordered withdrawn from the Local Land Office by order of the Commissioner of the General Land Office, because the western or other boundaries of the Rancho Corte Madera del Presidio have not been officially determined.

Mullen & Hyde make same objection.

The objections sustained. The field notes and maps are the best evidence.

*Cross-Examination by Mr. Cutter.*

Q. 1. On page 241 of this testimony, in answering question 8, you say you have observed that the washings from the hills make more dry land on the marshes, but that the action of the waves decrease the marshes. Will you state whether the latter part of that proposition applies to the east or west side of the bay, or both? A. It applies more especially to the eastern or lee shore of the bay, exposed to the prevailing winds.

Q. 2. Has the erosive action of the waters of the bay affected the outer edge of the marshes shown on the plats of this Rancho Corte Madera which have been filed in this hearing, especially those marshes represented on the official plat as lying east of the meanderings between Post 669 and Post W. R. 1, on said official plat? A. I have had occasion to compare my surveys I made in 1870 with that of the U. S. Coast Survey, made about 15 years prior thereto, and found that the erosive action in that locality had been inconsiderable, my lines of survey coinciding very nearly with that of the Coast Survey.

Q. 3. Have you any means of judging, or do you know how much the western boundary of the marsh land, mentioned in the last question, has been changed by the washings of the hills since July 8th, 1846? A. I know nothing of the extent of the salt marshes in that locality, from my own observation, prior to 1858.

Q. 4. Have the washings from the hills, along the last named boundary, changed that boundary since 1858; and if yes, how much? A. They have reduced the area of the salt marsh, to what extent I am not able to say.

Q. 5. Can you say to what extent they have changed that boundary in any one or more places thereof? A. I can't from memory define any particular locality; but I know generally, from comparison of surveys made by me in 1858 and in 1870, that the area of the salt marsh has decreased.

Q. 6. Can you state the decrease at any point, without fixing the spot? A. I cannot.

Q. 7. At what date did you run the meanders along the edge of the dry land, between Post 669 to Post W. R. 1, as shown on the official plat in this case—I mean the meanders from the field notes of which this plat was compiled?

Mr. Valentine objects to all the questions put to this witness, as not being cross-examination and irrelevant.

A. I ran the meanders from post 669 to post W. R. 1 in 1870, as chief engineer of the Board of Tide Land Commissioners, created by act of Legislature.

Q. 8. Did you ever run those meanders more than once; if so, when?

Objected to by Mr. Valentine, as not being cross-examination and irrelevant.

A. I ran the meanders between the same points in 1858, as assistant to U. S. deputy R. C. Mathewson, but not with the same minuteness and accuracy as in 1870.

Q. 9. In connection with what survey did you make this last-named running of said meanders? A. In connection with the State Tide Land Survey.

Q. 10. In connection with what survey did you run these meanders as stated, in 1858? A. As assistant to Deputy Mathewson, in the survey of the Rancho Corte Madera del Presidio.

Q. 11. What was the purpose of the survey when you run the meanders aforesaid in 1870? A. To ascertain the salt marsh and tide lands belonging to the State of California.

Objected to by Mr. Valentine as not cross-examination and irrelevant.

Q. 12. Have you examined the official plat in connection with your field notes of either of the surveys you have mentioned; and if so, can you state whether the meanders between post 669 and W. R. 1, are accurately represented on said plat and according to your field notes of either survey? A. I have not examined the meanders critically, but I am satisfied that they are correctly platted on the official plat, from the survey of 1870.

Q. 13. Do I understand by this you mean a survey made for the State of California and the Tide Land Commission? A. Yes.

Q. 14. Have you the original field notes of that survey, and will you produce them? A. No, I have not, in my possession.

Q. 15. Witness is here shown a book marked "Tide Land Survey. Topographical Party. Meanders No. 4, in the County of Marin, and asked: Does that book contain the original field notes of those meanders? A. It does.

Mr. Cutter here offers in evidence, by certified copy, a portion of said book, commencing on page 34 thereof, and including said page and page 35, and the corresponding sketches applying to that part of the field notes.

Q. 16. You have testified that you had charge of the surveying party which made the Mathewson survey of the Rancho Corte Madera del Presidio, also the Tide Land surveys, made under authority of the State of California, and that you have compared your surveys with the coast survey made somewhere between 1852 and 1856. Now state whether you found any special disagreements between the two surveys; and if so, where and what extent, so far as the Rancho Corte Madera is concerned. A. The comparison was made several years ago. I cannot make any definite

statement in the matter without a careful examination and comparison of the maps of the three surveys.

Q. 17. In several questions, and in several of your answers heretofore given, the solar is assumed as a fixed and determined spot. State whether in any part of this testimony given by you you mean, or mean to imply, that you have decided the location of said solar yourself, or that you consider that point as definitely fixed by any evidence that you have received in connection with any surveys, reconnoissance made by you, or at any other time.

Objected to by Mr. Howard as eliciting the opinion of the witness, and as not being the best evidence, the testimony of said witness, and the records in this case determining that point.

Mr. Cutter proposes to strike out the objection, on the ground that the witness has been introduced as an expert.

A. I have never received any instructions from the Surveyor-General to establish or determine any of the boundaries of said rancho "Corte Madera del Presidio," but have received instructions from the Surveyor-General at various times to re-survey certain boundaries that had been previously established or reported on by either Deputies Mathewson or Ransom, and I followed their lines as they had surveyed them. I have never been officially called upon to establish the locality of the solar. In speaking of it, I have spoken of it as established by Mathewson.

Mullen & Hyde now offer in evidence a certified copy of the order and decree dismissing proceedings in the District Court of the United States for the District of California, in the case of the United States vs. The Heirs of John Read, marked Ex. "A. Mullen and Hyde."

Objected to by J. B. Howard, for the United States Attorney, reserving to Mr. Van Dyke to state his grounds of objection.

Adjourned till half past ten o'clock Thursday morning, Dec. 9th, 1875.

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THURSDAY MORNING, December 9th.

All parties present.

*Re-direct Examination by B. S. Brooks, Esq.*

Q. 1. Look at the diseño in the expediente No. 27; state whether you recognize the objects delineated thereon.

A. Yes, I do.

Q. 2. How is that map in regard to general correctness ?

A. It is very roughly drawn, but it gives a good idea of the geographical features of the country and relative position of objects. It seems to be a mere eye sketch.

Q. 3. Look at the map filed herein, being a traced copy of the map attached to and forming a part of the expediente, for the assigning of the common lands of the pueblo of San Rafael, and say whether you recognize the objects delineated thereon. A. I do.

Q. 4. Look at the map filed herein, being a traced copy of the map attached to the deposition of Wm. E. Hartnell, in case No. 104, etc.; state if you recognize the objects delineated thereon.

Objected to by J. B. Howard as not being the original, nor a copy thereof, as appears from inspection of the original; that said copy was certified by mistake; and furthermore because no such grant as that represented by said map exists; that the said rancho of Saucelito, purporting to be represented by said diseño, is shown by the records of this office to be invalid; and that no grant therefor ever issued during the existence of the former government of Mexico, and no juridical possession thereof was ever given by an authorized officer of said government; and furthermore, because the certificate endorsed on the original map attached to the said deposition is not attached to the copy; and by said certificate it is shown that said map is evidently incorrect; and because the whole record pertaining to said "Saucelito Rancho," so called, is not offered, from which it will appear that said map and record are wholly antedated, fraudulent, forged, or counterfeit, and have no validity whatever; and that said lands, so far as this claim is concerned, are the property of the United States. The object of this objection is to prevent the introduction in evidence of an invalid plat representing two ranches as joining so as to exclude public lands claimed by Cushing, Barlow and Riley as preemptors, viz: by representing a Mexican grant as lying immediately west of and adjoining the Rancho Corte Madera del Presidio; whereas, in the absence of said invalid documents the claims of preemptors may be preserved, and the rights of the United States thereto protected.

Counsel for Throckmorton moves to expunge from the record the objection raised by Mr. Howard to the presentation of the map found in connection with the expediente of the Saucelito Rancho as offered by Mr. Brooks, and the

statement made by Mr. Howard concerning said Rancho, for the reason—

1st. That it is an attack upon the record of this office, and upon the Surveyor-General in making copies of said record.

2d. That the matter is foreign to the investigation of the Rancho Corte Madera del Presidio, and libelous as to the Rancho Saucelito—a grant which has been confirmed by the Board of Land Commissioners, the District Court, and the Supreme Court of the United States, all of which proceedings are a matter of record in this office; and in support of the offering of the map by Mr. Brooks, counsel further adds, that it is pertinent and necessary for the determination of the boundaries of the Rancho Corte Madera del Presidio, for the reason: Juan Read, the grantee of the Corte Madera del Presidio, as appears from his expediente, first petitioned for the Saucelito Rancho, and filed in connection therewith a map, which shows the relative position of the ranchos Saucelito and Corte Madera del Presidio to each other; it therefore becomes necessary to examine the expediente and diseño of the Saucelito to see whether the diseño of said rancho corresponds with the diseño of Juan Read for the Corte Madera del Presidio Rancho.

Mr. Howard objects to the motion to strike out on the ground that it appears from the Spanish archives, and from the Expediente No. 111 for the rancho of Saucelito to Wm. A. Richardson, that no grant, or concession, or order for a grant or concession, ever issued, and therefore the papers offered are necessarily invalid and false.

Mr. Howard's objections are overruled by the commissioner, and Mr. Allardt directed to answer the question. Upon the motion to expunge, the same question was submitted to the Surveyor-General, and by him refused, at an earlier date of this hearing. I refuse to allow the motion to strike out.

Counsel for Throckmorton here desires to put in the record the following statement, viz: That during the Surveyor-General's presence, counsel for Throckmorton moves to expunge from the record a similar statement made by him at the time this same diseño was previously presented. The Surveyor-General, in the presence of the parties and witnesses in this case, sustained the motion to expunge Mr. Howard's remarks from the record, so far as they referred to Saucelito Rancho; and it is, therefore, immaterial whether the record now shows that the remarks were expunged according to his ruling.

Mr. Cutter verifies the statement of Mr. Shanklin, counsel for Throckmorton, that the Surveyor-General, in presence of the parties and witnesses in this case, sustained the motion to expunge, as stated by Mr. Shanklin, and further says, that he, Cutter, at that time, understood the ruling to be that said statement was expunged. That said Cutter has been present at every hearing since then, and has never heard any ruling of the Surveyor-General to the contrary.

Mr. Howard says that upon a motion to strike out certain maps, such as the above, the motion was sustained by Surveyor-General, to which Mr. Howard excepted, and appealed to the Commissioner of the General Land Office, as he now does in this instance, and in all others wherein any plats filed or reference made to the so-called Saucelito Rancho of William A. Richardson. See pages 200 and 201.

Mr. B. S. Brooks states that his recollection is in accord with that of Mr. Cutter; and further, that in his opinion the Surveyor-General has the power, and ought to exclude entirely from his records matters that are impertinent, more especially if they are scandalous. That the office of an objection is simply to note the fact of the objection and the legal grounds on which it is made, and not to make assertions, whether true or false, and such assertion ought not to appear in the record.

Mullen & Hyde concur in the remarks made by Mr. Brooks, as also Mr. Cutter, Mr. Shanklin, and Mr. Gardner in person, are all that are present.

Question 4 repeated. A. I do.

G. F. ALLARDT.

Mullen & Hyde now move that further investigation in this case be adjourned until one week after the return of U. S. Surveyor-General to California, for the reason that there is no officer known to the law, now present in the office of the U. S. Surveyor-General, before whom these proceedings can be legally heard; and because there is no person known to the law to act for the U. S. Surveyor-General during his absence from this State. That said Surveyor-General is now absent from this State, and the necessity for his presence, to rule upon important matters that have arisen this morning, is of such a character that an adjournment is a matter of legal necessity; and we do therefore move the commissioner to adjourn the case as requested.

Mr. Cutter seconds the motion.

Adjourned till 2 o'clock.

Motion of Messrs. Mullen & Hyde granted.

Case continued until one week after the arrival of the Surveyor-General at San Francisco.

Mr. Howard and Mr. Sharp objects to the motion.

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THURSDAY, Dec. 30, 1875.

Pursuant to notice duly given by the U. S. Surveyor-General, J. T. Stratton, the case is called at 10 o'clock A. M.

The attorneys present are B. S. Brooks, J. B. Howard, S. L. Cutter, Peter Gardner, S. R. Throckmorton, J. B. Shanklin.

By mutual consent the further examination is continued until Tuesday, January 4th, at 10 o'clock A. M.

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TUESDAY, January 4th, 1876, at 10 A. M.

Case called; all present.

The examination of G. F. Allardt is resumed.

By consent of counsel the case is continued till 10½ A. M. to-morrow.

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WEDNESDAY, January 5th, 1876, at 11 A. M.

Case called. All present.

G. F. Allardt is called as a witness for S. R. Throckmorton.

Q. 1. State your name, age, residence and occupation?  
A. Name G. F. Allardt; age 42; residence San Francisco; occupation, civil engineer and surveyor.

Q. 2. Have you had any relations with the U. S. Surveys? if so, state where you have made surveys under the United States, and when you first commenced making said surveys? A. I commenced in 1858; I was assistant to U. S. Deputy Mathewson in surveying ranchos in San Mateo Co., Marin Co., and elsewhere. By ranchos I mean Spanish grants; and since then as U. S. Deputy Surveyor in surveying grants and public lands.

Q. 3. Have you had any experience in locating Spanish grants from their title papers and descriptions therein? If so, state in what grants? A. In surveying the grants in Marin Co., I was consulted by Deputy Mathewson and studied the original papers referring to such grants—about thirty grants in Marin and Sonoma County, and three or four in San Mateo Co.; one in Monterey Co.

Q. 4. Map is here shown witness marked S. R. T. No. 6,

accompanying the objections of S. R. Throckmorton, and filed May 26th, 1875, and witness is asked to make the comparison between said map and the map of the official survey of the Rancho Corte Madera del Presidio, made by Leander Ransom and G. F. Allardt, and the official township plat of Tp. 1 N., R. 6 W., approved by Sur.-Genl. Stratton, Nov. 27th, 1874. And state whether the plat here shown you represents the lands of the Corte Madera del Presidio and the surveyed lands west thereof, as exhibited on the two official maps referred to.

Mr. Howard objects to the question and Exhibits, as irrelevant and immaterial, and incompetent.

A. It includes all the land of said official map, also the lands lying west thereof shown as public lands on map of Tp. 1 N., R. 6 W., M. D. M.

Mr. Throckmorton offers certified copy of the translation of a portion of the expediente of the Rancho Corte Madera del Presidio, marked Ex. S. R. T. No. 7, and witness is asked to read a description of the boundaries of the Rancho Corte Madera del Presidio as given on page 11 thereof.

Mr. Howard objects to the Exhibit as being indefinite and uncertain, and incompetent. It is uncertain because it does not set forth the juridical possession of the rancho as given by the Mexican authorities, and is not certified as a true copy of the original.

Q. 5. What is stated in description as one of the boundaries of the Rancho Corte Madera del Presidio?

Mr. Howard objects to the Exhibit as incompetent. The original on file in the proceedings before the Land Commission, if any were had, constitute the best evidence.

A. The Mission of San Rafael.

Q. 6. Diseño of the Mission of San Rafael is here shown witness as taken from the archives, and marked S. R. T., No. 8, and question asked whether said Exhibit shows the relation existing between said mission lands of San Rafael and the land now known as the Rancho Corte Madera del Presidio, and if so, state what that relation is? A. The tract enclosed by a brown line on this Exhibit bounds the lands of Rancho Corte Madera del Presidio on the north.

J. B. Howard objects to the Exhibit, as being incompetent.

Q. 7. Give the name of the ranch on the official Map of T. 1 N., R. 6 W., and of the official survey of the Corte Madera del Presidio, that occupies the same relation to

the Rancho Corte Madera del Presidio that the map of the Mission of San Rafael, Exhibit No. 8, shows is sustained to the same rancho. A. Rancho Punta de San Quentin bounds the Corte Madera on the north in a similar manner.

Q. 8. Does Exhibit No. 8 indicate that there was any public land lying between the south boundary of the Mission of San Rafael and the land now known as the Corte Madera del Presidio?

Objected to by Mr. Howard as incompetent, irrelevant and immaterial.

A. Exhibit No. 8 does not show any vacant land south of the mission land of San Rafael, or between that and the Rancho Corte Madera del Presidio, or rather the peninsula representing that rancho marked on the diseño as Tiburon.

Adjourned until 2 o'clock.

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Examination resumed.

Q. 9. Mr. Throckmorton offers certified copy of the translation of a portion of the expediente of the Rancho Corte Madera del Presidio, marked Exhibit R. S. T., No. 9, and witness is asked to read a description of the boundaries of the possession of Juan Read, as given in the testimony of José de la Cruz Sanchez, on page 7; Tomas Geremias, on page 9; Manuel Sanchez, on page 11; and state whether the description given by said witnesses, as to the boundary by the Mission of San Rafael, corresponds with the boundary in that direction, as given in Exhibit No. 7, which you have read, and concerning which you have testified.

Mr. Howard objects to the deposition of José la Cruz Sanchez, as being incompetent, for the reason that it was made and given before the date of juridical possession, and before said Sanchez had gone upon the land, as appears in said affidavit, and because it is not the best evidence; and the said Sanchez is still living in the vicinity of San Francisco, and should be called in person to testify. The affidavits of the other witnesses also objected to as incompetent.

Mr. Cutter objects to question, as incompetent, and for this reason: The record of juridical measurement and possession fix the boundaries according to the decree of the Court and the instructions of the Secretary of the Interior, under which the present survey is to be made.

A. In the testimony of José de la Cruz Sanchez it is stated that the rancho is bounded on the north, on the part

of the town of San Rafael, by the arroyo called Holon and the forest of redwood trees—called also Corte de Madera de San Pablo; Tomas Geremias states very definitely that the Rancho Corte de Madera del Presidio is bounded on the north and towards the pueblo of San Rafael by an arroyo called Holon and a forest of redwood trees, called also Corte Madera de San Pablo.

Manuel Sanchez states that the boundary on the north of the Rancho Corte Madera del Presidio, towards the pueblo of San Rafael, is an arroyo called Holon and a forest of redwood trees—which is also called Corte Madera de San Pablo.

The boundaries given by the three above witnesses correspond, in my judgment, with the boundaries given in Exhibit S. R. T. No. 7, on page 11, but they are more specific and more in detail in giving the name of the Arroyo Holon and the forest of redwoods, called Corte Madera de San Pablo, which are designated by them as being the boundary between the Rancho Corte Madera del Presidio and the mission of San Rafael.

Q. 10. Now please examine the official map of the Rancho Corte Madera del Presidio, as surveyed by Ransom, and state whether said map represents the Arroyo Holon as a northern boundary of the ranch; and if not, state what relation said arroyo as a boundary is made to sustain to the ranch by that survey. A. The Arroyo Holon, in said official map and survey, does not bound the Rancho Corte del Presidio on the north, but bounds it for a short distance only on the west, say for a distance of half a mile.

Q. 11. Now please to look at the official map of T. 1 N., R. 6 \* W., and state whether the Arroyo Holon is represented thereon; and if so, what relation it sustains as a boundary to the Pueblo of San Rafael, as shown on Exhibit 8, and as a boundary to the Rancho Punta de San Quentin, as shown on the official map of 1 N., 6 W.? A. The Arroyo Holon is represented on the map of T. 1 N., R. 6 W., and forms part of the southern and eastern boundary of the Rancho Punta de San Quentin. And on Exhibit 8 an arroyo, which seems to correspond with the Arroyo Holon, forms a portion of the southern boundary of the Pueblo of San Rafael.

Q. 12. With reference to the same two maps, said arroyo would be a northern boundary of what tracts? A. On the map of T. 1 N., R. 6 W., said arroyo forms a portion of

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\* Ex. Official T. Plat, T. 1. N., R. 6 W. Ex. S. R. T. 9½.

the northern boundary of the land surveyed as public land. And in the Exhibit No. 8 it would be a portion of the northern boundary of the tract marked Tiburon, and corresponding with the Rancho Corte Madera del Presidio.

Q. 13. Putting together the official map of the Ransom survey and the T'p map of 1 N., R. 6 W., so far as the same indicate the location of the Arroyo Holon, does Ex. No. 6 correctly represent the same arroyo? A. Ex. No. 6 represents the Arroyo Holon in the same location as on the official map and the T'p plat, as near as I can judge by inspection.

Q. 14. Are you the same G. F. Allardt named on the official T'p plat of 1 N., R. 6 W., as having surveyed the subdivision lines, colored red, including the land lying immediately south of the Arroyo Holon, as represented on said map? A. I am.

Q. 15. Witness is now shown Exhibit S. R. T. No. 9, and is asked to read the description of the boundaries of the Rancho Corte Madera del Presidio, as set forth in said Exhibit, commencing on page 12, fifth line from the bottom and extending and including sixth line of page 44. Please to show, if you can, on Ex. No. 6, or on the official map of the Ransom survey of the Rancho Corte Madera del Presidio, or on the T'p map 1 N., 6 W., the place described therein as the remains of the rancheria called Animas? A. The rancheria called Animas is not shown on said T'p map, nor on said official map, but it is now shown on Ex. 6 by letter A, in a circle, near the house of Read.

Q. 16. The description referred to on page 13 in connection with the rancheria, which you have just described, speaks of a little brook, with a willow thicket. Do you know of any such brook running near the rancheria? If so, how far and in what direction does that little brook extend? A. I know of such a brook with a willow thicket, and it passes said rancheria close to its south side, and takes its rise near the peak of Tamalpais, and runs south-easterly, passing said rancheria on the southerly side, and empties into a slough, connecting with Richardson's Bay.

Q. 17. Please to state whether said brook is laid down on Ex. 6, and if so, state how it is described thereon, and please to mark its source as you have described it? A. The brook is laid down on Ex. 6, and designated as the "Arroyo Corte Madera del Presidio," and its source is on the eastern slope of the Tamalpais Mountain.

Q. 18. How far is that source from the source of the Ar-

royo Holon? A. From my knowledge of the ground, I should say that the sources of said arroyos were not over a quarter of a mile apart, having surveyed both of them.

Q. 19. Do they not both rise on the eastern slope of the Tamalpais Mountain? A. Yes, on the eastern and north-eastern slope.

Q. 20. Please to examine the official map of T. 1 N., R. 6 W., and state if the same little brook is not represented thereon in the same relation to the Arroyo Holon that you have just described? A. It is; but it is not shown all the way to its source, and designated as the "Arroyo Corte Madera del Presidio."

Q. 21. Please to designate on Ex. 6 the nearest point where those streams are together at their sources? A. I designate it by a letter B, in a circle.

Adjourned until 10.30 o'clock A. M., Thursday.

Thursday, Jan. 6th, '76, at 10.30 A. M., case called. All present.

Q. 1. Please to examine Ex. S. R. T. No. 8, and state whether you find represented thereon an arroyo corresponding in location with a stream which you have described on the official T'p plat 1 N., R. 6 W., and Ex. S. R. T. No. 6, as the Arroyo Corte Madera del Presidio; and if so, state how it lies on said map with reference to the peninsula marked "Tiburon."

Mr. Howard objects to the question as irrelevant, and because no such arroyo or boundary is mentioned in the record of juridical possession of said rancho.

A. I find such an arroyo, but it is not named on Exhibit 8. It is located at the head of the bay, lying westerly of the peninsula marked Tiburon—I mean the bay between the peninsula marked Tiburon and the peninsula marked Saucelito.

Q. 2. Is said arroyo represented on Exhibit S. R. T., No. 8, as heading near the Tamalpais mountain, or near the mountain, as represented on the other maps last referred to?

Objected to by Mr. Howard as irrelevant and uncertain.

A. It is represented as heading in a range of mountains which I judge to be the Tamalpais range, although the sketch is rather imperfect, and no name shown on said range in the sketch of Exhibit 8.

Q. 3. Do you know of any corte madera lying to the west of the Rancho Corte Madera, and if so, where is it

situated with reference to the arroyo which you have been describing?

Objected to by Mr. Howard as incompetent, irrelevant and immaterial.

A. There is a corte madera or forest of redwoods on that arroyo.

Q. 4. Now, please to look at the official map of the Corte Madera Rancho, and state whether the corte madera that you have just described as lying on the arroyo, is found within the boundaries of this official survey? A. It is not; but lies to the west of the boundary.

Q. 5. Now, look at the official map of T. 1 N., R. 6 W., and state whereabouts said Corte Madera del Presidio would be on this map. A. It would commence on the Arroyo Corte Madera del Presidio, near its intersection with the line between sections 28 and 29, and would extend up said arroyo for its entire length, there being redwoods all the way up said arroyo.

Q. 6. Do you know of any forest of redwoods known by the name of Corte Madera del Presidio, lying within the official survey of the Rancho Corte Madera del Presidio? A. I do not.

Q. 7. Do you know of a corte madera called "Corte Madera de San Pablo," and if so, where is that situated with reference to the official survey of the Rancho Corte Madera del Presidio? A. It is situated on the Arroyo Holon, and by far the greater part of the Corte Madera is not included in the official survey. There are some scattering redwood trees on the Arroyo Holon, where said arroyo bounds the rancho; but the dense part of the redwood forest is outside and west of the boundary of the rancho.

Q. 8. Please to mark, with lead pencil lines, on Ex. S. R. T. No. 6 the location of the Corte Madera de San Pablo. A. I have marked it with pencil, to the best of recollection, with scallop lines north and south of the Holon.

Q. 9. Where would the Corte Madera de San Pablo be with reference to the lands surveyed as public land T. 1 N., R. 6 W.? A. It would form the northern boundary of these public lands.

Q. 10. The decree of the District Court, No. 83, dated Feb. 11th, 1856, is here shown witness, and offered by certified copy as Ex. S. R. T. No. 10, and he is asked to read the description therein contained, so far as the same relates to any of the boundaries of the Rancho Corte Madera del Presidio. A. The language relating to the Corte Madera

del Presidio is as follows: "On the north-east by the whole course of the principal Arroyo de Corte Madera del Presidio, which empties into said bay, and bordering on Don Juan Read."

Q. 11. From the Exhibits marked S. R. T., to which your attention has been called, and the descriptions contained therein, relating to the boundaries of the Rancho Corte Madera del Presidio, and your knowledge of those locations on the ground, where would you, as a surveyor, accustomed as you have been to locate Spanish grants by the description and papers thereof, locate the western and northern boundaries of the Rancho Corte Madera del Presidio? I ask this question without reference to the juridical measurements. A. I would locate the western boundary of said rancho as the Arroyo Corte Madera del Presidio, from the point where said arroyo is nearest to the Arroyo Holon, and, extending down said Arroyo Corte Madera, down to the point where it enters Richardson's Bay. And I would locate the northern boundary as the Arroyo Corte Madera de San Pablo or Holon, beginning at the point on said arroyo, where it approaches nearest to the Arroyo Corte Madera del Presidio, and following down said Arroyo Holon, either to where it enters the salt marsh, or perhaps still further down, to where the same enters the Bay of San Francisco.

Q. 12. Is any portion of the land which you have stated you would include within the Rancho Corte Madera del Presidio omitted from the official survey thereof? And if so, state on what Exhibit or maps the omitted part can be found. A. Yes, there is. The land omitted is shown in the official map as lying west of the western boundary of the rancho on said map, and is marked Public Land. It is also shown on Tp. Map 1 N. 12, 6 W., as part of Secs. 16, 17, 20, 21, 28 and 29 and lies west of the land marked "Lot No. 40." Part of Rancho Corte Madera del Presidio and easterly of land marked "lot No. 41" part of Rancho Saucelito, and northerly of land marked "Lot No. 38" part of Rancho Punta de San Quentin, being all the land bounded by said lots Nos. 38, 40 and 41 and shown as public land on said map.

Counsel for Throckmorton now offers, by certified copy, deed from John J. Read to Hugh A. Boyle, dated May 11th, 1869, marked S. R. T. No. 11. Also deed from Ylaria Read to Hugh A. Boyle, dated May 24th, 1869, marked Ex. S. R. T. No. 12.

Also deed from Thomas B. Deffebach and Inez Read Deffebach, Hugh A. Boyle and Maria Garcia de Boyle his wife, Thomas B. Valentine, and H. C. Newhall to Julius C. McCeney, dated February 1st, 1871, and marked S. R. T. No. 13.

Also deed from Julius C. McCeney to S. R. Throckmorton, dated January 19th, 1875, marked Ex. S. R. T. No. 14.

Also plat and field notes by copy, of the survey made by G. F. Allardt for tract of land deeded from T. B. Deffebach et al, to Julius C. McCeney, marked S. R. T. 15.

Q. 13. Witness is now asked to examine these different conveyances, and state whether the land described in the field notes and delineated on the plat, in Exhibit S. R. T., No. 15, would be contained within the tract which you described as being bounded on the official map of 1 N., 6 W., by lots 38, 40 and 41, and which you say you would include within the boundaries of the Rancho Corte Madera del Presidio, as mentioned in your answer to last preceding question. A. I have examined the conveyances marked Exhibits S. R. T., Nos. 13, 14 and 15, and find that the land conveyed by deeds marked Exhibits S. R. T., 13 and 14, and containing 80  $\frac{24}{100}$  acres, is the same land as described in the field notes and plat in Exhibits S. R. T., No. 15. Said tract of land is included within the boundaries of the Rancho Corte Madera del Presidio, as defined by me in the preceding answer. About seven-eighths of said tract is contained in the lands shown as public lands on the Tp. map 1 N., 6 W.; and the balance, or one-eighth of said tract is contained within the official plat of the Rancho Corte Madera del Presidio, as surveyed by Deputy Ransom, and the land described in Exhibits 11 and 12 is a tract not included in Mathewson's survey of said rancho, but does include the tract described as bounded by lots Nos. 38, 40 and 41.

Adjourned until 10 $\frac{1}{2}$  o'clock A. M. Tuesday, January 11th, 1876.

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TUESDAY, January 11, 1876.

Examination resumed.

All present.

*G. F. Allardt's Examination Resumed.*

J. B. Howard objects to the Exhibit S. R. T., No. 10, offered in behalf of Mr. Throckmorton, on page 364 and

365 of the record, because it is immaterial, irrelevant and incompetent. 2d. Because it does not relate to the juridical possession of the Corte Madera Rancho. 3d. Because it is a copy of an interlocutory decree, not final in any sense. 4th. Because it has lately been ascertained that said decree—

Here objection is made by Mr. Shanklin to Mr. Howard's objection being reduced to writing, and the Surveyor-General is asked to exclude the objection from the record.

The Surveyor-General rules that the objection of Mr. Shanklin to the attack upon the title of the Saucelito Rancho, by Mr. Howard, is well taken; that this is not the proper place to raise said objection.

The Surveyor-General says that all papers relating to the Saucelito Rancho should have been excluded from this rancho controversy as irrelevant, but that a portion of them having already been introduced without objections, any other archive evidence relating to the Saucelito Rancho may be introduced.

J. B. Howard moves that all the exhibits and papers pertaining to the Saucelito Rancho, and those accompanying the objection to the survey, and being now of record in this case, be expunged therefrom as being wholly irrelevant. By the Rancho of Saucelito I refer to the claim of the late Guillermo A. Richardson, Expediente No. 111, Land Case No. 104, District Court Case No. 83 N. D., and the survey thereof now pending in said District Court, together with maps, diseños, decrees, orders, and whatever pertains thereto, and for all the names on file and objections heretofore made, and that the testimony in this case be confined to the juridical possession of the Rancho Corte Madera del Presidio, the decree of confirmation thereof, and the instructions of the Secretary of the Interior of 5th January, 1872, and subsequent orders of the Commissioner of the General Land Office issued in this case.

The Surveyor-General refuses to grant the motion of Mr. Howard, and overrules the same.

J. B. Howard excepts to the ruling, and gives notice that he will renew his motion before the Commissioner General Land Office, and show the fraudulent character of said Exhibits.

G. F. Allardt is directed to Ex. S. R. T., No. 9, commencing on page 20 thereof, and he is asked to read the description of the initial point of measurement on page 20 and 21 thereof.

A. I have read it; it reads: "They commenced said measurement from the solar which faces west; and standing at the slope and foot of the hills which lie in that direction, and on the edge of the forest of redwoods called "Corte Madera del Presidio," they commenced said measurements, and going from S. to N. they measured to an arroyo called Holon, where is another forest of redwoods called Corte Madera de San Pablo, 90 cordeles or 50 varas, and the person interested, fixing there a known point as a mark, said that he would place a bound."

J. B. Howard objects to the recital as not being an exact translation of the original record of juridical possession on file in the office of the U. S. Surveyor-General in this, that it does not clearly describe the course of measurement from the point of beginning due north to the intersection of the northerly and easterly point of said rancho.

Counsel for Throckmorton here asks Mr. Howard to state explicitly the words objected to, which he claims are not a correct translation of the juridical measurement, since the document from which the recital is taken is duly certified by the Surveyor-General as a correct translation, and since the same recital is a copy of the juridical measurement as found on page No. 11, near the bottom, in the printed pamphlet issued by the department, entitled "Decision of the Secretary of the Interior, and Opinion of the Assistant Attorney-General in the Case of the Survey of the Rancho Corte Madera del Presidio. Printed by the Government Printing Office, at Washington, in 1872."

J. B. Howard states in reply, that the proper mode of ascertaining the juridical possession, the record thereof being in the Spanish language, with which the witness is not shown to be familiar, is to introduce the original in evidence, on the testimony of the keeper of the archives or some other witness skilled in a knowledge of the Spanish and English languages. That the offer is otherwise uncertain and incompetent.

J. B. Howard, now, upon the statement made by R. C. Hopkins, Esq., skilled in the Spanish and English languages, that said translation is correct, that the letter N signifies North, and the letter S South, withdraws his objection to the correctness of the translation of the juridical possession in that respect, and accepts it as correct.

Here adjourned till 10½ A. M. next Monday.

TUESDAY, January 18th, 1876.

Examination resumed.

All present.

*G. F. Allard's Examination Resumed.*

Q. 1. It appears from the description which you have just read (page 374 of this testimony), that the juridical measurement commenced at the solar which faces the west, and that they stood at the slope and foot of the hills which lie in that direction, and on the edge of the forest of redwoods called the "Corte Madera del Presidio." Please to locate said initial point on "Exhibit No. 6," if you know what is referred to by the solar; and state what you know with reference to the establishment of that point at any time. A. I understand that solar signifies a small piece of cleared land, which might be used as a garden, and I should locate it, in this case, at a point between the house of Juan Read and the edge of the redwoods called Corte Madera del Presidio, which redwoods are shown at the present time by a number of large stumps—I could not indicate the exact spot—but agree with Deputy Mathewson in locating the solar at, or near a place on Exhibit S. R. T., No. 6, which I mark in red ink, with letter C in a circle.

Q. 2. Witness is now shown a scale of measurement, and is asked to state what it shows, and who made it? A. I made the scale myself. It is a scale of cordeles corresponding to a scale of 20 chains to the inch—and which is the scale of Ex. S. R. T. No. 6, and the official map of the Rancho Corte Madera del Presidio. Said scale is now offered in evidence and marked S. R. T. No. 16.

Q. 3. Please to apply said scale of measurement to the solar as the initial point and indicate on Ex. S. R. T. No. 6, where the first measurement of 90 cordeles would strike the Holon.

Objected to by Sol. A. Sharp as immaterial, as natural objects govern courses and distances.

A. The measurement of 90 cordeles beginning at the solar would strike the Arroyo Holon near its head, and also at another point at the mouth of the Arroyo Holon were it enters the salt marsh.

Q. 4. That measurement is stated to have reached the Holon where is another corte madera, called Corte Madera de San Pablo. Would either of the points which you have indicated on the Holon as being reached by the measurement of 90 cordeles also strike the Corte Madera de San

Pablo? And if so, which one of the points of the Holon? A. The first measurement which I stated as reaching the head of the Arroyo Holon, would also strike or reach the Corte Madera de San Pablo. The second measurement, that is to say, to a point near the mouth of the Arroyo Holon, would not strike the Corte Madera de San Pablo.

Q. 5. In your previous testimony you stated that from the Exhibits shown you, you would fix the western boundary of the rancho "Corte Madera del Presidio" along the Arroyo Corte Madera del Presidio. How would the measurement that you have just described correspond with said boundary, taking into consideration the usual Spanish custom or mode of making juridical measurements? A. It would correspond so closely as to leave no doubt in my mind as to the identity of said arroyo with the line of juridical measurement.

Q. 6. What is your opinion with reference to the making of this measurement? Was it designed to follow the boundary, or to give merely the measurements between certain points for the purpose of determining quantity? A. Judging from my experience in examining juridical measurements in this and other cases of surveys of Spanish grants, I think that the juridical measurement in this case was made for the object: 1st, of determining quantity; 2nd, for the purpose of identifying natural objects referred to at the end of each course in the juridical measurement.

Q. 7. You have stated that you were present as an assistant when the survey of the Rancho Corte Madera del Presidio, known as the Mathewson survey, was made. I refer to the survey of 4,460 24-100 acres. Did Mathewson, in making said survey, attempt to follow the juridical measurement, to which you have just referred, and if not, what was said survey made for? A. I cannot state, from my own knowledge, whether Mathewson was guided by the calls of juridical measurements; but his survey, as a matter of fact, was a survey for quantity, to include within the ranch one square league of land.

Q. 8. Do you know whether Mathewson had with him the expediente of the case, describing the boundaries of the rancho, as set forth in the testimony of the witnesses, who were called when juridical measurement was made, or whether he had with him the decree of the Board of Land Commissioners, or the decree of the District Court, when he made said measurement? A. I have the papers in my office which Mathewson used on the survey; but I do not now remember what they are.

Q. 9. Do you know under whose instructions Mr. Mathewson located the one league of said Rancho "Corte Madera del Presidio," where he did? A. I understood at the time that he located the one league where he did, from instructions issued from the office of the Surveyor-General, under J. W. Mandeville.

Q. 10. Please to look at Ex. S. R. T. No. 6, and state whether the tract marked thereon "Tract of land owned by and referred to in the objections of S. R. Throckmorton, and colored green, would be within the Rancho "Corte Madera del Presidio," according to the boundaries and the juridical measurement testified to by you? A. Yes, all of it.

G. F. ALLARDT.

*Cross Examination by J. B. Howard.*

Q. 1. The witness is requested to examine the plat of Mathewson survey on file in connection with the western line of the rancho as represented on the official plat, and to state whether or how nearly the said western line corresponds to the western line originally made upon the ground by Mathewson in the year 1858, and from which said Mathewson's map was constructed.

Question objected to by Mullen & Hyde, as indefinite and confused, and unintelligible.

A. The western boundary of the rancho on the plat of Mathewson's survey is correctly shown thereon, as surveyed by me under Mathewson, in the field in the year 1858.

Q. 2. Is not the western line of said rancho, as represented on official plat, from post C. M. P. 181 to redwood post P. Q. 99 and W. R. 203, identical with the western line of said rancho as run by Deputy Surveyor Mathewson in Oct., 1858, or by you under said Mathewson?

Mullen & Hyde object to question, as being incompetent and immaterial.

A. Said line from C. M. P. 181 to redwood post P. Q. 99 and W. R. 203 was run by me under deputy Mathewson in 1858, but I do not know whether said Mathewson considered it to be at that time the western boundary of said rancho.

Q. 3. Do you know upon what authority said survey of 1858 was modified as to the western boundary so as to correspond to legal subdivisions as represented on said Mathewson survey plat?

Question objected to by Mr. Shanklin, as assuming what is not a fact, that the survey was modified to conform to legal subdivision lines, it being already in testimony that said

survey was modified for the purpose of locating quantity, viz: one league.

A. All I remember in this matter is, that deputy Mathewson ordered me to make the necessary computations to cut off one league of land, and to go into the field and survey the same.

Q. 4. That was a subsequent survey, was it not? That is, to the first survey mentioned, and constituted the modification of which I have spoken? A. The line from C. M. P. 181 to redwood post P. Q. 99 and W. R. 203 was run in order to close the survey of the peninsula, in order that the area could be computed; subsequently I went into the field again, after having made the computation of area based on said closing line, and computing a line cutting off one league of land from said peninsula, and run said line as computed and as represented on Mathewson's survey plat; and that accounts for the western boundary as shown on said Mathewson's plat; that is all I have got to say on that question.

Q. 5. What do the capital letters "W. R.," on the official plat, viz: at redwood post P. Q. 99, stand for or represent? A. Widow Read.

Q. 6. Who was Widow Read, and what relation did she have to the rancho? A. Widow Read, as I understood it at that time, was the widow of Juan Read, the claimant of the ranch.

Q. 7. Are you well acquainted with the stream represented on the western and southern boundary of the official plat, from Station 1 to Post 20, called Arroyo Corte Madera del Presidio?

Question objected to by Mullen & Hyde, and question asked: Official plat of what survey do you refer? I refer to the official plat of the survey as made by Leander Ransom, in September and October, 1873, and G. F. Allardt, in June, 1874. In speaking of the Mathewson survey, I refer to the plat by his name, viz: Mathewson survey.

A. I am.

Q. 8. Are you acquainted and familiar with the character of said stream, from said Station 1 to its source or sources, and if so, state its direction towards the source or sources; and if it branches, state the relative size, width and depth of the water, and other matters? A. I am familiar with said arroyo from its mouth to its source. Its general course up stream is northwesterly, its source being in Tamalpais Mountain, on the east side. There is a branch or fork leaving said arroyo, about 10 chains above the line

between sections 28 and 29, with which I am not personally familiar. I cannot speak definitely of the depth, width or size of said arroyo, as it was dry when I saw it.

Q. 9. At what time did you see it? A. In the summer time.

Q. 10. Do you refer to the southern or northern branch of said arroyo as being dry in the summer time? A. I only spoke of one branch; that was dry where it joined the Arroyo Corte Madera del Presidio, at the time I saw it.

Q. 11. Was the other branch dry? A. I have only mentioned one branch.

Q. 12. Is that the one with which you state you are familiar, or the one which you state you are not familiar? A. I stated that I was familiar only with the main arroyo, and not with the branch.

Q. 13. Which do you call the main arroyo — the northern or the southern stream? A. The northern stream, or the one running up northwesterly.

Q. 14. Does the northerly stream contain or run more water than the southerly; or do you know? A. I do not know.

Q. 15. Why, then, do you call it the main arroyo? A. By main arroyo, I mean Arroyo Corte Madera del Presidio, and it is the same arroyo that I have always heard so called.

Q. 16. Do you know whether any mill, to be run by water-power, was constructed, in whole or in part, upon either of said streams? A. I do not, of my own knowledge.

Q. 17. Have you never known or heard of, officially or otherwise, a place called the Old Mill, situate on the southern stream, of which you have spoken, and about half a mile westerly from the intersection of the two branches or streams?

Question objected to by Mr. Shanklin as calling for hearsay evidence, and second, because it is not responsive to anything elicited on direct examination.

A. I have heard spoken of such a place, but I never saw the mill.

Q. 18. Do you not know, of your own knowledge, that the framework, wheels, and part machinery of an old mill is situate on said southern stream; and furthermore, that said stream is the principal arroyo, and contains more than three times as much water as the northern stream?

Objected to by Mr. Shanklin as immaterial, not responsive

on direct examination, and not confined to any description of boundaries or measurement in connection with the Corte Madera del Presidio rancho.

J. B. Howard admits that said question would be irrelevant on direct examination; that said arroyos above Station 1 do not pertain to the record of juridical possession. But this question is asked for the purpose of explaining irrelevant testimony in the record brought out on direct examination, and to show the incorrectness thereof.

Mullen & Hyde object to the question being answered.

The objection sustained.

Q. 19. Are you familiar with the arroyo mentioned in record of juridical possession, viz: Olon or Holon, from its source to its mouth? A. I am.

Q. 20. What is the character of said arroyo as to its supply of water, and to what point or distance does it run as a stream during the summer or dry season?

Question objected to by Mr. Shanklin as immaterial; not pertaining to any description given in the calls of the boundaries or measurements.

A. It is a mountain stream or brook that is dry in the summer time, with the exception of a few pools here and there; therefore, it cannot be said that it runs for any distance in the summer time.

Q. 21. Does not the water in said stream in summer time extend from its mouth, as far as redwood Post P: Q. 99, and W. R. 203, and is not the constant supply kept up from that point to the bay by a spring on a hill, in the immediate vicinity which you discovered in making the survey of the western line of said rancho, about June, 1874?

Question objected to by Mullen & Hyde, because it assumes that this witness did make a survey of the western line of this rancho, which is not a fair statement of a fact. This witness was specially instructed on the 28th of May, 1874, as appears by Ex. Solar No. 4, to retrace a specific line that had previously been reported upon by Deputy Surveyor Ransom, and which line extended from the solar to Arroyo Holon, and was never authorized to establish, locate, or otherwise ascertain and define on the ground an original line, to be one of the boundaries of this rancho, and reference is made to said Exhibit as to the extent of duty imposed upon said witness under said instructions.

A. In the summer time there is water in detached pools on the whole length of said arroyo. I cannot say whether the constant supply below the redwood post is derived from

said spring, but I should say not. I know of no continuous stream in any part of the arroyo in the summer time.

Q. 22. When upon the ground, near said post P. Q. 99 and W. R. 203, in making said survey or retracing—how did you ascertain the monument representing said post or station? A. The original post or tree had been destroyed. I therefore retraced a course of the official rancho of the Rancho Punta de San Quentin, viz.: from the laurel tree marked P. Q. 98, W. R. 204.

Q. 23. How did this process enable you to fix or ascertain said post or station? A. I resurveyed from said laurel the course and distance given in the official field notes of the Rancho Punta de San Quentin, described as running from said laurel to the redwood post P. Q. 99, W. R. 203, in said official notes of the Rancho Punta de San Quentin.

Q. 24. How was post P. Q. 98 connected with the Rancho Corte Madera del Presidio, so as to enable you from that point to ascertain the location of post P. Q. 99 and W. R. 203? A. The course and distance is given in the Ransom survey of the Rancho Corte Madera del Presidio, as being along the eastern boundary of the Rancho Punta de San Quentin.

Q. 25. By whom, if you know, was the post or tree, originally standing as indicated on the official plat Redwood post P. Q. 99 and W. R. 203, first located and marked; I refer to the tree which you state was destroyed on or prior to June, 1874? A. By myself, under Deputy Mathewson, in 1858.

Q. 26. In connection with the survey of what rancho was said tree marked by you in 1858?

Question objected to by Mullen & Hyde, because the testimony thus far shows that it was not done in connection with the survey of any rancho, but said line was surveyed for the purpose of establishing a closing line with other lines meandering the peninsula, for the purpose of ascertaining the area therein contained.

A. It was marked by me P. Q. 99 for Rancho Punta de San Quentin, and marked W. R. 203 for the Rancho Corte Madera del Presidio; as I supposed at the time that said tree might prove to be in the boundary line of the Corte Madera del Presidio, and by marking at the time (1858) that I might obviate the necessity of going to the tree again, in case it should be subsequently decided that said tree would be a station of the Rancho Corte Madera del Presidio.

Q. 27. For what purpose did you re-mark said post 99

and 203 and 98 and 204, in the survey of said western line, in June, 1874, as stated in your field notes? A. In order to perpetuate the marks that I made in 1858, as found in Matthewson's old field books.

Q. 28. What is the form and extent of the mountain lying north and east of the source of the Arroyo Corte Madera del Presidio, called Tamalpais, Table Mountain, Malpais, Sierra, San Rafael and other names? A. There is no such mountain north or east of said Arroyo Corte Madera del Presidio.

Q. 29. If you start at post P. Q. 99 and W. R. 203 and travel westerly through Riley's Valley, or along the Arroyo Holon, as represented westerly of said post, is there any obstruction which prevents you from reaching the source or bed of the Arroyo Corte Madera del Presidio; if so, what is it? A. There is no insurmountable obstruction; the sources of the two streams are separated by a narrow, brushy spur of the Tamalpais mountain.

Q. 30. What is the elevation of that spur from post P. Q. 99 and W. R. 203? A. I cannot say positively, but I should say about 2,000 feet.

Q. 31. What is the distance from redwood post P. Q. 99, and W. R. 203, to the source of the Arroyo Corte Madera del Presidio? A. Almost a mile and a half, in a straight line.

Q. 32. Have you ever been employed by S. R. Throckmorton, W. T. Coleman or G. P. Hart, appearing here as objecting to survey, in connection with private surveys in the vicinity, or upon the Rancho Corte Madera del Presidio?

Objected to by Mullen & Hyde as immaterial and incompetent.

Same objection made by counsel for Throckmorton.

Question withdrawn.

Mullen & Hyde request question to be answered.

Witness says the question is not clear.

Q. 33. Have you been employed and paid by either of these parties? A. I have made private surveys for W. T. Coleman and S. R. Throckmorton, at various times.

J. B. Howard now closes cross-examination of Geo. F. Allardt.

Adjourned until 10½ o'clock, Wednesday, January 19th, 1876.

SAN FRANCISCO, Jan. 19th, 1876.

Case called, pursuant to adjournment.

Witness, Geo. F. Allardt, on the stand, who desires to explain the testimony given by him yesterday.

Q. 34—(By Mullen & Hyde). In the letter of Hon. Willis Drummond, Commissioner General Land Office, addressed to J. R. Hardenburgh, as U. S. Surveyor-General for California, directing said officer to cause a new survey of Rancho Corte Madera del Presidio to be made, uses language as follows: "That the name Point Tiburon, as used in the record of juridical possession, describes generally the entire body of land bounded by San Francisco and Saucelito bays, and by a line running northeasterly from near meander course 105, to near meander course 24, as said courses are marked on the plat of Mathewson's survey, executed in 1858; and further states, from the data before me, I incline to the opinion that the second hypothesis (to-wit: that which is heretofore and above written) is the correct one in this case, and that the juridical survey terminated at some point on a line drawn directly across, from course to course, as above stated. This construction of the words used in the record of juridical proceedings will harmonize the measurements stated to have been made from Holon to Tiburon, and from Tiburon to the place of beginning, with the actual distances between those places." Now please look at the plat of said Mathewson survey, and point out thereon the courses marked 24 and 105, and in pencil mark them "A" and "B," respectively.

The witness, having examined said map, and having found said courses, marked them "A" and "B," as requested.

Mullen & Hyde ask this question, in this particular manner, and at this particular time, for the reason that the diagram enclosed with the communication, from which the foregoing extract has been taken, and upon which diagram was represented by a dotted blue line, the eastern boundary of the Rancho Corte Madera del Presidio, as defined by said communication as extending from course 24 to course 105 of the Mathewson survey, is missing from the papers of this case, and, after long and diligent search, cannot be found.

Mr. Allardt called as a witness by Mullen & Hyde.

Q. 35. From your knowledge of the ground, between said points, marked "A" and "B" in lead pencil on the plat of said Mathewson's survey of 1860, is there any difficulty of a physical nature to prevent a surveyor from establishing said line on the ground by direct measurement?

Question objected to by the claimant (Mr. Sharp) as incompetent, immaterial, and not cross-examination or explanation.

A. A direct line from "A" to "B" would ascend to the top of the main ridge, and descend to the bay at "B;" the ground is rough and hilly, but not impracticable for surveying.

Q. 36. Please now look at the plat of the survey of this rancho, as returned by Leander Ransom, purporting to be made in September and October, 1873, and identify thereon two points that would correspond with the points marked "A" and "B" on the plat of Mathewson's survey; and having identified them, please mark them in lead pencil "A" and "B," for the purpose of future reference.

Mr. Sharp makes some objection as to previous question, in behalf of claimants, and also objects to question 34, on page 399, to this witness, on the ground that same is incompetent, immaterial, and not cross-examination or explanation, and moves to strike out that portion of said interrogatory, in which Mullen & Hyde give a reason for asking the question; and on the same ground moves to strike out the answer to said question, and ruling asked for by Mr. Sharp.

Motion granted, and so much of the statement, as made by Mullen & Hyde on page 400, is stricken out, with consent of Mullen & Hyde, through Capt. Mullen.

Witness here states, upon his own motion, that he withdraws his desire to explain the testimony given yesterday.

A. Witness having examined the said map, says: I have so marked them "A" and "B," as requested.

Q. 37. Please now describe, in specific language, the positions of said letters "A" and "B," marked in lead pencil, as by you made on the plat of the survey, as returned by said Ransom.

Mr. Sharp, in behalf of claimants, objects to this question as being incompetent, irrelevant, and not tending to prove any issues in this controversy.

A. The point marked "A" is near the end of the 506th course, near California City Point; and the point marked "B" is near the end of the 271st course, marked "post 290," on Richardson's Bay.

Q. 38. Would a line drawn from A to B on the plat of the survey, as returned by Ransom, correspond with a line drawn from A to B on the plat of the survey as returned by Mathewson?

Same objection by Mr. Sharp, on behalf of claimants, as to previous question.

A. It would.

Q. 39. Suppose that a line drawn from "A" to "B" on the plat of the survey, as returned by Ransom, had been adopted by you as a closing line in connection with the remaining lines of said plat of said survey lying to the west thereof, that is, west of the line drawn from A to B, and in connection with the east boundary of the Rancho Saucelito and the Arroyo Holon, through its entire length, for the purposes of computation; how would the area of the tract lying to the east of line A B, and extending to Point Tiburon, on the plat of the survey returned by Ransom, correspond with the area of public land represented on the township plat of T. 1 N., R. 6 W., said last area being 949 68-100 acres?

Mr. Sharp, on behalf of claimants, objects to question as incompetent and irrelevant, and calling for facts foreign to the issues in this controversy, also that it is hypothetical and needlessly incumbers the record; also that it assumes facts not in proof.

A. I cannot tell without computation, but I can approximate to it by applying a scale on the map.

Q. 40. Will you please apply a scale on the plat of Ransom's survey and state the correspondence approximately.

Mr. Sharp, for claimants, makes same objections to this as to last question.

A. The area on said Ransom's map, lying easterly of said line A B, is approximately 1780 acres.

Q. 41. Please state how the area of so much of the survey as lies to the east of the line A B, on the plat of the survey as returned by Mathewson, corresponds with the area of public land lying to the north and west of the west boundary of the survey of the said rancho, as returned by Mathewson?

Mr. Sharp, for claimants, makes the same objections to this as to question 39.

A. The approximate area easterly of the line A B, on the Mathewson's survey is 1780 acres; the approximate area of the public land lying north and west of the Mathewson survey is 2520 acres.

Q. 42. Then in order to give to said rancho the area of one square league, and supposing that any excess thereof was to be cut off on the Eastern end of said rancho as claimed, would a line cutting off such excess lie to the east or to the west of a line drawn from A to B, on the plat of the Mathewson survey?

Mr. Sharp, for claimants, makes the same objections to this as to question 39.

A. In order to answer that question, I must know what you assume to be the western and northern boundaries of said rancho.

Mullen & Hyde answer—that they assume that all the public land represented and left as such to the north and west of the west boundary of the Mathewson survey, and extending to the east boundary of the Rancho Saucelito, according to the final survey hereof on file in this office, and to the Arroyo Holon, is to be included as a part of the Rancho Corte Madera del Presidio in the final survey thereof.

Mr. Sharp, for claimants, objects to this answer, instructing this witness, as the documentary evidence is the best proof determining the juridical boundaries of the rancho in question.

Additional answer to question 42—Such a line would lie to west of line A B.

Q. 43. Please indicate on the plat of the Mathewson survey a line constructed thereon parallel to a line drawn from A to B, that would give the quantity of one square league, based upon the assumption as before stated and as approximately as you can, and mark the same.

Mr. Sharp, for claimants, makes the same objections to this as to question 39.

A. I have indicated such a line, and it runs from the end of the 115th course to the end of the 16th course of the Mathewson survey, and I have marked it "E F," in pencil, on the map of the Mathewson survey.

Q. 44. Please look at Exhibit marked "Plat filed by Mullen & Hyde, with their motion of Oct. 7th, 1875," and mark thereon in red ink letters "E" and "F," corresponding with the letters "E" and "F," marked by you in lead pencil on the plat of Mathewson's survey of said rancho.

Mr. Sharp, for claimants, makes the same objections to this as to question 39.

A. I have done so.

Q. 45. Assuming that the boundary of the Rancho Corte Madera del Presidio, according to the juridical possession

thereof, was the Arroyo Corte Madera del Presidio on the west as far as its junction with Richardson's Bay, as indicated on said Exhibit upon which you have marked in red ink the letters "E" and "F," and on the north the Arroyo Holon to its junction with the waters of the bay as indicated on said Exhibit, and on the south by the waters of the bay as represented on said Exhibit; and supposing that said rancho was limited to one square league of land, would a line drawn from "E" to "F" approximately represent the eastern boundary of said rancho in that direction?

Mr. Cutter objects to the question, on the ground that it assumes as a north boundary the arroyo called Holon on the plat, from its source to its mouth; whereas there is nothing in the juridical possession or juridical measurement to indicate that the Arroyo Holon was a boundary or that the arroyo called Holon on said plat was the arroyo of that name referred to in said juridical measurement and possession; and moreover that by the said measurement and possession the Holon, when proven, shows only a point to which one line of measurement extended.

Mr. Sharp objects, in behalf of the claimants, to the question, on the ground that it is incompetent, irrelevant, hypothetical, and foreign to the facts at issue.

A. A line drawn from "E" to "F" on said Exhibit, would include fully a league, but I cannot say whether said line E F would be the proper or correct eastern boundary in that direction.

Q. 46. By what name has the land lying to the east of a line drawn from E to F been called, and by what name is it recognized in Marin County, California?

Mr. Sharp, for claimants, makes same objection to this as to question 89, and also that it calls for hearsay and is indefinite.

A. I cannot answer definitely, but I have heard it called frequently "the peninsula," or "part of the Read rancho," or "Point Tiburon."

Q. 47. Would a line drawn from E to F, as indicated on said Exhibit, be approximately the position of a line on the ground that would cut off said peninsula, or Point Tiburon, from the body of main land with which it is connected?

Mr. Sharp, in behalf of claimants, makes the same objection to this as to question 39.

A. A line from E to F would cut off the greater part of said peninsula, or Point Tiburon, from the main land.

Q. 48. Could a body of land, containing twenty thous-

and (20,000) Castilian varas, be cut out from the ground represented on said Exhibit, and lying west of a line drawn from E to F, as marked on said Exhibit, and which line is represented in red ink on said Exhibit, and which area is referred to in the juridical possession, in words following, to-wit: "so that the square league of land which the Rancho "Corte Madera del Presidio contains, forms a square of "20,000 Castilian varas, which, being regulated by said "measures, they declared citizen Juan Read to be informed "of the lands which belong to his rancho?"

Mr. Sharp, for claimants, objects to question as incompetent and irrelevant.

A. I do not understand the question.

Q. 49. What would be the area of a square body of land, the sides of which are five thousand (5,000) varas in length? A. It would contain one Spanish square league, or 4,438.68 acres.

Q. 50. Assuming that a square mile of twenty thousand Castilian varas means a square the sum of whose sides is 20,000 Castilian varas in length, please, then, answer question 48.

Mr. Sharp, for claimants, makes the same objection to this as to question 39.

A. No.

Q. 51. Would the ground represented on said Exhibit, and lying to the west of a line drawn from E to F thereon, contain more or less than 4,438.68 acres?

Mr. Sharp, for claimants, makes same objection to this as to question 39.

A. It would contain more than 4,438.68 acres.

Q. 52. Could you state, approximately, how much more?

Mr. Sharp, for claimants, makes same objection to this as to question 39.

A. Yes.

Q. 53. Please so state.

Mr. Sharp, for claimants, makes same objection to this as to question 39.

A. About two thousand (2,000) acres more.

Q. 54. Assuming that the dotted black line on this Exhibit defines the line of segregation between the salt marsh and dry land, how would the area contained between said dotted black line and the line to the north thereof, shaded red, compare with said excess of 2,000 acres, more or less?

Mr. Sharp, for claimants, makes same objection to this as to question 39.

A. The area contained between the dotted line and the irregular line, shaded red, lying northerly thereof, is about equal to such excess, viz: two thousand acres.

Court adjourned until to-morrow (Thursday) morning, at 10:30 o'clock A. M.

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THURSDAY, January 20th, 1876.

Court met pursuant to adjournment, and adjourned until Monday, January 24th, 1876, at 10:30 o'clock A. M.

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MONDAY, January 24th, 1876.

Court met pursuant to adjournment, and, all parties agreeing, adjourned until to-morrow (Tuesday) morning at 10:30 o'clock A. M.

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TUESDAY, January 25th, 1876.

Court met pursuant to adjournment, and adjourned until to-morrow, Wednesday, January 26th, 1876, at 10:30 o'clock A. M.

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WEDNESDAY, January 26th, 1876.

Court met pursuant to adjournment at 10:30 A. M.

Witness G. F. Allardt re-called by Mullen & Hyde.

Q. 55. It appears on page 239 in evidence in this case that you were the surveyor and engineer of the State Board of Tide Land Commissioners for California, and filed in the office of said Board the field notes of such survey. Please state whether you furnished Leander Ransom with a copy of any field notes of such survey of any lands in question in this case, and if so, what notes, under what contract with said Ransom, and the nature thereof, and for what purpose were said notes to be used, so far as you know? A. Deputy Ransom called on me in 1873 for certain field notes on record in the Tide Land Commissioner Office. I procured them for him, and they consisted of the meanders of the salt marsh and tide lands extending from the north of the Arroyo Corte Madera del Presidio eastwardly to Peninsula Island and Raccoon Straits; thence westwardly to the mouth of the Arroyo Holon, being the entire meanders of the inner line of the salt marsh and the outer line thereof, or the line

of ordinary high-tide from said Arroyo Corte Madera del Presidio to said Arroyo Holon. Deputy Ransom agreed to pay me for my labor in furnishing copy of such notes a reasonable compensation, I think it was \$200—but he died and I got no pay. As far as I know, and as I believed at the time, said field notes were used by Deputy Ransom as a part of the field notes for his survey of the Rancho Corte Madera del Presidio, and as such were returned by him to the Surveyor-General's Office.

Q. 56. When did said Leander Ransom die? A. I do not know the exact date, but it was several months subsequent to October, 1873.

Q. 57. Please examine field notes of the final survey of the Rancho Corte Madera del Presidio, surveyed, compiled and arranged by said Leander Ransom in September and October, 1873, and state whether said notes as there presented, including erasures and annotations, are the same that you furnished said Ransom, and in the form there represented? A. Said field notes are evidently copied from field notes on file in the Tide Land Commissioners' Office. I called them off to Leander Ransom and he wrote them down. I never furnished him a written copy; but I have reason to believe that he wrote them down correctly, for we compared them afterwards with the originals. The annotations and erasures were made subsequently, but I do not know by whom.

Q. 58. Do you recognize the general body of those notes to be in the handwriting of Leander Ransom? A. They are all in the handwriting of Leander Ransom.

Q. 59. Look at some of the erasures where said field notes and remarks, under the head of topography, have been crossed out in black ink or lead pencil; for instance—at course 80; at course 198; at course 206, in lead pencil; course 240; course 287, 288, 298; and state if you recognize in whose handwriting they have been made? A. I do not recognize the handwriting.

Q. 60. Is it the handwriting of Leander Ransom? A. No, it is not.

Q. 61. The certificate of said notes, as made by yourself in the form of an affidavit, bears date (Jan'y 27th, 1874) *January* twenty-seventh, 1874, and Ransom's certificate in the same form bears same date, to wit: *January* twenty-seventh, 1874; and it also appears that Ransom died a few months after the return of said field notes to the Surveyor-General's office, and the certificate of the Secretary

of the Board of State Tide Land Commissioners bears date December twelfth, 1874. Please state how it comes that said certificate of said secretary bears date subsequent to all of said dates as stated, and subsequent to the date of the death of said Leander Ransom? A. My own certificate and said Ransom's certificate were made during his lifetime; the certificate of J. M. Currier, Secretary of the Board of State Tide Land Commissioners, was made several months subsequent to said Ransom's death. I do not know the reason why such is the case.

Q. 62. Is not the body of the certificate of said secretary, as signed December twelfth, 1874, in your handwriting? A. It is.

Q. 63. Do you recall at the present time any circumstances under which said certificate was prepared and signed, and at whose instigation same was done? A. Yes, I do. It was done at the request of Surveyor-General Stratton.

Q. 64. Do you know for what purpose, or what reasons, if any, he assigned for having same done? A. I think the reason was this: I was not at that time (December twelfth, 1874) an officer of the Board of State Tide Land Commissioners, but the Secretary of said Board was the proper person to make such a certificate. I do not remember any reason that he assigned, but he seemed to consider a certificate from said secretary as very necessary and important, as he asked me several times to procure it.

Q. 65. The township plat of T. 1 N., R. 6 W., Mount Diablo mer., and the surveys thereof, was approved by the Surveyor-General on the twenty-seventh of November, 1874. Please state what additional validity could be given said notes by a certificate of said secretary bearing a subsequent date? A. I cannot say.

Q. 66. Was there any crossing out, as represented in the said notes at the present time, shown at the date of December 12th, 1874, at the time said certificate was made? A. I think not.

Q. 67. The certificate of said Secretary, as shown in said notes, made December 12th, 1874, precedes, in order of arrangement therein, the certificate as made by Leander Ransom, January 27th, 1874. Do you know of any reason why said certificate was interpolated and made to appear as preceding the certificate of said Ransom, one being prior in date, but subsequent in arrangement, and *vice versa*? A. I do not.

Q. 68. Have you ever been paid by the United States,

or by any other person, for the field notes as furnished by you to said Ransom, as a survey of this Rancho Corte Madera del Presidio, and labor connected therewith? A. I have not.

Recess taken until 2 o'clock p. m.

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Re-assembled at 2 o'clock p. m.

*Questions by Peter Gardner in Cross-Examination.*

Q. 69. Point out on the official map where the end of the east and west line terminates at the end of ninety-four (94) cordeles from Point Tiburon. A. That line, of 94 cordeles, is not shown on said official map.

Q. 70. Point out on the official map the termination of the line which is referred to in the act of juridical possession, as follows, to-wit: "thence continuing the measurement from east to west to the mouth of the cañada and the point of the 'sausal,' which is near the estero lying east of the house of the person interested, which is at present on the rancho, there were measured ninety-four 'cordeles.'" A. I do not see on the official map a line corresponding to the above description.

Q. 71. Point out on the official map the point which corresponds to the termination of the before-described line of juridical possession. A. I cannot designate the point with exactness, but in my judgment said point is near the station marked "C. M. P. 177," and "S. Q. 1858," bearing southwesterly from Juan Read's old adobe house on said official map.

Q. 72. Take the scale "S. R. T. No. 16," and continuing the measurement from east to west along the line mentioned in the preceding question, sixteen cordeles, and designate the termination of such sixteen cordeles by reference to the official plat of Ransom's survey. A. If I continue the line from said Station "C. M. P. 177," and "S. Q. 1858," and run due west sixteen cordeles, the termination of said sixteen cordeles will reach the point on the official map which I now mark in lead pencil with the letter "C," which point on said map is on lands marked "Rancho Saucelito."

Ques. 73. The first course of the act of juridical possession is stated as follows, viz: "and going from south to north, they measured to an arroyo called 'Holon,' where is another forest of redwoods called 'Corte Madera de San

“Pablo,” ninety (90) cordeles of fifty (50) varas.” With the same scale, Exhibit “S. R. T. No. 15,” measure from the point just marked “C” by you, north, in accordance with the quotation from the act of juridical possession just given, and show on the plat of the official Ransom survey where the termination of that course will be, and designate it on said plat. A. A line starting at said point “C” and running due north ninety (90) cordeles, will reach a point which I now designate in lead pencil by the letter “D,” which point is about six (6) chains north of the arroyo “Holon,” and is situated on lands marked “Punta de Quentin” on said official plat.

Q. 74. Starting from the point on the official survey marked “C. M. P. 177” and “S. Q. 1858” with the same scale measure easterly towards Post 290, the distance of 94 cordeles, and designate on the official map the end of the 94 cordeles. A. I have done so, and designated the point in pencil by the letter “E,” which is near course 266 in said official map.

Q. 75. Take the plat of the Mathewson survey, compare it with the official plat of the Ransom survey, and designate on the latter the position of Station 34 of the Mathewson survey. A. Station 34 of the Mathewson survey corresponds very closely to the station marked Post 613 on the Ransom survey.

Q. 76. What is the distance in cordeles from the point marked “E” by you, to Post 613, on the official plat? A. I find the distance between said points to be 46 cordeles, using said scale marked Ex. S. R. T. 16.

Q. 78. What is the distance by the same scale in cordeles, from Post 613 to the point marked by you “D” on the Holon? A. About 157 cordeles.

Q. 79. What is the entire distance running straight lines around by the points designated by you in the answers from questions 72 to 79 inclusive? A. 403 cordeles.

Q. 80. How does that correspond with the sum of the distances stated in the act of juridical possession? A. It is three cordeles more than said sum.

Q. 81. Please give the area comprised within the lines designated by you in answer to questions 272 to 279 inclusive. A. The area comprised within straight lines drawn to the points designated in said questions is approximately 3472 acres.

Q. 82. Add thereto the area of the peninsulas lying south of the line E C, as designated by you. A. That will add about 400 acres; making a total of 3872 acres.

Q. 83. Add thereto the area lying west of the line C. D., as designated by you, and between that and the Corte Madera del Presidio, taking for the purpose of this last measurement the township map No. 1, N. R. 6 W. A. The area of the land designated as public land of said Tp. map, and lying west of the line designated by me as running from C to D is about 630 acres, which, added to the last quantity, makes 4,502 acres, or a little over one square league.

Q. 84. The witness is shown a document addressed by Willis Drummond, Commissioner, from the General Land Office of Washington, D. C., dated Feb'y 5th, 1872, and addressed to J. R. Hardenbergh, Esq., U. S. Surveyor-General, San Francisco, Cal., and is asked: Do you recognize the document handed you, and what is it? A. It appears to be a communication from the Commissioner of General Land Office to the U. S. Surveyor-General for California.

Q. 85. What is the purpose of it? A. It seems to contain instructions to the Surveyor-General in regard to fixing the eastern boundary line of the Rancho Corte Madera del Presidio, and directing a new survey to be made to conform to the juridical possession.

The document referred to in preceding question is now offered by Peter Gardner, and marked Ex. "Peter Gardner No. 1."

Q. 86. How does the line from the point designated by you, from E on the official plat to Post 613 on same plat, correspond with the line designated in said Ex. Peter Gardner No. 1, on the 3d page thereof, in the following words and figures: "A line running northeasterly from near meander course 105 to near meander course 24, as said courses are marked on the plat of Mathewson's survey executed in 1858?"

Objected to by Mr. Sharp, as irrelevant and immaterial.

A. It crosses it.

Q. 87. At what angle. A. At an angle of about 30 degrees.

Q. 88. What difference in areas would it make if the line A B had been used by you, in answering the late questions, instead of the line from E to post 613? A. By adopting the line A B the area would be decreased about 40 acres.

Q. 89. In approximate estimates like the present, would you not consider these two lines as leading to about the same results? A. Yes, either line would give approximately the same area.

Q. 90. You mean they correspond nearly. A. Yes.

Adjourned until Thursday morning (27th Jan'y), at 10:30 A. M.

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Thursday, January 27th, 1876. Court met pursuant to adjournment, and adjourned until Tuesday, Feb'y 1st, 1876, at 10.30 A. M.

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Tuesday, Feb'y 1st, 1876. Examination resumed. All present

*Cross-Examination of G. F. Allardt Resumed,*

Witness here explains that Deputy Mathewson had with him the translation of the juridical measurements when he made the survey of the Rancho Corte Madera del Presidio in 1858, and I read them at the time.

Q. 91. When measuring the first call of the paper above referred to, what, if anything, did you find to indicate the termination of the original line of the Spanish survey in that direction? A. Deputy Mathewson did not attempt to survey according to the separate calls of the juridical measurement. As I understood it, he made use of the juridical measurements in connection with other papers, to determine exterior boundaries.

Q. 92. Please state, if you now can, what papers Mathewson had with him at the time of making the survey. A. I found in my office an envelope endorsed, in Mathewson's handwriting, "Corte Madera del Presidio, heirs of Juan Read, one square league," which envelope contains the papers that said Mathewson had with him when he made the survey, according to the best of my recollection. The papers are, 1st, Instructions from the Surveyor-General Mandeville, dated Sept. 22d, 1858. 2d. The report of juridical measurements and possession, in the handwriting of said Mathewson; also, in the same handwriting, the testimony of José de la Cruz Sanchez and Tomas Jeremias. 3d. A paper, in handwriting of said Mathewson, with this heading: "497. Heirs of Juan Read vs. The United States." 4th. The opinion of the Board of Commissioners for the place called "Corte Madera del Presidio;" also, in the handwriting of said Mathewson, on the back of which is attached the diseño of said rancho. 5th. A diseño of said rancho or copy thereof.

Q. 93. How many of those papers, and which of them,

made the official instructions under which Mathewson was to act? A. I do not know.

Q. 94. From your experience as a surveyor, which would you think were embraced in the official instructions?

A. The instructions themselves and the diseño; but the surveyor would be guided more or less by all the papers referring to the rancho, for the reason that no single paper is sufficiently definite for his guidance in this case.

Mr. Gardner offers in evidence the instructions of the Surveyor-General.

Q. 95. Did you, in surveying any line with Mathewson, look for any monument spoken of in the papers of juridical possession; and if so, did you find any? A. I do not remember whether Mathewson looked for any monuments, but I am certain that I did not find any, except it be the natural objects referred to in the papers; we found and located Juan Read's adobe house.

Q. 96. In surveying the second call of the juridical measurements, or that course and distance which you surveyed to represent that second call, what determined the course and distance that you ran from north to south? A. As I have stated, I do not think that Mathewson attempted to retrace the juridical measurements on the ground; but he made a survey of all the meanders of the peninsula, and ran a closing line on the west end for the purpose of mapping the same on paper, and then applying a scale to compare the calls of juridical measurement with his survey.

Q. 97. Were you with Mathewson when he was surveying that land, both his preliminary and final surveys? A. I was in his employ and directed the field work; Mathewson was on the ground only a portion of the time.

Q. 98. Were you with him most of the time that he was on the ground, and how much of the time? A. Most of the time; but he frequently left the party and went to San Francisco or elsewhere.

Q. 99. Was any attempt made, under the Mathewson survey, to reconcile the calls of the juridical possession with the instructions for the survey? A. I cannot state; but I know that Mathewson frequently consulted the papers he had with him.

Q. 100. Could any accurate survey of this rancho be made by following the calls of the juridical possession? A. The calls in the juridical possession, where courses and distances are given, are impossible to follow, being, if literally taken, a mathematical absurdity.

Q. 101. Could an accurate survey of this rancho be made by following the artificial monuments mentioned in the papers of the juridical possession, as placed, or promised to be placed, by Read? A. Straight lines could be run from monument to monument; but whether such straight lines would be an accurate survey of the rancho, I am unable to decide.

Q. 102. Where are those artificial monuments? A. I do not know; I never found them.

Q. 103. Have you ever looked for them? A. I don't think I ever have.

Q. 104. Taking the juridical possession, could an accurate survey of this rancho be made by following the calls for natural monuments therein mentioned? By juridical possession I mean the paper commencing "being in the fields and lands pertaining to the rancho," on page 20 of Exhibit S. R. T. No. 9, and ending on page 24. A. If the natural monuments were pointed out to the Surveyor, it would serve to give him an idea of the general location of the rancho; but it would be mere guess work to attempt to make an accurate survey from such data alone.

Court here adjourns until 2 o'clock.

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Court re-assembled at 2 o'clock, pursuant to adjournment.

The official plat of the Ransom survey and a paper, marked on the back "Expediente No. 27," already in the case as Exhibit ———, are shown the witness.

Q. 105. Do you recognize on the two maps now shown you the point of San Quentin? A. I do.

Q. 106. And the Point Tiburon? A. I do.

Q. 107. On the ancient map, are there any streams represented between those two points, and if so, how many? A. There are two streams represented.

Q. 108. Do you recognize on the diseño (or said ancient map) the lines claimed to represent the boundaries on the north and westerly of this rancho? A. I do.

Q. 109. Nearest which of the two streams between Point de San Quentin and Point Tiburon does the northerly of those boundary lines run? A. It runs nearest to the most southerly of those two streams.

Q. 110. Does it approach the most northerly of those two streams? A. No; it is some distance from it.

Q. 111. On which side of the most southerly of those

streams does it run? A. Partly on the south side, partly on the north side, and partly in the stream itself.

Q. 112. In what part of its course does it correspond with the stream itself? A. Near the head of the stream.

Q. 113. Do you recognize on the diseño the bay formed by Punto de Tiburon and the Punta de Caballos, which, running inland from east to west, ends in a short creek and cañada which follows the same direction; if so, what is it now called, and is it marked on the official plat? A. I recognize on the diseño a bay answering to that description, and it is evidently intended to represent what is now called "Richardson's Bay," and so marked on the official plat.

Q. 114. How many streams are represented on the diseño as entering the head or western end of said bay? A. Two streams; one at the head of that bay and another a little to the north of the first stream.

Q. 115. Is there any peculiarity in the inking of that diseño that strikes your attention; and if so, point them out? A. The topography of the diseño seems to be drawn with one kind of ink, while some of the words and some of the lines seem to be made with a different kind of ink.

Mr. B. S. Brooks objects to the question as not being the best testimony, Mr. Allardt not being an expert, as also not being cross-examination, no allusion having been made to it in the direct examination.

Q. 116. What experience have you had as a draughtsman and map-maker, if any? A. I consider myself a competent draughtsman, having had many years' experience in drawing topographical maps.

Q. 117. Have you had much experience in the examination of Mexican or Spanish diseños? A. Yes, I have had occasion to examine a large number of diseños.

Q. 118. Is there anything on the face of this diseño to indicate that it was intended originally as the diseño of the Rancho Corte Madera del Presidio or rancho of Juan Read? A. Neither the words "Corte Madera del Presidio" or the words "Juan Read" appear on this diseño. The diseño appears to be a topographical sketch of the lands, points and islands on San Francisco Bay between San Francisco and San Rafael.

Q. 119. How well are you acquainted with the Bay of San Francisco and its adjacent shores, and islands, and rocks, between the latitude of the Presidio of San Francisco and Yerba Buena Island on the south, and the latitude of San Rafael on the north? State your acquaintance with consider-

able minuteness. A. I am well acquainted with the Bay of San Francisco between those points, for the reason that I made a detailed survey of the entire shore line of the bay for the Board of Tide Land Commissioners.

Q. 120. What are the dots on said diseño, just to the right of a line drawn from Punta de San Pablo to Isla de Los Angeles intended to represent? A. There are six dots, and they represent what are now known as "Castro Rocks."

Q. 121. What are the rounded spots between "Punta de San Pablo" and "Punta de San Quentin" intended to represent? A. There are two of those spots near "Punta de San Pablo" and they represent two islands known as "The Brothers."

Q. 122. What are the figures in the bay, which you called "Richardson's Bay" " $\frac{1}{4}$ ," " $\frac{1}{2}$ ," "1," " $1\frac{1}{2}$ ," "2," "3," "7" and the others between the figure last named and "Punta de San Pablo" and "Yas. de Marin" intended to represent, if you know? A. From the fact that said figures correspond approximately to the depth of water shown on the Coast Survey maps, I take them to be soundings showing the depth of water, in fathoms.

Q. 123. Upon the diseño, do you see the words "Terreno que solicita D. Juan Read al otro lado del Pto. de S. Francisco," and the word "Sausalito?" A. I do.

Q. 124. Have you had experience in handwriting and ink and the use of it, enough to enable you to judge of differences in them or either of them? A. I have had considerable experience in writing and drawing, but do not consider myself an expert in such matters.

Q. 125. How much experience have you had? A. I have frequently examined old maps while following the business of surveying for the last twenty years.

Q. 126. Do you know, and can you state how different kinds of ink will manifest themselves to the eye? A. The question appears indefinite to me.

Q. 127. Do you see any difference in the ink used in making words and lines on said diseño? A. I do.

Q. 128. State what difference in the ink you see, and where. A. The topography, the soundings, the word "Sausalito," and the picture of a house under said word, and the scale of the map, and two straight lines bounding the Saucelito peninsula, and the words "Pta Tiberon" ("Tiburon" being crossed), seem to be drawn with one kind of ink; while the words "Corte Madera," "Taburon,"

“Terreno, que solicita D. Juan Read al otro lado del Pto. de S. Francisco,” and the straight lines bounding the peninsula of “Taburon,” towards the west, seem to be drawn with another kind of ink; also, “Ysla,” near the island of “Los Angeles.”

Q. 129. Which seems to be the earlier, and which the later of the inks, marks and writings you have described—if you can judge as a map-maker? A. I cannot judge as to the age of the different inks, marks and writings.

Q. 130. Does that diseño appear to have been made as a map of any particular rancho, or for some other purpose originally? A. I cannot say.

Q. 131. Is it usual in diseños to give soundings of large bodies of water in their neighborhood? A. I never saw any other diseño that gave soundings.

Q. 132. Is it customary in diseños to represent, as minutely as in this paper now under consideration, the small rocks and islands, and headlands at a distance from the land to which the diseños appertain? A. As far as I know it is not.

Q. 133. Suppose the paler ink marks and writings on that map were not upon it, what would that diseño seem to you to be intended to represent? A. It would seem to represent a hydrographic map of a part of San Francisco Bay.

Q. 134. Were you present when Mr. Juan Read, the grantee of the Rancho “Corte Madera del Presidio,” and Mr. Guillermo Richardson, the grantee of the Rancho “Saucelito,” were described as “ex-sailors” by a witness in this hearing? A. I don’t remember.

Q. 135. Is there anything on the face of this diseño to indicate that it was not intended originally as the diseño of the Rancho “Corte Madera del Presidio,” but for some other purpose? A. It would be a mere matter of opinion for me to answer that question.

Q. 136. Suppose the lighter colored straight lines bounding “Tiburón” on the west, and which you have testified are made with a different ink from the topography of this diseño were omitted, would there then be anything, on the face of this diseño, which could lead you, as a topographer, a surveyor, or a draughtsman, to suspect that it was intended as a diseño to accompany a petition for a grant of land called “Corte Madera del Presidio?” A. To answer that question I must know the nature of the petition.

Q. 137. I emphasize the words: “on the face of this di-

seño," in the previous question, and request you to answer my last question? A. No.

Court here adjourned until 10:30 A. M. to-morrow, February 2d, 1876.

Pursuant to adjournment Court met at 10:30 A. M. Wednesday, February 2d, 1876. All present.

Cross-examination of G. F. Allardt resumed.

A Spanish diseño or map, marked on the back thereof: "104. Exhibit 1, to the deposition of Thos. Henderson in case No. 104, Richardson's claim, H. I. T., Com'r," is shown witness, and he is asked—

Q. 138. Does this diseño represent the land in question in this hearing—the rancho of Read? A. Yes.

Q. 139. Will you compare this diseño with the paper marked "Expediente No. 27," which you were examining yesterday, and state which of the two represents with most accuracy the rancho now in question? A. That depends upon the boundaries of the rancho.

Q. 140. On which of the two diseños is the shore line of the bay which you call "Richardson's Bay," of "Raccoon Straits," and of San Francisco Bay most accurately delineated? A. Both diseños are extremely imperfect, being mere sketches; but that marked "104. Exhibit 1, to the deposition of Thos. Henderson, in case No. 104, Richardson's claim. H. I. T., Com'r," is more intelligible than the other, inasmuch as it indicates roughly, "Peninsula Island and Strawberry Point," while in the other those features are not shown.

Q. 141. Examine the shore line and topography at the head and near the head of Richardson's Bay on this diseño, marked "104. Exhibit 1, to the deposition of Thos. Henderson, in case No. 104, Richardson's claim. H. I. T., Com'r," being the diseño referred to in question 95, page 121 of this testimony, and in the answer to that question, a traced copy of which diseño is in said question, stated to be filed therein, which copy Peter Gardner now asks shall be marked "B. S. Brooks, No. 2," and state whether said topography and shore line are not represented with great accuracy and minuteness, for a Spanish diseño? A. Yes; the topography at the head of Richardson's Bay is hereon shown with considerable accuracy; that is to say, approximately correct; more so than is usual on diseños.

Q. 142. Is there anything on this last-named diseño to

indicate the points of the compass, and if yes, state what it is, and whether it shows those points with correctness. A. There is; it is a circle with a meridian line drawn through it, and a line at right angles to the same. Said meridian line corresponds very closely to the true meridian compared with the topography on said diseño.

Q. 143. What is the meaning of the zigzag or scalloped line at the head of Richardson's Bay; I mean the line running through the letter "D" in the word "Madera?" A. This line evidently is intended to represent the outer line of the salt marsh, or the line of ordinary high tide of Richardson's Bay.

Q. 144. Is any care, skill, and accuracy shown in delineating the water-courses in the Read rancho, as shown on this diseño, towards the western part thereof? A. I think the water-courses are shown approximately correct, considering them to be drawn from an eye-sketch.

Q. 145. Are not the principal curves of the shore line shown or suggested with a considerable degree of accuracy on this diseño, in the part marked thereon "Rancho de Read" and "Tiburón?" A. The delineation of the shore line on this diseño is sufficiently accurate to enable a person acquainted with the land to identify the principal features and salient points, such as bays, inlets, and points, with considerable certainty.

Q. 146. Please look at the official plat of the Ransom survey, and state whether there is any considerable curve and point in the shore line of San Francisco Bay east, or very nearly so, from the old house of Juan Read; and if so, state what they are. A. There is a curve bearing about east from Read's house, which is a well-marked feature in the shore line of San Francisco Bay; also a point of land. The curve is situated just south of California City Point; and the point I refer to is marked "California City Point" on this official plat of the Ransom survey.

Q. 147. Examine the diseño last spoken of, and state whether or no there are a point and curve in the shore line of San Francisco Bay delineated thereon as lying East, or nearly so, of the old Read house? A. Such a point and curves are shown on said diseño.

Q. 148. Does that curve you have mentioned form a bay, a cape, or any projection of land into San Francisco Bay? A. Said curve forms a bay.

Q. 149. Is there more than one bay of a marked character along that shore, between "California City Point" and

the most easterly point of what is marked "Point Tiburon" on the official plat? A. There is not.

Q. 150. Is there any marked topographical feature in California City Point that you can identify readily? A. The land back of California City Point ascends rapidly to the main ridge, which forms the back-bone of the peninsula of Tiburon.

Here a recess was taken until 2 o'clock, P. M.

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Court re-assembled at 2 o'clock.

Q. 151. A map called "Gardner's Map of the Rancho 'Corte Madera del Presidio,' with its topography and surroundings, the Mathewson survey lines, etc.," is here shown witness, and he is asked: What does this map represent? A. This map represents on a large scale the Tiburon peninsula, extending from Raccoon Straits westerly to the easterly slopes of the Tamalpais Mountain and the head waters of the Arroyo Corte Madera del Presidio and the Arroyo Holon. The map also contains a part of the rancho "Punta de San Quentin," and a part of the rancho Saucelito.

Q. 152. Please compare this Gardner's map with the official plat of the Rancho Corte Madera del Presidio, by Ransom, and locate and mark upon this map the points marked by you in your preceding testimony on said official plat in pencil, "A," "B," "C," "D," and "E," also Post 613, station C. M. P. 177 and S. Q. 1858, mentioned in your previous testimony; also the point called "California City Point;" also Richardson's Bay. A. I have marked those points on this map in red ink, with the corresponding letters and words.

Q. 153. Please compare the two maps mentioned in question 152 and see whether they correspond with each other so far as the locations of the points and objects named in question 152, and the principal features of the exterior lines on the official plat are concerned; and if so, state the same. A. The points and objects just named in question 152 correspond in the two maps and the exterior boundaries, as far as the meanders are practically identical in the two maps, but the line representing the western boundary on the official map is not shown.

Q. 154. Please designate that western boundary mentioned in your last answer, upon the Gardner Map, and mark it with appropriate letters, and state how you do it.

A. I have designated said western boundary on said Gardner's map by a dotted red line, "F G"

Q. 155. Does the line "F G," just marked by you, correspond with the first call of the juridical possession?

A. I can't say.

Q. 156. Why cannot you say? A. I do not know, of my own knowledge, where the initial point of said first call, viz., the "solar," is located; nor do I know in what exact direction such measurement was made at the time when juridical possession was given.

Q. 157. Can you determine the bearing and distance from the letter "A" just made by you on the "Gardner Map" to the Punta de San Quentin and place a red arrow pointing in the direction thereof? A. I have done so and represented the bearing by an arrow in red ink, and have marked thereon the approximate distance from the point "A" to the "Punta de San Quentin," viz.: 170 chains, or  $2\frac{1}{8}$  miles.

Q. 158. Look at the diseño, marked "Expediente No. 27," the official plat by Ransom, and "Gardner's Map," and state whether the stream marked on said diseño as nearest to Punta de San Quentin, appears on the other maps mentioned? A. Said stream seems to correspond with the large stream or slough shown on the other two maps, but whether it is that stream or not, is on my part a mere matter of conjecture.

Q. 159. Please mark on the Gardner Map, in red ink, with the three letters "H H H" the stream, which you conjecture to represent the stream which is shown in said diseño as nearest to "Punta de San Quentin?" A. I have so marked said stream.

Q. 160. Please examine the diseño of the common lands of the Pueblo of San Rafael found in Vol. X of Missions of the original Spanish archives and state what there is upon that diseño to show the boundaries of those lands mentioned in the title of that diseño?

Mr. Sharp, for claimants, objects to the question on the ground that it is irrelevant, immaterial, and foreign to the facts at issue.

A. The Mission Lands of San Rafael, on this diseño, seem to be bounded by a yellowish brown-colored line.

Q. 161. Do you recognize upon said diseño, the Peak of Tamalpais and Punta de San Quentin?

Mr. Sharp, for claimants, makes same objection to this as to question 160.

A. I see on this diseño a figure representing a mountain which from its location may be intended to represent the Tamalpais Mountain; Punta de San Quéentin is shown on this diseño and can be easily recognized from its position and form and by the word Quéentin marked thereon.

Q. 162. State whether or no the yellowish-brown boundary line, mentioned in answer to question 160, touches and connects those two objects. A. It does.

Q. 163. Starting from what you say might represent the summit of Tamalpais, what is the general course or trend of that boundary line towards Point San Quéentin for the first two and one-quarter inches of that distance? A. About north eighty degrees east, as compared with the meridian line marked on said diseño.

Q. 164. Do you recognize on said diseño any streams or other natural objects by which you can fix the true direction of that line approximately? A. I do not—no definite object that I am acquainted with.

Q. 165. Taking the bearing of the extremities of the peninsulas, marked on said diseño Saucelito and Tiburon, and your knowledge of the true location of them as your guide, would the meridian as designated on that diseño be correct, or if not, how far would it differ from the true meridian? A. The true course between said extremities is about north thirty degrees east, while on the diseño the course between the same extremities referred to the meridian shown on said diseño is about north fifty degrees east, a difference of twenty degrees.

G. F. ALLARDT.

Court here adjourned until Tuesday, the 8th of February, at 10:30 o'clock A. M.

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Pursuant to adjournment, Court met at 10:30 A. M., Tuesday, February 8th, 1876. All present.

*Cross-Examination of G. F. Allardt Resumed.*

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Court here adjourned until Tuesday, 15th of February, at 10:30 o'clock A. M.

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Tuesday, Feb'y 15, 1876. On motion of Mullen & Hyde, case adjourned until Wednesday, Feb'y 23d, 1876, at 10:30 A. M.

Pursuant to adjournment, Court met at 10:30 A. M., Wednesday, Feb'y 23d, 1876. All present.

Present, Hon. H. G. Rollins, U. S. Surveyor-General.

*Re-Direct Examination of G. F. Allardt by Mr. Shanklin.*

Q. 1. Were you in the field with Mr. Mathewson when he made the official survey of the Rancho Corte Madera del Presidio? A. I was.

Q. 2. Were your relations to him in connection with that survey such as to enable you to know what official documents, bearing upon the juridical possession of said rancho, he had with him at the time? A. I know of certain documents he had with him at the time; they are the same that I have heretofore described in this examination, but I am unable to state whether he had other documents or not, or whether he consulted such other documents.

Q. 3. Please to examine the portion of Exhibit S. R. T. No. 9, relating to the juridical possession (not measurement) as set forth in said Exhibit, commencing with the fifth line from the bottom of page 12, and ending with the ninth line on the top of page 15, and state whether the original, of which this purports to be a translation, or any copy of the translation thereof, were used by Mr. Mathewson or yourself in locating the westerly and northern boundary of the Rancho Corte Madera del Presidio. A. Neither the original of said portion of Exhibit S. R. T. No. 9, described in the foregoing question, or a copy thereof, is among the papers which I have heretofore described in this examination; but I am unable to state whether Mathewson had such copy with him at the time; but I do not remember of seeing such a paper at the time of the survey.

Q. 4. Do you know whether Mathewson at that time referred to or consulted any official paper, such as the one referred to in the preceding question and answer, in making the survey of the Rancho Corte Madera del Presidio, in locating the western or northern boundary of said ranch? A. I do not.

Q. 5. In making the survey of the Rancho Corte Madera del Presidio, do you know whether Mr. Mathewson made his survey as one for determining quantity, or with a view of following or making a survey of boundaries, or for determining the exterior boundaries of the ranch?

Objected to by J. B. Howard as immaterial, incompetent and not the best evidence, the action of the Deputy being governed by his instructions on file.

Mr. Sharp, for claimants, joins in the same objections.

Mr. Cutter makes same objections.

A. Mathewson made and returned the survey for quantity; he surveyed one square league, more or less, endeavoring to locate the same within the exterior boundaries of said rancho, and to include Juan Read's house and the solar. I know this to be a fact, as I assisted him in making the necessary computations, and actually surveyed the line under him, cutting off said square league.

Q. 6. From your knowledge of Mr. Mathewson's ability as a surveyor, and his familiarity in construing boundaries and measurements of Spanish grants, do you think that if a document shown you, and heretofore referred to as commencing on page 12 and ending on page 15, Ex. S. R. T., No. 9, and that Mr. Mathewson's instructions had been to make a survey of the ranch according to the exterior boundaries set forth in such paper of juridical possession, that Mr. Mathewson would have located the western and northern boundaries of the ranch otherwise than as you say you would have located them, viz: along the Arroyo Corte Madera del Presidio on the west, as laid down on Ex. S. R. T., No. 6, and the Arroyo Holon on the north, as laid down on same Exhibit No. 6?

Objected to by Mr. Sharp, for claimants, as immaterial, irrelevant and incompetent.

Mr. Howard objects, as incompetent, eliciting the opinion of the witness, and in conflict with former testimony of this witness wherein he stated substantially that the line indicated from Post C. M. P. 181 to Post P. Q. 99 on the official plat, and W. R. 203 and continuing to W. R. 204, was run by Mathewson in 1858 as a closing line and division between the Rancho Corte Madera del Presidio and the Rancho Punta de San Quentin, and for the purpose of marking the outer or western boundaries of the Rancho Corte Madera in case said rancho should be ordered surveyed without limitation as to quantity of one league.

A. I knew Mathewson intimately, and believed that he possessed very superior judgment in locating Spanish grants; nearly all the ranchos which he subsequently surveyed have been approved by the Surveyor-General and the United States patents issued therefor; whether he would have located the western and northern boundaries of the Rancho Corte Madera del Presidio where I have located them in this testimony I am unable to say; but from my knowledge of him I think he would have located them there had he had the same papers

before him. In regard to objection of Mr. Howard I would say, that I did not testify that the line from Post C. M. P. 181 to Post P. Q. 99, W. R. 203, was the division line between the Rancho Corte Madera del Presidio and the Rancho Punta de San Quentin; nor did I testify that Mathewson intended it to be the western boundary of the Rancho Corte Madera del Presidio.

G. F. ALLARDT.

Mr. Shanklin closes the re-direct testimony of Mr. Allardt.

Court here adjourned until Saturday, 26th of February, at 10 o'clock A. M.

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SATURDAY, Feb. 26th, 1876.

Court met pursuant to adjournment and adjourned until Monday, Feb. 28th, 1876, at 10:30 o'clock A. M.

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Monday, Feb. 28th, 1875. Court met, pursuant to adjournment, at 10:30 A. M., and adjourned until half past one.

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Met at half past one o'clock.

S. L. Cutter, counsel for Gardner, stating that R. C. Hopkins, a witness, was permitted to sign the preceding part of his testimony already given, when he was about leaving the country temporarily, moves that he be permitted to proceed with the cross-examination of said Hopkins.

*Cross-Examination of Mr. Hopkins by Mr. Cutter, Attorney for Mr. Gardner.*

Q. 1. How far is the rancho in question, Corte Madera del Presidio, from this city? A. I think that the nearest point is from six to eight miles.

Q. 2. From your knowledge of the country embraced in the Ransom survey, in what part thereof would the occupants, in the year 1834 or 1835, have cut madera or timber?

A. They would certainly have cut it at the most convenient point to the place of their settlement.

Q. 3. Please look at the map S. R. T. No. 6, at point marked B, in red ink, and state whether there is any probability of wood having been cut there in 1834 or 1835.

Objected to as immaterial, on behalf of claimants; and not cross-examination; and also, as being *secondary*.

A. When the improvements of building, etc., were made

by Juan Read on the rancho of Corte Madera, in 1834 or 1835, I presume that the timber used therefor was cut at the nearest and most convenient point to said improvements, and since I think that good timber at that time was found at a point nearer to where said improvements were being made, I do not think it probable that timber for that purpose was cut at the point in question.

Q. 4. In answering question 55, page 102, of this testimony, you state that you went from the Read house to the neighborhood of the south-eastern extremity of the rancho, as surveyed. How did you travel over this ground—on foot, in a carriage, or on horseback? A. My recollection is that I went a portion of the way in a carriage, and a portion on horseback.

Q. 5. Did you follow the shore line or the interior line in reaching the south-eastern extremity of the rancho, as surveyed? A. I do not remember distinctly what road I travelled, but I remember that I went to the sea-coast at several points. I don't think I followed the coast around the peninsula, but I went to the sea-coast at several points.

Q. 6. Did you go to or near the southeasterly extremity? A. I did.

Q. 7. Where is the call found of the Cerro Alto, mentioned in question 62, found, that is, in what document? A. I think in the expediente of juridical possession.

Q. 8. What authority have you for translating it Tamalpais? A. "*Tamalpais*" is not a translation; it is the original word or name as used.

Q. 9. What is the literal translation of the words "Cerro Alto?" A. High hill or mountain.

Q. 10. Is there anything in the connection as used where you find it that indicates that it refers to any particular high hill or mountain; or may it mean simply "*a high hill?*" A. The words "*cerro alto*," simply means "*a high hill;*" but where it is used in this case, I think, in connection with other papers in the case, it refers to the place called sometimes "*Tamalpais*."

Q. 11. Who went with you upon the land, if anyone, to point out the objects called for in the record of juridical possession? A. The first time that I went, I think I was accompanied by Mr. Valentine, Doctor Lyford, Mrs. Lyford, and Don José de la Cruz Sanchez.

Q. 12. Did any of those parties point out to you any point as the solar, and if so, where was it? A. Don José de la Cruz Sanchez pointed out to me the point where the

juridical possession commenced; I do not remember, however, that he pointed out the "solar;" my recollection is that he said that the juridical possession commenced at a point near the old mill—my object was to have José de la Cruz Sanchez, who was one of the parties present when possession was given, to point out to me *of his own accord*, the point at which the measurement was commenced.

Q. 13. What are the meanings of the words "Oriente," and "Poniente?" A. "Oriente," means the Orient or East, and "Poniente," means West from the Spanish verb "Poner," to place; the point where the sun places himself at setting—and "Oriente," the place of his rising.

Q. 14. Do you know what instruments were used by the Mexicans in making their surveys of lands? A. Except in a very few instances, they used no instruments, except a measuring cord—I think that Don Abel Stearns, of Los Angeles, had a surveyor's compass, which he used on making some surveys, and perhaps Juan Noget had an instrument which he used in making some surveys.

Q. 15. Were the instruments of which you speak used in making the survey of the Corte Madera? A. I am certain that they were not.

Court adjourned until Tuesday, February 29th, 1876, at 1 o'clock P. M.

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Pursuant to adjournment, court met at 1 o'clock, Tuesday, February 29th, 1876, and adjourned until Monday, March 6th, 1876, at 10:30 A. M.

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Pursuant to adjournment, court met on Monday, March 6th, 1876, at 10:30 A. M., and adjourned until Tuesday, March 7th, 1876, at 10:30 A. M.

Before the adjournment, the Surveyor-General ordered that the testimony should be taken and closed in the following order, viz :

From the 6th of March to 11th of March, inclusive, of witnesses to be produced by B. S. Brooks.

From the 13th March to 15th March, inclusive, of witnesses to be produced by S. R. Throckmorton.

On the 18th of March, of witnesses to be produced by Mullen & Hyde.

On the 20th March, of witnesses to be produced by Cutter & Gardner.

On 21st March, of witnesses to be produced by J. B. Howard.

From 22d to 23d, inclusive, of witnesses to be produced by Sol. A. Sharp.

On the 24th March, of witnesses to be produced by Southard.

On the 25th March, of witnesses to be produced by Walter Van Dyke, U. S. District Attorney.

And that every man be payed for the time he occupies.

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Pursuant to adjournment, court met on Tuesday, March 7th, at 10:30 A. M., and adjourned until Thursday, March 9th, 1876, at 10:30.

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Pursuant to adjournment, court met on Thursday, March 9th, at 10:30 A. M., and adjourned until Friday, March 10th, 1876, at 11 o'clock A. M.

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Court met, pursuant to adjournment, on Friday, March 10th, 1876, at 11 o'clock A. M.

Francisco Soto, being duly sworn, is called by Mr. Brooks, as a witness, on behalf of Mr. Valentine, and testifies as follows :

Q. 1. What is your name, age, place of residence, and occupation? A. Francisco Soto; 54 years of age; born in the presidio of San Francisco; and now reside in Watsonville; occupation, farmer.

Q. 2. Do you know the Rancho Corte Madera del Presidio; and if so, when did you first know it? A. Yes, sir; I have known it, and knew it first in 1843.

Q. 3. Where did you live at that time? A. I was on the Rancho of Punta de Reyes. I was nine years working on that rancho.

Q. 4. Who was in possession of the Rancho of Corte Madera at that time? A. Doña Ylaria Sanchez Read, the widow of Juan Read, was in possession.

Q. 5. Was Juan Read alive or dead at that time? A. He was dead.

Q. 6. Were his widow and family residing on the ranch then? A. They were.

Q. 6. How long after 1843 did you continue to see the

ranch? A. From that time up to this time I have known the rancho.

Q. 7. What did you ever do on the ranch? A. Marking stock.

Q. 8. Who for? A. For Mrs. Read.

Q. 9. At what times and how often was that? A. Every year.

Q. 10. For how many years after 1843? A. Up to 1852.

Q. 11. From 1843 up to 1852 how many times did you visit the ranch? A. Every month, or every two months, I was in the house of Doña Ylaria Read.

Q. 12. Did you, during these times, ride over the whole ranch? A. Yes, sir; I did not go over every part of the ranch; I went from the house of Mrs. Read to the Mission of San Rafael; in gathering stock I went over different portions of the rancho at various times, but I could not say I went over every part of it every time I visited the ranch.

Q. 13. Do you know the point of land on the east of the rancho called Tiburon? A. I do.

Q. 14. During those years how was the point occupied? A. With cattle and horses.

Q. 15. For pasturage? A. Yes.

Q. 16. By whom was this point used for pasturage? A. By Señora Ylaria Read.

Mullen & Hyde and Cutter move that the foregoing question be stricken out as incompetent. Mr. Throckmorton also objects for the same reasons.

Q. 17. Did you know the peninsula to the west of this point, called "*Potrero de Tiburon?*" A. I did. All the point was called Tiburon.

Q. 18. By whom was that small peninsula or Potrero used, and for what purpose?

Mullen & Hyde object to the question, as incompetent.

A. By Doña Ylaria Read, for the purpose of enclosing horses and cattle.

Q. 19. Was it so used from the years 1843 to 1852?

Mullen & Hyde make same objection as to preceding question.

A. It was.

Q. 20. How did they enclose cattle in it? A. There was a fence placed across the neck of the peninsula.

Recess here taken until 2 o'clock P. M.

Q. 21. What was the length of the fence which you speak of as crossing the neck of the little peninsula? A. From 40 to 50 feet.

Q. 22. Did this fence, which crossed the neck of the peninsula, reach from the water on the one side to the water on the other side? A. It extended from the water on one side to the water on the other side.

Q. 23. Was there a gate in this fence? A. There were bars.

Q. 24. Was there any fence on the main point of the Tiburon? A. There was no fence, except the one on the "bolerta," of which I have spoken.

*Cross-Examination by Mullen & Hyde.*

Q. 25. Was there other stock, such as cattle and horses, between 1843 and 1852, that were not owned by Mrs. Read, that grazed upon the lands that you have referred to? A. The cattle and horses of Timothy Murphy and of William Richardson went upon the land, but none others.

Q. 26. About how many belonging to Murphy entered upon said lands? A. I cannot say, since the stock all the time was entering upon said land and going off.

Q. 26. About how many belonging to Richardson grazed upon the lands described by you?

Objected to by Dr. Lyford as immaterial.

A. I cannot say; the country was open, and the stock went upon the land and left it at will.

Q. 27. Of the stock spoken of by you as grazing on the potrero, how many, more or less, belonged to Mrs. Read; how many belonged to Richardson? A. I cannot say; we are speaking of land, and not of stock.

Q. 28. Do you know, if so, state, who owned the most of the stock that grazed on the potrero, by you spoken of—Mrs. Read, Mr. Murphy, or Mr. Richardson? A. The most of the stock belonged to Mrs. Read.

Q. 29. Do you know the brand of Mrs. Read's stock at that time? A. I know the brand; but I am not here to testify about brands, I do not desire to describe "brands."

Q. 30. Please describe the brand that you used in marking Mrs. Read's cattle. A. I do not desire to paint brands; I am speaking of lands, and not of stock.

Q. 31. In marking the stock of Mrs. Read, please describe the manner in which you did the same. A. We marked the stock with a brand, and by cutting the ears.

Q. 32. Please describe that brand that you so used. A. I will not undertake to paint that brand, for I do not at this date distinctly remember what it was.

Q. 33. Were the cattle of Murphy and Richardson, that

grazed on this land, marked with a brand? A. They were.

Q. 34. Was the brand used by Mrs. Read different from that used by Murphy and Richardson? A. They were all different.

Q. 34. Was the brand used in marking Mrs. Read's cattle the same that was used in marking her horses? A. It was the same.

Q. 35. Describe the material used in the construction of the fence across the neck of the peninsula. A. It was composed of willow posts and rails.

Q. 36. Were these posts set in holes in the ground, or otherwise? A. They were placed in the ground.

Q. 37. During the years from 1843 to 1852, did you ever see a stone fence across or near the Potrero of Tiburon? A. I never did.

Q. 38. When was the fence, by you described, constructed? A. I cannot remember the year.

Q. 39. State who built it, if you know. A. Ramon Valencia, with the assistance of two Indians.

Q. 40. Was this before or after the Americans took possession of California? A. After they came.

Q. 41. Where did Mrs. Read live when you first went on to this rancho? A. On the rancho.

Q. 42. Do you know in what house she lived on this rancho? A. I do.

Q. 43. Was it of wood or adobe? A. It was of adobe.

Q. 44. Do you know what boundaries this rancho has on the north?

Objected to by Mr. Sharp, on the ground that this is not cross-examination, but new matter not brought out in direct examination.

A. Two places, where they cut timber.

Q. 45. Do you know the boundary of the Rancho of Corte Madera on the west?

Same objection as to foregoing question.

A. I do not.

Q. 46. How far west, from 1843 to 1852, was Mrs. Read in possession of lands which she claimed to be a part of the Rancho of Corte Madera del Presidio? A. As far as the Cerro of Tamalpais. She had animals on all of this land.

Q. 47. How far east, from 1843 to 1852, was Mrs. Read in possession of lands which she claimed to be a part of the Rancho of Corte Madera del Presidio? A. I don't understand which is the east boundary.

Q. 48. How far south was the boundary? A. To Tiburon.

Q. 49. Up to what line on Point Tiburon did the boundary extend in that direction? A. All the land from Corte Madera to the Point Tiburon, opposite Angel Island.

Q. 50. Where did the boundary line of the ranch cross Point Tiburon?

Objected to as not cross-examination.

A. It included all, from the Point Tiburon to the Corte Madera.

Q. 51. How does it come that you know the boundaries so specifically and well in that direction, and yet cannot be equally specific in reference to the boundaries in the other direction? A. Because at that time all the lands of Tiburon were recognized as the lands of Mrs. Read.

Q. 52. Do you know, if so state, if any one, between 1843 and 1852, set up any claim to lands called Point Tiburon, adverse to the claim thereto set up by Mrs. Read? A. There was no one who made any one.

Q. 53. How do you know this? A. I know, because I was at the ranch up to 1852, and up to that time there never was any dispute about it.

Q. 54. With whom have you had any conversation within the last week pertaining to matters testified to by you in this case. A. With no one.

Q. 55. At whose invitation or request are you here as a witness? A. Dr. Lyford and Juan Read.

Q. 56. How were you informed that you were needed here? A. By dispatch on Tuesday to be here on Thursday.

Q. 57. From whom? A. I think from Mrs. Lyford.

*Re-Direct.*

Q. 58. What was done with the cattle of others that came upon the land? A. Every year, during the rodeo times, the respective owners took their cattle off the rancho to their own ranchos.

FRANCISCO SOTO ✕.

Court adjourned until Saturday, March 11th, 1876, at 11 o'clock A. M.

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Court met pursuant to adjournment on Saturday, March 11th, 1876, at 11 o'clock A. M.

Juan J. Read being duly sworn, called as a witness by Mr. Brooks, on the part of the claimants, and testifies as follows :

Q. 1. Please state your age, residence and occupation.  
A. I am 39 ; reside in Marin Co.; farmer.

Q. 2. Do you reside on the ranch ? A. I reside on the ranch of Corte Madera del Presidio.

Q. 3. How long have you resided on that rancho ? A. Most ever since I was born.

Q. 4. Are you related to Juan Read, the grantee, and if so, how ? A. He was my father.

Q. 5. How was the rancho occupied when you first knew it ? A. It was occupied with stock.

Q. 6. Who occupied the rancho with stock ? A. Juan Read and his family.

Q. 7. When did your father die ? A. I do not recollect, but I think it must have been 1844 or 5.

Q. 8. Was it before the breaking out of the war of 1846 ?  
A. Yes, sir.

Q. 9. Where did your father reside upon the rancho ?  
A. At the ranch house.

Q. 10. Is that the same that is there now ? A. No ; he was building the present house when he died.

Q. 11. How was the former house situated with respect to the present ? A. It lay about southwest ; about 20 yards distant.

Q. 12. What sort of a house was that old one ? A. It was a board house ; split boards.

Q. 13. Was that the first house that was there ? A. Yes, sir.

Q. 14. Is the present house an adobe house ? A. Yes, sir.

Q. 15. Did you perform any service or duty upon the rancho up to the death of your father ? A. I was too young then.

Q. 16. Did you attend any of the rodeos, that were held before your father's death ? A. I did not attend to the rodeos, but I was at the marking and branding.

Q. 17. What is the object of the rodeo ? A. Generally to brand cattle.

Q. 18. Did you send notice to all of the colindantes ?  
A. Yes sir, that was the rule.

Q. 18. For what purpose were the colindantes notified ?  
A. So as to come and take their stock away.

Q. 19. What was the rodeo ? A. Gathering of all the cattle on the ranchos.

Q. 20. How were they gathered? A. By vaqueros who were mounted on horses and drove in the cattle from the exterior boundaries to the rodeo ground.

Q. 21. What was done at the rodeo ground? A. Separate the stock of the colindantes from the stock of the ranch.

Q. 22. What was done then with the stock of the colindantes, and what was done with the stock of the ranch? A. The stock of the colindantes each one had to take his stock out of the boundaries of the ranch, into his own ranch. The ranch stock were branded and turned out again.

Q. 23. From what lines was the rodeo? A. From the exterior lines of the ranch.

Q. 24. That was recognized as the rodeo bounds? A. Yes sir.

Q. 24. What were the rodeo bounds, or exterior limits of this rancho, Corte Madera del Presidio? A. On the north and northwest, it was Corte Madera de San Pablo, on the east to the Point of Tiburon, around the Bay of San Francisco up to the Cañada Tapeste, up to the lagoon and Tamalpais.

Q. 25. What was the boundary on the north from the Corte Madera de San Pablo to Point of Tiburon? A. San Pablo Bay.

Q. 26. What was the exact boundary at the Corte Madera de San Pablo? Was it a forest or a stream? A. A stream.

Q. 27. What stream was it? A. Stream Arroyo Holon.

Q. 28. Where was the laguna of which you have spoken, and what was its name? A. The laguna was at the Tamalpais or Sobrante, its name was La Laguna.

Q. 29. What was it, and where was it situated with respect to the natural topography? A. It was a pond of water full of tules. It is in a hollow place in the hills, close to the beach. It is about six miles from the adobe house—it is about southwest from the house.

Q. 30. Are you speaking now of the limits of the Corte Madera del Presidio? A. I am speaking now about the boundaries of the rodeo.

Q. 31. My question was limited to the rodeo boundaries of the Rancho Corte Madera del Presidio; please correct your description of boundaries so as to restrict them to the boundaries of the Rancho Corte Madera del Presidio. A. I do not understand the question. I do not know whether you are talking about the boundaries of the ranch or the rodeo boundaries.

Q. 32. Did not your mother claim land adjoining the Rancho Corte Madera del Presidio? A. Yes, she did; and we do claim it yet.

Q. 33. As distinct from the grant made to your father? A. Yes, sir.

Q. 34. What did you call that? A. Sobrante, or Tamalpais.

Q. 35. On which side of the Rancho Corte Madera was that? A. On the west side.

Q. 35. In your description of rodeo boundaries have you not included this sobrante? A. Yes, sir.

Q. 36. What was the exterior limit of the Rancho Corte Madera, from the Holon to the Point of Tiburon? A. The Bay of San Pablo.

Q. 37. Does this boundary, from the Holon around by the shore of the bay to the point nearest your father's house, form a part of the boundary of the Rancho Corte Madera, or does it include any part of the Sobrante?

Objected to by Mullen & Hyde, as leading.

A. No, it does not include any part of the sobrante.

Q. 38. What improvements were on the rancho at the time of your father's death? A. There was the house, the mill, and another fence between the house and the mill, called Las Papas and Corral Grande.

Q. 39. Where was the Punta de Tiburon? A. Where it is yet.

Q. 40. Question repeated. A. It is about east from the house.

Q. 41. Describe it, as you would describe it to a stranger, so that he could find it. A. Mr. Brooks, I do not see how I can describe it unless I make a map.

Q. 42. Point it out on the plat of the official survey, which is now shown you. A. The point on the map, which is called Strawberry Point, we call El Meja. Going from the house, after I passed that Almeja Point, I considere myself on Point Tiburon. This (pointing to that marked Peninsula Island) we called the Potrero.

Q. 43. What is the Punta del Tiburon? A. At the extreme end marked Point Tiburon on the official map, and from Sta. 3-43 to Sta. 3-85 inclusive, as marked on the official map.

Q. 44. How was this Tiburon occupied by your father and his family? A. By stock.

Q. 45. Up to what time did they continue to so occupy it? A. Up to the present time.

Q. 46. How was the parcel of land that is marked on the map, Peninsula Island, how is it occupied, and by whom? A. It was occupied by our horses.

Q. 47. Was it separated from the rest of the house, and if so, how? A. It was separated by a little fence.

Q. 48. Was there any opening in this fence? A. We had bars on the fence.

Q. 49. What is the meaning of the word Potrero? A. Potrero means an enclosed field to turn in horses.

Q. 50. Did you have any other name to it besides Potrero? A. No.

Q. 51. Was it not known as the Potrero del Tiburon? Mullen & Hyde object to question as leading, and because it has been answered in a manner different from that which the question suggests.

A. No.

Q. 52. Simply El Potrero? A. El Potrero de la Punta del Tiburon.

Q. 53. Was there any fence across any portion of Tiburon besides this little one across the neck, spoken of prior to the change of government? A. No.

Q. 54. When was the first fence put on Tiburon, crossing Point Tiburon? A. About five or six years ago.

Q. 55. Wherefore, and by whom? A. Because me and my sisters have made a partition; the fences were put up on the lines of partition, and were made by myself.

Q. 56. You have said that you have lived on the rancho almost from your birth; how was it, as your parents lived there, that you did not live there at and from your birth? A. My mother being alone at that place, it was natural that she should desire to come to the Presidio, so as to be among her friends to be confined.

Q. 57. With that exception, did you reside always on the rancho? A. Except when the administrators were upon the rancho, but this was after the occupation of the country by the Americans.

Q. 58. From your birth, up to the time of the change of the government, did any person, to your knowledge, beside your father and his family, claim the right to use or occupy any portion of the land included in the present official survey, or the "*Peninsula?*" A. No.

Q. 59. You have spoken of the cattle of the colindantes being separated at the rodeos; how did such cattle come to be upon the rancho? A. The whole country being without fences, the cattle could not be prevented from going from one rancho to another, seeking pasture.

Q. 60. Is your remark directed to this part of the country alone, or to the whole of California? A. To such portions of the country that I knew.

Q. 61. What was the fact, as to California generally, in respect to fences? A. There were no fences; there were nothing but mojoneras, creeks, bays, &c.

Q. 62. How did you distinguish the cattle of one rancho from those of another? A. By brands and ear marks.

Q. 63. How did you distinguish those that were not branded or ear marked? A. The small stock, that is the calves that were running with the cows, these were the only stock that the colindantes had the privilege of taking out; the balance of the stock that were unmarked were claimed by the owners of the land.

Q. 64. To whom did the calf following the cow go? A. To the owner of the cow.

Q. 65. To whom did the stock which had no mark, and which was not following the cow, belong? A. It belonged to the person that had given the rodeo, and that owned the land.

Q. 66. Could the owner of a rancho rodeo beyond the limits of his rancho? A. Not without permission.

Q. 67. If unbranded cattle were brought from beyond the exterior limits of the rancho, would they belong to the person giving the rodeo? A. If it was proven that they were brought from beyond the outside limits of the rancho, they would not.

Q. 68. How often was the rodeo given? A. Generally four or five times a year on each rancho.

Q. 69. Would the young stock, born after the preceding rodeo, ordinarily be following the mother? A. They ordinarily would, up to the next rodeo.

Q. 70. Then the unbranded stock, not following the mother, would only be such as had accidentally escaped at the preceding rodeo? A. Yes, sir.

*Cross-Examination by Mr. Shanklin for Mr. Throckmorton.*

Q. 71. On page 488, question twenty-four of your testimony, you were asked "what were the rodeo bounds or exterior limits of the Rancho "*Corte Madera del Presidio*?" Was there any difference between the rodeo boundaries and the rancho boundaries? A. At that time there was not, because we claimed the whole of the land.

Q. 72. What years do you refer to? A. I refer to the year 1845, to the time that the administrators took posses-

sion of the land, in 1850 or 1851. During their possession no rodeos were made.

Q. 73. The first question to which your attention was called referred to the Corte Madera del Presidio; please to confine your answer to said rancho, as to the bounds of its rodeo. A. I do not recollect that I was questioned as to the bounds of the rodeo of the Rancho of "*Corte Madera del Presidio.*"

Q. 74. Then answer the question now, as asked you on page 488. A. At that time, the rodeo boundaries were the "Laguna," the Cañada of Tapeste (called now Coyote Creek), and the Tamalpais, the Corte Madera de San Pablo and Point Tiburon.

Q. 75. You have stated that the rodeo bounds were the same as the boundaries of the rancho. Are we to understand by your last answer that the boundaries therein named were the boundaries of the Rancho of "*Corte Madera del Presidio,*" as you understood them in 1845? A. I did not. The rodeo boundaries were one and the ranch boundaries were another.

Q. 75. Did you know the boundaries of the Rancho of Corte Madera del Presidio in 1845? A. Yes, sir.

Q. 76. Wherein did the ranch boundaries of Corte Madera del Presidio, in 1845, as you understood them, differ from the rodeo boundaries, as given by you in answer to question 75, on page 497? A. The ranch boundaries were different from the rodeo boundaries. We claimed two ranchos—that is, my mother claimed one rancho adjoining my father's Rancho of Corte Madera del Presidio, the Corte Madera del Presidio being the boundary of my father's rancho, and the other boundaries being those that I have mentioned, as the rodeo boundaries of my mother's rancho.

Q. 77. Now, give us the boundaries of your father's Rancho of "*Corte Madera del Presidio.*" A. Arroyo Holon or Corte Madera de San Pablo, Punta del Tiburon, the Bay of San Francisco and the Bay of San Pablo, and Arroyo of Corte Madera del Presidio.

Q. 78. Did your father's estate claim as boundaries of the Rancho of the "*Corte Madera del Presidio,*" the Arroyo Corte Madera del Presidio on the west, from its mouth to its source, and the Arroyo Holon on the north, from its mouth to its source? A. My father claimed—I cannot exactly state what distance—on the Arroyo Corte Madera del Presidio, up to the Arroyo Holon. I cannot exactly state the distance he claimed on either arroyo.

Q. 79. Are you an educated man, and are you educated in the English language? A. I received a very poor education, and I have to thank the Americans for such deficiency.

Q. 80. Have you ever testified regarding the boundaries of the Rancho of "Corte Madera del Presidio" on any former occasion? A. I have.

Q. 81. Where did you place them on that occasion? A. I do not recollect.

*Questions by Mr. Sharp, for Claimants.*

Q. 82. State if the boundaries of the Rancho of Corte Madera del Presidio, as given by you in the foregoing testimony, are substantially the same as given by you in your former testimony, as near as you can recollect. A. They are.

Q. 83. I ask you to re-state those boundaries, and say if they are not the true boundaries as learned by you in boyhood? A. Arroyo Holon; Bay of San Pablo; Punta del Tiburon; Bay of San Francisco; Corte Madera del Presidio; from Corte Madera del Presidio to the Arroyo Holon.

Q. 84. State if there was any space of ground, or land, between the place you call Punta del Tiburon, and that portion of the Bay of San Francisco, now marked "*Raccoon Straits*" on the official plat, and whether Punta del Tiburon did not extend to the waters of that portion of the bay? A. The Punta del Tiburon extended to the water's edge, and there is no intermediate land between that point and the waters of the bay.

Q. 85. Can you point out on the official map what you understand to be the location of your father's solar, as referred to in the record of juridical possession; if you can do so, point it out on said official map?

Objected to by Mr. Brooks, because it is not competent for the witness to determine which was the solar referred to in the act of juridical possession, at which he was not present.

A. I cannot do so, because all the creeks are not laid down on said map; somewhere near point marked "C. M. 181."

JOHN J. READ.

Adjourned till 13th.

MARCH 13th, 1876, 10 o'clock A. M.

Parties contestants, met pursuant to adjournment;

Whereupon, B. S. Brooks, attorney for T. B. Valentine, offered the following exhibits:

B. S. Brooks, counsel for T. B. Valentine, here offers the following exhibits in the case of the rancho of "Corte Madera del Presidio."

First: The *opinion* and *decree* (by certified copies) of the Board of Land Commissioners in the case of the rancho of "Corte Madera del Presidio," marked (T. B. V. No. 1).

Also: The expediente (traced copy) of the rancho of "Corte Madera del Presidio," Juan Read, confirmed, marked: (T. B. V. No. 2).

Also: Agreement of James C. Bolton with John J. Read, et al, (by certified copy) dated August 12th, 1865, marked: (T. B. V. No. 3).

Also: Deed from H. A. Boyle to T. B. Valentine, (by certified copy,) dated January 10th, 1872, marked (T. B. V. No. 4).

Also: Deed (by certified copy) from H. A. Boyle to Thos. B. Valentine; dated September 23d, 1872; marked (T. B. V. No. 5).

S. R. Throckmorton offers the following as an exhibit: "Decision of Secretary of the Interior (by certified copy) in the case of the rancho of "Corte de Madera del Presidio," dated January 6th, 1872, the date of the certificate of the General Land Office to the same being February 7th, 1876, marked Exhibit (S. R. T., No. 17).

*Cross-Examination by S. R. Throckmorton.*

R. C. Hopkins recalled.

Q. 1. You mentioned going upon the rancho of Corte Madera del Presidio, accompanied by Mr. Valentine, Doctor Lyford, José de la Cruz Sanchez, *et al.*; at what date, can you remember? A. About the month of September, 1873 (see page 470 of this examination).

Q. 2. You stated that José de la Cruz Sanchez, at that time, pointed out to you the point where the juridical possession of rancho of "Corte Madera del Presidio" commenced.

Q. 3. Did he so point out to you, at that time, such point of commencement?

Objected to by Mr. Gardner, as not the best evidence.

A. He did.

Q. 4. You state on page 471, "My object was to have José de la Cruz Sanchez, who was one of the parties present when possession was given, to point out to me, of his own accord, the point at which the measurement was commenced." Was that your object?

Objected to, as incompetent and irrelevant, by Mr. Gardner.

A. It was.

Q. 5. Did José de la Cruz Sanchez so point it out to you?

Same objection by Mr. Gardner.

A. He did.

Q. 6. Where did he locate the commencement of that measurement?

Same objection by Mr. Gardner.

A. As well as I recollect, at a point at or near an old saw mill, the frame work of which still remains.

Q. 7. Did José de la Cruz Sanchez point out to you the direction of said line from the point of commencement?

This question objected to by Mr. Howard, together with all conversation had by witness with said José de la Cruz Sanchez, or other persons now living and subject to be examined, on the ground that such conversations are not evidence of any fact; on the further ground, that it is not shown that said Sanchez is interested or was interested in the ownership of any of the lands in controversy, and his declarations are without force or effect; the question is further objected to as incompetent, immaterial and irrelevant.

A. He did.

Q. 8. In what direction did that line run, as he pointed it out?

Same objection as foregoing.

Counsel for Mr. Throckmorton states that this and the preceding question are in cross-examination, and that the counsel now examining offered no objection to the direct examination to which these questions refer; he is therefore barred from now interposing an objection.

J. B. Howard, to avoid misunderstanding by the Surveyor-General, or Commissioner of the General Land Office, objects to all such questions and answers, appearing anywhere in the record, by this or any other witness, and relating conversations by or with any person, not shown to be, or to have been interested as owner, or claiming ownership in

any of said lands in controversy, or of a witness proved to be deceased, or unless proper foundation is laid for the introduction of secondary evidence, or perpetuated testimony.

A. As well as I recollect, José de la Cruz Sanchez pointed with his hand in a direction across the mountains, and said that the line ran in that direction; and that he could show me a certain marked tree on the other side of the mountain, near where said line terminated; but he gave no other indication as to the course of this line, except by pointing the direction with his hand.

Q. 9. Did he state where that line terminated? A. I think he said that it ran to the Arroyo Holon.

Witness is here shown the official map of survey, and asked to point out on said map the locality of said mill and point which he (Sanchez) designated as the starting point of said line.

A. The old mill referred to is not shown on the official map.

Q. 10. Witness is here shown Exhibit "S. R. T. No. 6," and asked if he can locate the mill on said Exhibit, as pointed out to witness by Sanchez.

Exhibit objected to as uncertain, and not verified for any purpose; nor does it represent the official action of any officer or person charged with any official duty relating to the examination or ascertainment of the juridical possession of the lands in controversy, and the question is objected to as immaterial, irrelevant, and incompetent.

Sol. A. Sharp makes same objection on behalf of claimants.

A. My recollection is, that the old mill pointed out to me by José de la Cruz Sanchez as the point at which the juridical measurement was commenced, is situated on a creek, westerly from the Read house, and at a distance from said house of a mile, more or less.

Q. 11. Is it not on the westerly branch of the creek?

Objected to as leading.

A. I think it is.

Q. 12. Witness is shown the official map of the survey of the Corte Madera del Presidio, and is asked, With the aid of Exhibit 6 to guide you, how far west, or north of west, would said site of old mill be from post "C. M. 181," as marked on said official map; what distance in chains on said official map?

Same objections, as of second preceding objection, so far as it relates to Exhibit No. 6.

A. About forty-five chains, in a direction a little to the north of west.

Q. 13. Witness is shown the official map, and is asked to point out, as nearly as he can, the point on the Arroyo Holon to which his attention was directed by said José de la Cruz Sanchez, as the direction of the line of juridical measurement herein referred to. A. I cannot identify the spot on said official map; I can only say that Sanchez pointed out to me an oak tree standing on a little knoll near the Arroyo Holon; but since I went to that point only once, and then by a roundabout way, I cannot, from any data found upon said map, locate thereon the position of said tree.

Q. 14. Do you recognize the Arroyo Holon on the official map? A. I find upon the official map the representation of a stream, marked "Arroyo Holon."

Q. 15. Assuming that said Sanchez pointed to the extreme eastern point of said Arroyo Holon, as laid down on said official map, at what distance in chains from "Post C. M. 181" would a line extended from said site of said mill, as pointed out by said Sanchez, to the most eastern point of said Arroyo Holon, as shown by said official map, cross the Arroyo "Corte Madera del Presidio," as laid down on said official map?

Objected to by Mr. Sharp, as incompetent, irrelevant and immaterial, and not the best of evidence, it not having been shown that the witness has any experience in surveying.

A. Fifty chains.

Q. 16. In what direction from said Post C. M. 181, would it cross said Arroyo of Corte Madera del Presidio?

A. About northwest.

Q. 17. Witness is shown "S. R. T. No. 6," and is asked to mark on said Exhibit the point where said line would cross the said Arroyo of "Corte Madera del Presidio." A. Witness makes a mark in black ink, which mark is enclosed with a circle, as the point referred to.

Adjourned till to-morrow morning at 10 o'clock.

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March 14th, 1876.

Met pursuant to adjournment.

William I. Lewis, sworn on the part of S. R. Throckmorton, one of the objectors.

Q. 1. What is your name, age, place of residence, and

occupation? A. My name is William I. Lewis; age, nearly 64 years; residence, San Francisco; and occupation, surveyor and civil engineer.

Q. 2. Have you had any relation with U. S. surveys; if so, state where you have made surveys under the U. S., and when you first commenced making such surveys. A. I have made a large number of surveys for the United States, in the capacity of U. S. Deputy, from the years 1852 to 1871, in this service, having made surveys of a large number of Spanish grants in California.

Q. 3. Have you had any extended experience in locating Spanish grants, from the title papers and descriptions therein, and in ascertaining the boundaries thereof, from such descriptions? and if so, please name some of such grants, the descriptions of which you have been called upon to illustrate and apply.

Objected to by J. B. Howard, because no foundation for the examination of this witness as an expert in and with reference to his knowledge of the language, laws, and customs of Mexico; and furthermore, surveys of Spanish ranchos in California, so far as made by this witness, or any other person, are shown by the records of this office, here present and available, and which constitute the best evidence.

Sol. A. Sharp makes same objection.

A. I have had an extended experience in the location of land held under Mexican and Spanish titles; I have surveyed, under instructions from State Courts and from the U. S. Surveyor-Gen'l, the following ranchos: "Los Coyotes," Santa Clara County; "San Ysidrio," same county; "Las Animas," same county; "El Refugio," same county; "Los Serritos," "Las Puntas," Contra Costa County; "Los Medenos," same county; "El Rinconada," Santa Clara Co., and many others, covering twenty years of service.

Q. 4. Have you been frequently called as a witness in the quality of an expert, in cases in the courts of this State, and examinations pending between the United States and owners and claimants of ranchos, claimed under Spanish or Mexican grants?

Objected to by Sol. A. Sharp, on same grounds as stated in foregoing objection.

A. I have been called as an expert in a great number of cases in the State Courts of California, but in many more cases in the U. S. District Court.

Q. 5. Have you also been frequently called as an expert

in cases in the U. S. Surveyor-General's office in California, in reference to Spanish grants? A. I have.

Q. 6. The attention of witness is here called to Exhibit S. R. T., No. 9, commencing on page 12 with the words: Being in the field, at the place named "El Corte de Madera del Presidio de San Francisco," and ending on page 15, with the signatures, "Haro, Fernando Feliz, José de la C. Sanchez, Tomas Jeremias Jones, and Manuel Sanchez;" and particularly to the description of the boundaries therein contained of the rancho of Corte Madera del Presidio, commencing at the words: "they led the way to the west, to a cañada, where they showed me a forest of tall trees which they called redwoods, in the cañada itself and some little valleys which form the base of the high peak called 'Palmas,' which forest is called 'Corte Madera del Presidio;' a little brook with a willow thicket, and the remains of a rancheria called 'Animas;' thence continuing the examination and view of said lands, they led me north to another arroyo and forest of redwood trees called Corte Madera de San Pablo, and they said it was the boundary with the Pueblo of San Rafael; and thence continuing the examination south, as far as Point Tiburon, which they said was the limit in that direction; we continued to the west to the point of an estero, which empties into the bight formed by said Point Tiburon and Point Caballos on the south, and which ends at the entrance of said cañada, where is situated the house of the owner of said lands, Don Juan Read, the arroyo, willow thicket, and forest of redwood trees named Corte Madera del Presidio, aforesaid, which they said was the last boundary of the said lands pertaining to the ranch referred to, of 'Corte de Madera,' of Señor Read."

From the description of boundaries just read to you from Exhibit S. R. T., No. 9, would you as a surveyor be able to go upon the ground and locate the calls as given? A. I have read the description contained in the first part of the question propounded, and will answer in regard to the whole question: "No surveyor of ordinary intelligence could have any difficulty in defining the calls of the grant as described in the papers exhibited; they are well known marks, about which I do not think there is any controversy."

Q. 7. Exhibit S. R. T., No. 6, is now shown the witness, and he is asked whether the calls set forth in the previous question are delineated on said exhibit; if so, state the calls he recognizes, or whether he can locate the calls on said ranch.

Objected to by Sol. A. Sharp, for the reasons set forth in objections to question No. 10, p. 509.

A. Exhibit "No. 6," has been shown to me; I believe it delineates precisely the land that was granted to John Read, known by the name of Corte Madera del Presidio.

Q. 8. Witness is shown Exhibit No. 6, and is asked if this exhibit conforms to the official map of the survey of the Rancho of Corte de Madera del Presidio; and if not, in what respect does it differ from said map.

A. I find that Exhibit No. 6 accords (excepting in the numbers of intermediate status and other descriptive calls) with official map, from Station C. M. P. No. 181, around the margin of said map southeasterly to the extreme southeastern point of said map, and northwesterly to Station, marked "Redwood post, P. Q. 99, W. R. 203;" also excepting the marsh lands shown upon said Exhibit, which are excluded on the map of the said official survey; Exhibit No. 6 S. R. T. differs from map of official survey in this, that Exhibit No. 6, S. R. T., includes the land, lying west of a straight line drawn between point on official map marked "Red Post, P. A. 99, W. R. 203" and post marked "C. M. 181," and lying between a line so drawn and stream marked on said Exhibit as Arroyo del Corte Madera del Presidio, which tract is included in the exhibit referred to, but is excluded in the map of the official survey.

Q. 9. Have you any personal knowledge of the topography of the country and the geographical features of the same, as delineated on the western and northern portion of said exhibit "6. S. R. T.?" A. I have.

Q. 10. Can you point out the locality of the remains of a rancheria called "Animas?" A. There is a mound to the northwest less than a quarter of a mile from the house of Juan Read, which shows the remains of an old rancheria.

Q. 11. Can you point out on said exhibit, a little brook, and a willow thicket? A. I can.

Q. 12. What is the brook or arroyo called on this Exhibit? A. The brook is the Arroyo Corte Madera del Presidio; the willow thicket is a little to the southwesterly of the ranch house of Juan Read, as marked on said exhibit.

Q. 13. Can you point out the head or source and course of said brook or arroyo, from its source to its mouth? A. I cannot tell precisely its source, but it is a little to the westward of the point delineated on this Exhibit, and the course of the stream is correctly shown upon this Exhibit, from the point indicated at the northeast of Tamalpais, to its mouth, at the head of Richardson's Bay.

Q. 14. When you mention TamaIpais, do you mean the high rocky peaks, as indicated on this Exhibit? A. I do.

Q. 15. Can you locate on this Exhibit the forest of redwood trees, called the "Corte Madera del Presidio?" A. The southern point of said grove is near the letter "C" on said Exhibit, and extends up the creek indefinitely.

Q. 16. Can you locate on the said Exhibit the arroyo called "Holon?" A. I can; as it is plainly indicated.

Q. 17. And a forest of redwood trees called "Corte Madera de San Pablo?" A. I can, the point is indicated on the Exhibit Corte Madera de San Pablo.

Q. 18. What forms the northern boundary at the rancho of Corte de Madera, as described in the record of juridical possession? A. The Arroyo Holon and the Corte de Madera de San Pablo.

Q. 19. Witness is shown "S. R. T. No. 8," and is asked, and his attention being called to the following words in the juridical possession: "They led me north to another arroyo and forest of redwood trees, called also Corte de Madera de San Pablo, and they said it was the boundary with the Pueblo of San Rafael;"—can you recognize on this Exhibit the southern boundary of the Pueblo of San Rafael, and can you apply the same to the northern boundary of the Rancho of Corte de Madera del Presidio, as shown on said Exhibit No. 6, and reconcile them as consistent with each other and with the description you have read in the record of juridical possession? A. The southern line of the Pueblo of San Rafael is delineated on this map, and is marked, as all the boundaries of the Pueblo of San Rafael are on this Exhibit, by a yellow line; the creek, "Corte de Madera del Presidio," is also delineated; and a little to the north of that, and at the mouth of another creek, which must be the Holon, there is represented another creek, which is in the southern boundary of the Pueblo of San Rafael, as represented by the yellow line on said Exhibit. This yellow line leaves a slight interval between the creek and its entrance into the San Pablo Bay; for the greater portion of the distance the Holon is the boundary of the lands of the Pueblo of San Rafael on the south. The juridical possession of the Rancho of "Corte de Madera" on the north, was the Arroyo Holon, which it followed to its mouth, and corresponds nearly with the southern line of the lands of the Pueblo of San Rafael, as already described; and the act of juridical possession of the Rancho of Corte de Madera del Presidio reconciles, very nearly, the title of

the "Corte de Madera del Presidio" and the map "Exhibit No. 8," shown me.

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WEDNESDAY, March 15th.

Met pursuant to adjournment, and adjourned till 10 o'clock to-morrow.

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THURSDAY, March 16th.

Met pursuant to adjournment. Parties being present, direct examination of Wm. J. Lewis continued.

Q. 20. From the knowledge you have of the geography, topography and natural objects of that part of the country marked on Exhibit "S. R. T. No. 6," delineating the "Arroyo Corte de Madera del Presidio," can there be found a series of objects which will answer the calls as described in the juridical possession of the Rancho Corte de Madera del Presidio, named as the "Rancheria," called "Animas," "Willow Thicket," "Little Brook or Arroyo," "Forest of Redwood Trees," which would constitute and furnish the objects for the western boundary of said Rancho "Corte de Madera del Presidio," as described in said papers of juridical possession, in any other place in the vicinity? A. I cannot find them anywhere else.

Q. 21. Have you ever seen in that vicinity any consecutive set of calls and objects which could reasonably be mistaken for these?

Question objected to by Mr. Sharp as immaterial.

A. I have not.

Q. 22. Are those calls and objects so distinctly marked as to be unmistakable to a surveyor accustomed to tracing and locating such objects from descriptions? A. They are.

Q. 23. Was you acquainted with R. C. Mathewson in his lifetime, and his qualifications for interpreting and fixing the boundaries of Mexican points from the original title papers and records of juridical possession? A. I was acquainted with Doctor Mathewson in his lifetime. I know that he was a surveyor of great ability; had much experience in the location of titles of Spanish and Mexican land grants.

Q. 24. From your knowledge of Doctor Mathewson, and from what you have read of the description in the act

of juridical possession of the "Corte Madera del Presidio," where do you believe Doctor Mathewson, if he had studied the said description as given in the juridical possession; together with all the maps and evidence which you have had before you, would have located the western boundary of the said Rancho of Corte Madera del Presidio?"

Objected to by Mr. Sharp as immaterial, irrelevant and incompetent.

A. He would have made the western boundary the Arroyo of Corte Madera del Presidio, as the same is located on Exhibit "S. R. T. No. 6."

Q. 25. As a surveyor and civil engineer, do you believe that any fair, frank, intelligent surveyor, with the sole object of ascertaining the correct western boundary of said rancho, *could* place the said western boundary in any other locality than the one designated on said Exhibit "S. R. T. No. 6?"

Same objection by Mr. Sharp as to foregoing question.

A. I think that he could not.

Q. 26. Are you acquainted with the Mexican mode of measuring and ascertaining the quantity of lands in Mexican grants, upon giving juridical possession of the same in California in former times? A. I am; the mode is described correctly in the testimony of witness Hopkins, in this case, as read to me on the day before yesterday.

Q. 27. Witness is asked to mark on Exhibit "S. R. T. 6" the measurements as made in giving the juridical possession of the Rancho of "Corte Madera del Presidio," as the said measurements are set forth in Exhibit S. R. T. No. 9, commencing on page 21, line 12 from top.

Same objection by Mr. Sharp as foregoing.

A. I shall do this to the best of my ability; but the measurements cannot be reconciled. Taking the first call, they measured to the arroyo called Holon, 90 cordeles of 50 varas each from the solar. The Holon is a definite object or line, and measuring in a contrary direction from north to south, ninety cordeles would place the solar at the letter "o" in the word "Presidio," a little to the south of Juan Read's house. "At the Holon, the person interested fixed there a known point as a mark, and said that he would place there a bound. From this point, taking a direction from north to south, the measurement was continued to Point Tiburon, and they measured 200 cordeles, said point serving as a mark and limit; he promised to place there the corresponding bound." The distance called for could

not have been measured from north to south, but must have been measured in a southeasterly direction, terminating somewhere about the point that I mark "L" on said Exhibit "S. R. T. No. 6," which is one inch on the map, representing twenty chains, to the west of the letter "T" in the expression "T. 1, N. R., 5 W." Witness marks said letter "L" in red ink. Witness, continuing, says:

I read in continuation from said Exhibit "No. 9, S. R. T.:" "Thence continuing the measurement, from east to west, to the mouth of the cañada and the point of the sausal, which is near the estero lying to the east of the house of the person interested, which is at present on the rancho, there were measured 94 cordeles;" I have measured from letter "L," 94 cordeles, to a point that I have marked on said Exhibit "S. R. T., No. 6," with the letter "J" in red ink; this direction is westerly, to the north of west. Witness, continuing the quotation, says: "And from this last point, continuing the measurement, from east to west, along the last line, to the place of beginning, they finished by measuring sixteen cordeles." I measured sixteen cordeles from the letter J to a point which I have marked with the letter "W," in red ink, instead of coming to the point of beginning, which is the letter "O" in the word Presidio; there is a distance of 30 cordeles which juridical measurement lacks of closing.

Q. 28. Will you please turn to page No. 11 in Exhibit S. R. T., No. 9, and read from the top of said page to the end of the third line on the succeeding page, ending with the word "Tiburon?"

Witness reads: "In continuation I, the aforesaid Alcalde, caused to appear before me also, and those of my assistance, the citizen Manuel Sanchez, by occupation a laborer, of whom I received oath, which he made by God and the sign of the Holy Cross, in form, under which he promised to speak the truth; and being asked for his knowledge of the lands, limits and boundaries of the lands pertaining to the rancho of 'Corte de Madera del Presidio,' he said that for 28 years he has been a resident of this jurisdiction, and knows that the lands of the aforesaid rancho are of citizen Juan Read; and they have for boundaries, on the part towards the port of San Francisco, on the south, the bay formed by the Point Caballos and Tiburon on the east, which, running inland to the west, terminates in an estero and a cañada, which follows the same direction as far as a forest of redwood trees called 'Corte de Madera del Pre-

sídio," which lies at the foot of a high peak of that name; on the north, towards the Pueblo of San Rafael, the boundary is an arroyo called Holon, and a forest of redwood trees, which is also called 'Corte de Madera de San Pablo;' and on the east they terminate in said Point Tiburon."

Q. 29. Point out, if you please, on Exhibit "S. R. T. No. 6," the bay formed by Point Caballos and Tiburon on the east, which terminates in an estero and cañada running as referred to above. A. This Bay is designated on said Exhibit S. R. T. No. 6, as "Richardson's Bay," which bay is an arm, or branch of the Bay of San Francisco.

Q. 30. What part of that bay which you call "Richardson's Bay" would form the southern boundary of the land and of the Rancho of "Corte Madera del Presidio," included within the measurements that you have last made? A. The rancho would be bounded on the south by the northern and northwestern portion of Richardson's Bay, from the mouth of the estero around to a point which I mark "X" in red ink.

Q. 31. Please look at point marked "old saw mill," on Exhibit "S. R. T. 6," and answer, could a line drawn from said point marked "old saw mill," to any point on the "Holon," exclude the tract of land colored green on said Exhibit "S. R. T. 6," marked "tract of land owned by and referred to in the objections by S. R. Throckmorton." A. It could not, by any possibility.

Q. 32. Is the said tract of land last described, colored green on said Exhibit, described as "tract of land," etc., and referred to in last question, clearly and certainly within and to the east of the western boundary of said Rancho Corte Madera del Presidio, as described on said Exhibit S. R. T. No. 6? A. It is clearly and unmistakably within and to the eastward of the western boundary of the Rancho of Corte de Madera, as shown upon said Exhibit.

Q. 33. Is it also within the northern boundary of said rancho, as so laid down on said Exhibit? A. It undoubtedly is, and within all the boundaries.

Q. 34. Please look at said papers of juridical possession, Exhibit S. R. T. No. 9, on page No. 11, and point out the boundary on the north, on Ex. S. R. T. No. 6, as described in said paper. A. In the papers it is said that "on the north, towards the Pueblo of San Rafael, the boundary is an arroyo called Holon, and a forest of redwood trees, which is also called 'Corte de Madera de San Pablo;'" that boundary is marked on Ex. S. R. T. No. 6, and designated as the

Arroyo Holon, and there is also marked, "Corte Madera de San Pablo," extending on both sides of said arroyo.

Q. 35. Please state where that Arroyo Holon takes its rise, and the direction in which it runs. A. The point where it rises, is indicated by the letter "B," and is a little to the eastward of the Arroyo of Corte Madera del Presidio; its course is eastward for a larger portion of the distance; it then changes its course to the northeastward, which is its general course till it reaches the Bay of San Francisco, and is delineated on Exhibit "S. R. T. No. 6," as the northern boundary of the rancho of "Corte Madera del Presidio." Continuing the description—"and on the east, they terminated at the Point of Tiburon."

Q. 36. Can you take Exhibit "S. R. T. No. 6" and indicate thereon, the point in said Tiburon, at which said boundary would terminate on the east? A. I could not indicate it by any description found on page 12.

*Cross-Examination by Mullen & Hyde.*

Q. 37. Please indicate on said Exhibit S. R. T. No. 6, from all the information and data that have been presented to you in this case, how far, from the letter L in red ink, as marked thereon by you, the boundary in that direction would lay?

Objected to by Sol. A. Sharp, on the ground that only a part of the instructions have been shown to the witness, and as being immaterial, irrelevant and incompetent.

A. I think the point "L," is in the southern boundary of the rancho.

Q. 38. Would a direct line, that would pass through the letter L, and from southwest to northeast, represent approximately the line of boundary in that direction?

Same objection by Sol. A. Sharp, as foregoing.

A. I think it would represent approximately the southeastern boundary of the rancho.

Q. 39. Have you any interest, immediate or remote, in the results of this investigation, and are you related by blood or marriage to any of the parties to this controversy?

A. I have no interest, direct or remote, in the matters involved in this controversy, and do not know that I am connected by blood or marriage with any of the parties in this controversy.

Witness explains that the cordele used in the foregoing measurements was of the length of 50 varas, as set forth on page 19 of Exhibit S. R. T. No. 9.

Adjourned till 10½ o'clock to-morrow.

FRIDAY, March 17th.

Met pursuant to adjournment.

*Direct Examination of Mr. Lewis resumed by Consent.*

Q. 40. (Calling witness' attention to Exhibit "S. R. T. No. 9") Do you find in said act of juridical possession, namely:

1st. The examination of witnesses for the purpose of ascertaining the boundaries of the Rancho of Corte Madera del Presidio, on the 26th day of the month of November, 1835?

2d. The going upon the ground with the witnesses, on the 27th day of November, 1835, and having them then go upon the ground and point out the boundaries, to which they had testified on the 26th, for the purpose of certainly identifying said boundaries?

3d. The assembling in the field of the officers giving possession, accompanied by the witnesses and other parties, on the 28th day of November, 1835, for the purpose of measuring and ascertaining the quantity of land embraced in said juridical possession?

Are the foregoing acts, as stated in subdivisions 1, 2 and 3 of the foregoing question, described in said Exhibit as separate and distinct acts? A. They are found in said Exhibit S. R. T. No. 9, and are thereon described as separate and distinct acts, performed at the respective dates, as set forth in said Exhibit.

Q. 41. Witness is now shown paper marked "Ex. L. R. Dep. Sur.," and say what it is. A. Field notes of the final survey of the Rancho of El Corte Madera del Presidio, finally confirmed to heirs of John Read; surveyed, compiled and arranged under instructions from the U. S. Surveyor-General, by Leander Ransom, Deputy Surveyor, in November and December, 1873.

Q. 42. Witness' attention is called to the map accompanying the same, and asked to observe thereon character indicating summit, and marked "Mt. Tabaron." A. I do; it is found in S. 31, T. 1 N., 5 W., and is marked immediately north of section 31.

Q. 43. What is the distance from said Arroyo Holon from the head thereof to the summit of said Tiburon? A. It is exactly 200 cordeles from the intersection of the Tp. line and the Holon to the summit of Mount Tiburon, said cordeles being of the length of 50 varas.

Q. 44. What is the scale of the map on which you make these measurements? A. Forty chains to the inch.

Q. 45. What is the title of this map on which you now measure? A. "Plat of the Rancho of Corte Madera del Presidio, finally confirmed to the heirs of John Read, surveyed, under instructions from U. S. Surveyor-General, by Leander Ransom, U. S. Deputy Surveyor, October, 1873, containing ——— acres; var.  $16^{\circ} 31' E$ . Scale, 4 chains to the inch."

Q. 46. Do you consider yourself an expert in matters pertaining to the location and surveys of Spanish and Mexican land grants in California?

Objected to by Mr. Gardner as incompetent, irrelevant, and immaterial.

A. I do.

Q. 47. Have you given your previous testimony in this case as an expert? A. I have.

S. R. Throckmorton here states that this witness was and is called as an expert, and in that capacity he regards his testimony as subject to cross-examination

Q. 48. Do you find in the paper now before you, in the Spanish language, which is the record of juridical possession of the rancho of Corte Madera del Presidio, the words: "*hasta la punta del Tiburon?*" A. I do.

Q. 49. In what connection are those words used? A. I do not understand the question.

Q. 50. Do you know what paper that is you have before you? A. It is the original record of the juridical possession of the rancho of Corte Madera del Presidio.

Q. 51. What term is therein used to describe the line from north to south, which runs to Point Tiburon? A. "*De este punto tornando el rumbo de N. á S. se continuó la medida hasta la punta del Tiburon.*"

Q. 52. Will you please write that in English? "From this point, taking the direction from north to south, the measurement was continued up to "*la Punta del Tiburon.*" To translate the word "punta," I refer to "Leones, Newman and Barretti's Spanish and English Dictionary, 'Velasquez' Edition," which is good authority: "1st, Punta, the 'sharp end of an instrument; 2d, extremity of anything 'which terminates in an angle, top, head, summit; 3d, point, 'head land, promontory; 4th, coulter of a plough; 5th, a 'small part of anything; 6th, act of a dog in pointing out 'game; 7th, tartness, sourish taste; *hacer punta*, to excel, 'to surpass, to oppose, to contradict, to take the road to;

“(coll.) to knit; (Met.) to be the first, the leader; 8th; “sharp bodkin; *pl.* 1st, bone-lace; 2d, horns of a bull; *de* “*puntas*, on tiptoes, softly; *puntas*, in a dress, scallops. “The words *del tiburon*, used in the phrase, mean ‘of the “shark.’”

Q. 53. If you translate the words of which you have given the English, the original of which is set out in answer to question 51, “*Up to the top of Tiburon*,” would it be a good translation? A. It would, according to the second definition of the word *punta*, as already given.

Q. 54. If it were translated “up to the Promontory of Tiburon,” would it be a good translation? A. It would; corresponding to the third definition already given.

Q. If it were translated by the words: “up to the summit of Tiburon,” would that be a good translation? It would; and corresponds to the second definition of the word *punta*, which I have already given.

Q. 55. Witness is again shown “Ransom’s map, Ex. L. R., Dep. Sur.,” and is asked, Would that last definition of the Spanish phrase referred to indicate the summit of Tiburon, as marked by the sign of summit on said Ransom’s map? A. It would.

Q. 56. Will you please measure on said map, from said summit referred to, to the water line on the southeastern terminus of said promontory? A. I measure from said summit to stake No. 393, which I believe to be the southeastern point or extremity of said promontory, and find the distance to be fifty *cordeles*, which goes to the water line.

Q. 57. Please measure from said summit to the water at the extremity, at the southwestern terminus of said promontory, indicated by the numbers “353,” near the letter I in the letters T. I. S. A. The distance is fifty-two *cordeles*.

Q. 58. Between, and including those two last termini, have you found in the papers of juridical possession, Exhibit S. R. T., No. 9, any water line called for?

Objected, by Mr. Brooks, on the ground that the papers referred to speak for themselves. By Mr. Sharp, because only a portion of the papers have been shown to the witness.

A. The two termini referred to in the question, at the water line, are not referred to in the papers referring to juridical possession; and the nearest approach to a water line, in which they continued to the west to the point of an estuary empties into the bight formed by said point of Tiburon and Point Caballos on the south, and which ends at the entrance of said *cañada*, etc.

Q. 59. Are you sufficiently acquainted with that part of the promontory of Tiburon which is between the summit, as described on that map (L. R., Dep. Sur.) and the southern water line thereof, to be able to say whether or not it could have been measured with a facility equal to that of the line from the summit to the Holon? A. I am not sufficiently familiar with the ground to answer that question.

*Mullen & Hyde Cross-Examine.*

Q. 60. Please state what meaning, as a surveyor and expert, in locating Spanish and Mexican grants, from information and data contained in the record of juridical possession thereof, you would attach and give to the words following, to wit (and which words I now read from the English translation of the original juridical possession of the Rancho Corte Madera del Presidio, as set forth in Ex. "S. R. T., No. 9," on file in this case): "So that the square league of land which the rancho of Corte Madera contains, forms a square of 20,000 Castellian varas." A. I presume that it means that it is equivalent to a square measuring 5,000 varas, or one league on each side.

Q. 61. Do the words 20,000 Castellian varas, as set forth above, mean lineal or superficial measurement? A. It undoubtedly means lineal measurement.

Adjourned till 10 o'clock to-morrow.

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SATURDAY, March 18th.

Met pursuant to adjournment.

*Cross-Examination by Mr. Brooks.*

Q. 62. Where were you born? A. Chester County, Pennsylvania.

Q. 63. What is your natural tongue? A. English.

Q. 64. When did you leave Pennsylvania and at what time did you come to California? A. I left Pennsylvania about February 1st, 1849, and reached California June 9th, 1849.

Q. 65. Have you remained in California since that time? A. I have, with the exception of two visits to the east, one in 1857, of four months, and one in 1870, of about  $3\frac{1}{2}$  months.

Q. 66. In what occupation did you engage on your arrival, and how long did you continue in such occupation?

A. I first went to the southern mines, near Sonora, in this State, and worked as a miner; returned in November following to this city, went to San José, and engaged in February, 1850, made a survey of the Los Coches Rancho under the Court of First Instance.

Q. 67. Did you then engage in the occupation of surveying as a business? A. I did.

Q. 68. Have you continued exclusively in that business ever since? A. I have continued in the business of surveying and civil engineering ever since, but I also have engaged a portion of the time in farming.

Q. 69. Where have you resided during that time, as your home? A. I resided near San José up to June, 1855, from February, 1850—and since that time in San Francisco.

Q. 70. Were you educated as a surveyor, and if so, when and where? A. I was educated as a surveyor and mathematician under the instruction of my father, Enoch Lewis, at New Garden Boarding School, Chester County, of which he was principal; my education extended from early youth, to April 1st, 1828, when I engaged as chairman on the survey of the Philadelphia and Columbia Rail Road, in the service of the State of Pennsylvania, and continued following surveying until I came to the State of California, with occasional interruptions; the only other business I was engaged in during that time, was that from 1838 to 1841 I was engaged as a contractor in railroad construction, and from 1841 to 1846, I was teacher of mathematics and civil engineering in Philadelphia.

Q. 71. What do you understand to be the meaning of an expert? A. One who understands his business.

Q. 72. Where did you learn the Spanish language? A. On the Isthmus of Panama, and in California.

Q. 73. Were you educated in the Spanish language, and if so, where and by whom? A. I do not remember any teacher that I have had. I have stated where; it was on the Isthmus of Panama and in California.

Q. 74. At what school did you attend in Panama, and how long? A. I attended no school.

Q. 75. How long were you in Panama, and what did you do there? A. I think that I arrived in Panama on the 23d of February, 1849, and remained until about the 18th of May, 1849. I was, during this time, awaiting a steamer to bring me to California, and occupied the time I was there in various ways, and in conversation with the people and in studying the Spanish language; I was engaged in no regular business.

Q. 76. How did you study the Spanish language there?

A. I made use of Ollendorff's Grammar, and another grammar, the author of which I do not remember. I boarded with a Spanish family, and had an opportunity of reading the Spanish newspapers taken by the gentleman with whom I boarded.

Q. 77. Did you ever attend a school or receive instructions from a teacher of the Spanish language; if so, when and where? A. I never did.

Q. 78. Do you consider yourself an expert in surveying? A. I do.

Q. 79. Do you consider yourself an expert in the teaching or interpretation of the Spanish language? A. I do not think that I am. I am able to translate Spanish documents into English, but I have not the knowledge or familiarity that entitles me to be called an expert in the Spanish language.

Q. 80. What do you understand to be the meaning of the word "rancheria?" A. "Rancheria," as used in California, signifies the location of an Indian settlement. I do not think that it is applied to a settlement by native Californians, or Mexicans. It is the diminutive of rancho—a hut or house, and, therefore, means a little house; but is applied in California as already of stated.

Q. 81. Did you ever see such a rancheria? A. I have seen several, and the remains of more.

Q. 82. Where? A. There were several in the Sacramento Valley; at Ide's Ranch; at Colusa several; and remains of these rancherias at the missions of San Jose, Santa Clara, San Carlo, and at other places.

Q. 83. Did you ever see an Indian rancheria, such as you have described, connected with an Indian shell mound, and if so, where? A. I have not dug into the remains of rancherias, to ascertain whether they were composed in all of skeletons and bones, or partly of shells and partly of such skeletons and bones, and am therefore unable to answer the question, either in the affirmative or the negative.

Q. 84. I have not asked you anything about skeletons, or bones, or of the materials of which the mounds were composed, but you said that a rancheria was a collection of Indian huts, the correctness of which I have not questioned, and that you had seen such collections of huts; and I asked you, whether any such collections were connected with an Indian shell mound, and if so, where? A. The rancherias, or collection of huts, have generally disappeared, and the

phrase "*rancheria*," is applied to the mounds designating the site of the former buildings or villages, and it was in reference particularly to these mounds and their identity and connection with Indian shell mounds, that I was unable to state how far they were connected, and consequently could not answer the question either in the affirmative or negative.

Q. 85. You have said that you have seen collections of huts or the ruins thereof, in various parts of California, and I also gather, from your testimony, that you have seen Indian shell mounds in California, and I have asked you whether you had ever seen them associated. Why is it that you say that you cannot answer this question in the affirmative or the negative? A. I think that the shell mounds and *rancherias* are equivalent terms, or nearly so.

Question 85 repeated. A. Yes.

Q. 86. When and where? A. At a *rancheria* just south of San Mateo Creek; I saw this in 1863.

Q. How many Indians, and how many Indian huts were there? A. There were no Indians and no Indian huts there.

Q. 87. What was there in 1863? A. There was a mound in the general shape of the remains, or foundations of a *rancheria*, and popularly regarded as such; in the construction of the San Francisco and San José Railroad, we excavated through this mound and found numerous shells, and human skeletons and bones.

Q. 88. What do you mean by "being in the general shape of a *rancheria*?" A. The *rancherias* in the Sacramento Valley were generally nearly an exact square—each side measuring on an average about 100 yards.

Q. 89. Where did you see a *rancheria* in the Sacramento Valley? A. On the Rancho "Barranco Colorado" (Ide confirmee); at the north end of the Jimeno Grant, Colusa County; at the town of Colusa; near the Sacramento River, same county; north of the upper end of Sycamour Slough; near Eddy's Landing, on the Sacramento River, in same county.

Q. 90. Were these *rancherias* inhabited by Indians? A. These on Ide's Ranch, at the town of Colusa, and at Eddy's Landing were inhabited; the rest were not.

Q. 91. Were there any Indian mounds associated with either of these collections of huts? A. There were, and of the general form already described.

Q. 92. What were these huts built of? A. Chiefly of willows, covered with mud, and having a very narrow entrance.

Q. 93. Why do you say, in one answer, that you have not explored the interior of these mounds, and in another answer minutely describe the construction of the Indian mound at San Mateo? A. At the time I made my first answer, I did not recollect the fact of the railroad having cut through that mound.

Q. 94. In your twenty-six years' residence in California, how many of these Indian mounds have you seen? A. I have seen the one called Las Animas, referred to in this testimony, and a large one on the east side of Coyote Creek, where there were about 75 Indians in 1850, which Coyote Creek is about two miles to the east of San José; I have seen these in addition to those I have already described, and besides these I have seen one on the Bidwell Rancho, on Chico Creek—I believe that I have named them all.

Q. 95. Do you mean to be understood, that wherever there was a rancheria or Indian village, there was a mound? A. I do, except when these villages were adjoining the missions, and under the control of the Fathers.

Q. 96. You have enumerated some half a dozen; how many Indians do you think these would accommodate? A. I do not know; I think about 1,800.

Q. 97. Do you not know, as a matter of history, that there were many hundreds of thousands of Indians in the regions that you have traversed? A. I do not think that there were 100,000; a reference to Forbes' history of California will show you the number of Indians belonging to the missions. I have no knowledge of the number of the wild Indians of the country.

Q. 98. Do you know Point Caballos? A. I believe I do, on the map.

Q. 99. Do you know the bay of which it forms one side, and if so, what is it? A. I do; it is Richardson's Bay.

Q. 100. What forms the other side of that bay? A. The southern extremity of Point Tiburon, between which and Angel Island is Racoon Straits.

Q. 101. Then I understand you, that the point of land, which terminates at Racoon Straits, is the terminus of the land which forms the northeast side of Richardson's Bay? A. Yes.

Q. 102. And that point is the southern extremity of Point Tiburon? A. Yes.

Q. 103. Is not that the Point of Tiburon? A. The Point of Tiburon, or Shark Point, is the promontory, the southern extremity of which is the point designated in the last answer.

*Examination by J. B. Howard.*

Q. 104. Have you examined the ground represented on the official plat, and if so, when and in what capacity? A. I made the survey of the adjoining Rancho of Saucelito, and I have a general knowledge of the lands of this Rancho of Corte Madera del Presidio.

Q. 105. All of it? A. I have never passed over the part known as Point Tiburon, on the south portion of the plat, and only know it by having passed through Racoon Straits, and around said point.

Q. 106. At whose request did you come here as a witness? A. At the request of Mr. Throckmorton.

Q. 107. Have you had any conversation with Mr. Throckmorton, as to the matters about which you have testified? A. Yes, several.

Q. 108. At what times and places? A. In San Francisco within the past few days.

Q. 109. Have you followed the suggestions of Mr. Throckmorton, in giving your testimony in this case? A. No, not further than I believed them to be correct, and corresponding with my own judgment.

Q. 110. Have you not taken the statements and suggestions of Mr. Throckmorton on matters connected with the location of this rancho, where your own knowledge was more or less defective, as being correct statements of facts and history, and upon which you might rely in giving your testimony? A. I think not.

Question 110 repeated. A. No.

Q. 111. Did not Mr. Throckmorton sit beside you, during your direct examination, facilitate you in selecting maps, papers, documents, whisper to you, as to the nature of certain documents, and certain questions, and of the effect of your testimony, in certain matters? A. Mr. Throckmorton did sit beside me, during my direct examination; he did facilitate me in selecting maps, papers, and documents called for; he gave me no information as to the effect of certain documents; as to the nature of certain documents, which were about to be exhibited, he told me what they were.

Question 111 objected by Mr. Throckmorton, as impertinent and improper.

Q. 112. Did Mr. Brooks or any of the other parties in this case, while you were being examined by them, sit beside you and whisper to you and otherwise act as you state Mr. Throckmorton did?

Objected to by Mr. Throckmorton, as irrelevant and improper, and by involving a conclusion that has not been testified to.

A. Neither Mr. Brooks nor any of the other parties, while I was being examined, sat beside me, and endeavor improperly by whispering, or otherwise, to control my testimony; nor neither did Mr. Throckmorton, in the direct examination, by whispering, or otherwise, attempt to control my testimony.

Q. 113. Examine your answer to question 111 and state if it is correct? A. It is correct.

Q. 114. Did not Mr. Throckmorton whisper to you during your examination? A. I could not say, that he ever spoke in a whisper, but during the confusion and great noise, he sometimes spoke to me in a low voice, so as to allow proceedings to go on with as little interruption as possible.

Q. 115. Has not Mr. Throckmorton, on this cross-examination, suggested to you answers, to questions propounded by me, and to modify your answers thereto? A. He may have made one or two suggestions, but my answers have been made according to my own judgment, not controlled by dictation from anybody.

Q. 116. Have you ever made a survey officially at the Rancho of Corte Madera del Presidio? A. I have not.

Q. 117. How did you acquire your information concerning this rancho?—from actual surveys, or from hearsay? A. I made, in 1858, an official survey for the U. S. Government, of the adjoining Rancho of Saucelito, and in making that survey, I had to become particularly acquainted with the western boundary of the Rancho of "Corte Madera del Presidio;" and afterwards, when Doctor Mathewson surveyed the same rancho, he exhibited the papers to me and consulted with me as a friend in regard to the survey; also, in a suit in the U. S. Circuit Court, I was called upon as a witness, prior to which I examined points in the vicinity of the Read house, and testified in regard to them in the Circuit Court; the rest of my evidence I believe is all based on maps and documents exhibited, and my general knowledge of the country as set forth in the preceding answers.

Q. 118. The case in the Circuit Court was filed about 1870, "Bolton vs. Van Reynegom et als.," in which Mr. Throckmorton claimed to be a party defendant, as the lessor of Philip Ray et al. Please state if you were not called by Mr. Throckmorton, to testify in that case.

Objected by S. R. Throckmorton, because it is a case in

another Court, the records of which are the only testimony that can be used as evidence, and that it is irrelevant, immaterial and incompetent.

A. I do not know the title of the case at all ; but in one case, since 1870, and in only one, have I given any testimony relative to this rancho, and in that case I was asked by Mr. Throckmorton to appear as a witness.

Q. 119. The testimony you gave in that case, concerned the location of the solar and the western line of the present Rancho of Corte Madera, and fixes said solar and western line substantially, substantially as represented on the official plat, and in accordance with the testimony of said S. R. Throckmorton and George F. Allardt, witnesses in said suit in said Circuit Court ; please state now, whether said testimony was or was not correctly reported, and by what means or from what source of information you have been enabled, in this examination, to vary your testimony as to the location of said solar, and the western line of said rancho.

Objected to by S. R. Throckmorton, as incompetent, irrelevant and immaterial, and because there is no evidence adduced in this case that S. R. Throckmorton testified there at all, or if he did, the testimony is not here produced, that the witness may tell what it is, nor is there any testimony here produced of George F. Allardt, or that he testified in that case, nor is the evidence of Wm. I. Lewis produced here, and consequently the witness in this case, Wm. I. Lewis, cannot testify whether his testimony in that case was correctly reported or not ; neither can he testify, for the same reasons, whether or why his testimony in this case differs therefrom, or from any of said testimony, referred to in said question.

Question withdrawn.

WM. J. LEWIS.

Adjourned till 10 o'clock Monday morning.

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MONDAY morning, March 20th.

Met pursuant to adjournment.

Hiram Austin, examined in behalf of Mr. Gardner.

Q. 1. What is your name, age, occupation and place of residence ? A. My name is Hiram Austin, 50 years of age, occupation surveyor and civil engineer, residence San Rafael, Marin County.

Q. 2. The official plat of the Rancho Corte Madera del Presidio is shown to witness, and he is asked, Do you know the territory embraced within this plat, and the circumjacent country? A. I do.

Q. 3. State how long you have known it, and how intimately you know it. A. I have known it for ten years, and am familiar, by personal inspection and survey, with all the land shown on this plat, and that immediately adjoining it.

Q. 4. The map entitled, "Gardner's Map of the Rancho Corte Madera del Presidio, with its topography and surroundings, the Mathewson survey lines, etc., by Hiram Austin, Surveyor, January 15th, 1876," is shown witness, and he is asked, Are you the maker of this map? A. Yes, I am.

Q. 5. From what sources did you make this map, and is it a correct representation of the country it represents? A. I made the map from surveys, made on the ground, by myself, by the U. S. Deputy Surveyor, and by order of the Board of Tide Land Commissioners, and from personal acquaintance with the territory included in the ranch, and from topographical notes taken on the ground, and other reliable surveys.

Q. 5. Is it a correct representation? A. It is correct in its main features.

Map offered in evidence as "Ex. P. G. No. 2."

*Cross-Examined by Mr. Throckmorton.*

Q. 6. Mr. Austin, will you please point on this map, "Ex. P. G. No. 2," a stream called the Arroyo "Holon?" A. The stream indicated on this map as the "Arroyo de los Esteros," is named the Arroyo Holon on Dr. Mathewson's map of the Rancho "Punta de San Quentin."

Q. 7. Witness is shown "Ex. S. R. T. No. 8," and is asked if he can identify it approximately with a little stream near the word "Animas," on said map. A. The stream known as the Arroyo Holon is probably in the vicinity of where the word Animas is written on said Exhibit.

Q. 8. Witness is shown the official plat in this case, and is asked if the stream marked thereon "Arroyo Holon" is the same as the stream marked "de los Esteros," on his Gardner map, "Ex. P. G. No. 2." A. It is.

Q. 9. Please look on said map, Ex. P. G. No. 2, and is asked where the said stream has its source.

A. It heads about a mile and a half northeasterly from the top of Tamalpais Mountain; the head of the stream is not shown on the map P. G. No. 2, referred to.

Q. 10. What is its general course, until it reaches the vicinity of the post marked P. G. No. 2? A. Southeasterly.

Q. 11. What is its general course from there to station marked "Laurel P. A. 99?" A. It runs almost due east.

Q. 12. What is its general course from said station until it enters the marsh? A. Northeasterly; nearer north than east.

Q. 13. Are you acquainted with the stream that has been referred to in this examination as Arroyo Holon? A. I am, and also the valley through which it runs.

Q. 14. Are you acquainted with the forest on that arroyo commonly known as the "Corte Madera de San Pablo?" A. I know all the timbered lands along and in the neighborhood of this stream; I do not know the local name by which each particular portion is or may have been known; if the tract of timbered land along that stream is known by that name, then I do know it.

Q. 15. Is there evidence of there being, or having been, a forest or body of redwood timber along the line of this stream? A. There is, and there was undoubtedly such a forest.

Q. 16. Do you know of a marked and distinct ridge to the south and west of this stream; and if so, in what direction does it run, and where does it terminate; near the Bay of San Francisco? A. I do know of such a ridge; it is shown on Exhibit "P. G. No. 2," and marked as the main ridge, running from Tamalpais mountain easterly in the direction of Point Tiburon, and its eastern termination is at Raccoon Straits in the Bay of San Francisco.

Q. 17. Look on Ex. P. G. No. 2; do you see a character marked remains of "rancheria?" if so, describe its location with relation to some post or station. A. I do see a character so marked; it is something less than a quarter of a mile east from the station marked "Laurel, C. M. P. 77."

Q. 18. Do you see a mark "willows," and an indication of willows in the neighborhood thereof? A. I do.

Q. 19. Do you see the head of a stream about NE. by E. from peak marked "Tamalpais" on said map P. G. No. 2, near post P. Q. 106? A. I do.

Q. 20. Witness is asked to trace the course of that stream down to station Laurel C. M. P. post 177, and name its general direction. A. Its course and location are shown on the map P. G. No. 2 by a blue line, and it runs generally SE.

Q. 21. Do you find on the map indication of a creek

running close to and to the west of a character marked "Remains of Rancheria," on said map, as heretofore described by you, and what is it marked? A. There is a line drawn in blue along the location referred to in the question, and is marked on said map, P. G. No. 2, as "Old Creek."

*Re-direct, by Mr. Gardner.*

Q. 22. State whether the main ridge from Tamalpais, mentioned in your answer to question 16, on page 566, has any marked prominence at, or near, California City Point? A. There is a higher point on the ridge there than on the portion of the ridge immediately adjoining.

Q. 23. Is there any marked depression dividing that ridge, just south-east of that point?

Question objected to by Mr. Sharp, as immaterial and irrelevant.

A. There is a depression in the ridge, over which the road to the California City track passes, as shown on the map.

Q. 24. Please state whether there is, or ever has been, any body of timber or wood land along the northerly slope of the main ridge you have spoken of, as tending in a general easterly direction from the redwood forest mentioned in answering Mr. Throckmorton's question, No. 15? A. The northerly slope of this ridge is, and has been, more or less densely timbered for the distance of a mile and a half south-easterly from the forest referred to in the answer to question 15, as shown on the map.

Q. 25. Does this strip of timber extend down to the marsh, or fall short of it? A. The forest is almost entirely on the slope of the ridge.

Q. 26. Please look at "Ex. S. R. T. No. 8," and noticing the creeks laid down thereon, between Quentin and Tiburon, state how many creeks there are in that space, and what their general course is, and main deflections are? A. There seem to be two creeks shown between the points marked Quentin and Tiburon; the one nearest to the word Quentin, runs generally southeasterly; the one nearest to the word Tiburon, has a direction first northeasterly, then easterly, then almost south, into the bay.

Q. 27. Which of these two creeks is it that is nearest the boundary line, as marked in brown on this Exhibit S. R. T. No. 8? A. The southerly one; the one nearest the Point Tiburon.

Q. 28. Is there any marked and decided difference in

their courses; as shown on the map? A. My answer to question 26 shows their courses.

Q. 29. Is there any considerable distance between their mouths, according to this Exhibit "S. R. T. No. 8.?" A. There is about three-quarters of a Spanish league, as shown by the scale on this Exhibit.

Q. 30. State by what names the arroyo shown on Exhibit P. G. No. 2, as Arroyo "de los Esteros," and on the official plat as Arroyo *Holon*, has been, or is known? A. On the earlier maps which I have seen, this creek is indicated as the Arroyo "de los Esteros;" on later maps, the upper part of the creek, and perhaps the valley through which it runs, is shown as the "*Holon*;" but the maps of late surveys show the creek as the Arroyo "*Holon*." I refer to the fresh water portion of the creek.

HIRAM AUSTIN.

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*R. C. Hopkins recalled by Mr. Gardner.*

Q. 1. You have stated that you have been keeper of the Spanish Archives in the office of the U. S. Surveyor-General for California, since 1855. State whether the volume now shown you is a part of those archives, and if so what it is? A. It is a part of the Spanish Archives referred to, and is an ancient record book, in which, before the system of making land grants in California under the colonization law of 1824, was organized, were recorded descriptions of missions, grants of lands, lands belonging to Presidios, brands and marks of cattle, &c. After the organization of the system of making grants under the laws of colonization, the records kept in this book were discontinued.

Q. 2. Look on leaf 4 of said book, and state what is thereon inscribed? A. A description of the lands of the Mission of San Rafael, together with a representation on the margin of the record of the brand of said mission. I have made a translation of the record referred to, which is in my hands. The record referred to is offered as evidence by certified copy, marked Exhibit "P. G. No. 3;" also translation referred to is offered, marked "P. G. No. 4;" both offered by Gardner.

R. C. HOPKINS.

R. S. Brown, witness called by Mr. Gardner.

Q. 1. What is your age and where do you reside? A. I reside on Corte de Madera, and my age is sixty-two years.

Q. 2. How long have you resided on Corte de Madera?  
A. I have lived there permanently since 1853.

Q. 3. Exhibit P. G. No. 2 is shown to witness, and he is asked, is the place where you live shown on this map, and if it is, will you point it out? A. I live on the tract between the Arroyo Estero, as marked on said map, the line of the railroad, and the wagon road.

Q. 4. Do you know a high ridge running from Tamalpais mountain, towards California City Point? A. Yes.

Q. 5. State whether or not that ridge does, or does not, slope towards your place of residence? A. It slopes towards my place of residence.

Q. 6. State whether or not that slope of the ridge was, when you first saw it, wooded. A. A perfect forest of redwood.

Q. 7. How far did that forest of redwood extend towards the east, along that slope? A. Three miles, more or less; I think more than three miles.

Q. 8. Did that forest extend down to the marsh? A. Very near.

Q. 9. State whether or no there was any farming land between that timber and the marsh. A. I should think there was eight or nine hundred acres.

Q. 10. Where was the Arroyo Holon in 1852, when you first knew it? A. This same arroyo, as you call it, was in the same place as now, but I never heard it called the Holon.

R. S. BROWN.

Peter Gardner re-called, this time on behalf of himself, being sworn, says:

Q. 1. State whether you ever lived within the limits of the land shown on the official plat of the Corte Madera del Presidio Rancho (plat here shown witness); and if so, point out the spot on said plat. A. I have; my house was situated near Station 596 on this map.

Q. 2. Examine Exhibit P. G. No. 2, and point out, if you can, the location of your house. A. It is marked on the map, "Peter Gardner."

Q. 3. What was the nature of your possession, and how much land had you at that place, and how was it situated? A. I located there in 1859, intending to pre-empt, and took 150 to 160 acres, as near 160 acres as I could get; built a house, and lived there till about 1872, when I was ejected in the action of Bolton vs. Van Reynegom, in the U. S. Circuit Court, which is now pending on appeal to the Su-

preme Court of the United States at Washington. I have also patents of the State of California for adjacent marsh land.

PETER GARDNER.

R. C. Hopkins re-called by Mr. Throckmorton, on cross-examination.

Q. 1. In the former part of your testimony, you testified as to the mode of making juridical measurements of Mexican land grants; please state whether that was or was not a part of the act of juridical possession, for the purpose of ascertaining the quantity of land granted, and of which possession was given. A. I have so stated.

Q. 2. Was that process of measurement a separate and distinct part of the act of giving juridical possession, and necessary thereto? A. It was.

Q. 3. How were those measurements generally made, with reference to the lands to be measured? A. Sometimes all of the exterior boundaries were measured; sometimes two or three of the exterior boundaries were measured, and the length of those that were not measured were estimated; and sometimes but two lines were measured, one for the length of the tract and one for the width, in which case, often, the exterior boundaries were not run or measured.

Q. 4. Do I understand you to state by this answer, that frequently lines of measurement of Mexican land grants, in giving juridical possession thereof, do not necessarily indicate or establish lines of boundaries? A. *Often they do not*; for sometimes a line was measured through the centre of the rancho, for the length, and one for the width for the same purpose; and from the lines so measured, an estimate was made of the quantity.

Q. 5. Look at offered map of survey of rancho of Corte Madera del Presidio, and measure from Post C. M. P. 181, to Redwood Post P. Q. 99, W. R. 203, on the Arroyo Holon, and please state the distance between those points in cordeles. A. About seventy-three cordeles.

Q. 6. Please measure from said last named station, southerly 200 cordeles, to the westerly side of Tiburon, and note the termination of that measurement. A. The measurement of 200 cordeles from the point referred to terminates on said map at point marked "Granite monument, on base line, between stations 296 and 298."

Q. 7. Measure from said redwood "Post P. Q. 99, W. R. 203," southerly to the east side of Tiburon, and note the

point to which the measurement of 200 cordeles reaches. A. It would reach to the station marked "434" on the official map.

Q. 8. Would either of these lines which you have traced on said map, necessarily and could all of them by any possibility be considered lines of boundary? A. I think not.

Q. 9. Reading from page 12, "Ex. S. R. T. No. 9," as follows: "They commenced said measurements, and, going from south to north, they measured to an arroyo called the Holon, etc.;" and again, quoting from said record of juridical measurement, on same page: "From this point, taking a direction from north to south, the measurement was continued to Point Tiburon; they measured 200 cordeles; would that or either of those lines be necessarily a boundary of said rancho? A. By the customs observed in making juridical measurements of Spanish and Mexican land grants, it would not necessarily be an exterior boundary.

Q. 7. Are you acquainted with the papers of juridical possession in this case—enough so to answer in relation thereto without having the same read to you? A. I think I am.

Q. 8. Referring you to that part of the description of juridical boundary commencing with the words, (on page 13), "In conformity they led the way to the west, &c." Are you sufficiently acquainted with said record of juridical possession to state whether that juridical boundary would place the western boundary of the Rancho of Corte Madera del Presidio on the land marked as the western boundary of the official survey? A. The call of this boundary is a "cañada where there is a forest of tall redwood trees, which they call redwoods, in the cañada itself, and some little valleys which form the base of a high peak, called Palmas, etc." This description is given by the witnesses who were giving their testimony as to the location and boundaries of the Rancho of Corte Madera del Presidio. It is too vague and too general for me to be able to fix, upon the map of the survey, the boundary intended to be described; nor am I able to designate on the official map, the exact boundary sought to be described by said witnesses.

Q. 10. Does the above testimony appear to you sufficiently clear to positively fix that western line, as laid down upon the official map? A. I think that as descriptive of an exact call for the commencement of a line or boundary, it does not.

Adjourned by order of Surveyor-General, till Friday, 24th.

FRIDAY, 24th.

Met pursuant to adjournment.

Examination of Hopkins continued.

Q. 11—(By Mr. Throckmorton). Are you acquainted with Mr. William J. Lewis, a witness in this case, and if so, do you know of him as a surveyor and civil engineer, and if so, what is his general reputation and value in this country as an expert in the location and surveying of Mexican land grants in California, and the interpretation and application of the descriptions in Mexican title papers to surveys? A. I have known Mr. William J. Lewis intimately for nearly a quarter of a century; have known him, socially and professionally, as a surveyor and civil engineer, and I also am familiar with the reputation that he has borne in California, professionally, for the last twenty-five years, and can say that I have ever looked upon Mr. Lewis as one of the most able and skillful mathematicians and civil engineers on this coast, and as being eminently qualified, in consideration of the character of the knowledge he possesses, for making locations and surveys of lands described in Spanish and Mexican grants. And I can further say, that this is the reputation that Mr. Lewis has borne in California for the last twenty-five years, and during which time I think he has been generally employed in the different branches of his profession; and I know also that he has often been called as an expert in matters pertaining to his profession.

*Wm. J. Lewis Re-Called by Mr. Throckmorton.*

Q. 1. Witness is shown official map, "Corte Madera del Presidio," and is asked: Please notice the line laid down on that map as the western boundary line, and state if you recognize in that line a trial line run by Doctor Mathewson when he surveyed said rancho, and whether he had with you any conversations or consultation at the time in reference to said trial line.

Objected to by Mr. Sharp, as irrelevant, immaterial and incompetent.

A. I do not know the object of running this line, as shown on the map referred to; said line is laid down as the western boundary on said map; but I think it must have been run as a trial line; the consultation that I had with Doctor Mathewson was in regard to the exterior western boundary of the Rancho of Corte Madera del Presidio, in which we agreed that Arroyo Corte Madera del Presidio was the western boundary.

Q. 2. When you say the Arroyo "Corte Madera del Presidio," please look at "Ex. S. R. T. No. 6," and describe the source and course of the same, as laid down on said Exhibit.

Same objection by Sharp.

A. The source of said Arroyo Corte Madera del Presidio is a little to the west of the most northern point of the Saucelito Rancho, as shown on Exhibit No. 6, a portion of the northwestern boundary of said Saucelito Rancho, crossing Mount Tamalpais, is shown on said Exhibit; the course of said Arroyo Corte Madera del Presidio, from said northern point to its mouth, is shown on Exhibit S. R. T. No. 6, and from the eastern boundary of the Saucelito Rancho, and the exterior western boundary of the Rancho del Presidio, as far as the latter rancho extends northerly; or from the letter "B" to the mouth of the Arroyo of Corte Madera del Presidio, as said letter "B" is marked on said Exhibit "S. R. T. No. 6."

Q. 3. Was that western boundary of the Rancho Corte Madera del Presidio, as described by you in your last answer, the conclusion arrived at by Doctor Mathewson and yourself from the conversations and consultations which you had together? A. It was.

*William J. Lewis Cross-Examined by Mr. Howard.*

Q. 1. Do you know, of your own knowledge, the location on the official plat of the westerly line of said rancho, as originally run by Deputy Surveyor R. C. Mathewson in 1858? A. I see the line indicated on the official map, but I have never been over that ground, from post C. M. P. 181 to redwood post P. Q. 99 and W. R. 203, at the Arroyo Holon.

Q. 2. How then do you know that said line represents the westerly line of said rancho, as run by said Deputy R. C. Mathewson in 1858? A. I do not think it does; on the contrary, I have stated that that was a trial line; it is not the line indicated in the official plat and return of Dr. R. C. Mathewson in 1858; but it is marked as western boundary, and described in the field notes of the survey of said rancho by Leander Ransom, Deputy Surveyor, in September and October, 1873, and G. F. Allardt, Deputy Surveyor, in June, 1874; both maps referred to being official maps, filed in this office.

Q. 3. Does not the westerly line of said rancho, from post "C. M. 180" to post "C. M. 181," on both maps, viz :

the Mathewson of 1858, and the Ransom-Allardt of 1873-4, exactly correspond? A. The points are nearly identical.

Q. 4. Do you not know that the westerly line of said rancho, as on the official Allardt-Ransom plat of 1873-4, from post "C. M. P. 181" to post P. Q. 99, W. R. 203, correspond exactly with the westerly line of said rancho as run by Deputy R. C. Mathewson in 1858; and that the change or difference in location of said westerly line on said Mathewson plat arose from the fact that the claimants, being directed to select one square league and no more, within the said exterior boundaries of said rancho, and accordingly that the Surveyor-General, in 1858, directed Deputy Mathewson to modify his said survey on the westerly end of said rancho, so as to conform to government subdivisions? A. I do not know that the line marked as the westerly boundary, from post C. M. P. 181 to redwood post P. Q. 99, and W. R. 203, was the line surveyed by Dr. Mathewson, nor do I know what instructions he received from the Surveyor-General, or from any source, in regard to the survey of the northern boundary according to section lines; but the official plat of Dr. Mathewson shows that the northern line followed the legal subdivisions of public lands, running by several courses, east and north from C. M. P. 181 to C. M. P. 1.

Q. 5. Do you know what is represented by the letters and figures, "W. R. 203?" A. I do not, but that can be easily ascertained by referring to the field notes where it is explained in detail.

Q. 6. Do you not know that said letters and figures represent "Widow Read, post 203," and that said post was ascertained and fixed by Deputy Mathewson in 1858, as the termination of the westerly line of the Read Rancho, or Rancho Corte Madera del Presidio, from post "C. M. P. 181" to the intersection of the Rancho Punta de Quentin, and there represented by the letters and figures, redwood post "P. Q. 99?" A. I do not know anything about it; the line from post C. M. 181 to redwood post P. Q. 99 and W. R. 203 is on the map of Ransom and Allardt, and is not on the map of Dr. Mathewson.

Q. 7. Do you not know that said posts were fixed, and said line was surveyed by said Deputy Mathewson in 1858? A. I do not.

Q. 8. Do you know, of your own knowledge, anything definite and specific concerning the survey of said Mathewson in 1858, of the westerly boundary of said rancho, other than what you have lately ascertained from parties inter-

ested and from an examination of the records? A. I have testified already that I made the survey of the Saucelito Rancho in 1858, the eastern boundary of which is the exterior western boundary of the Corte Madera del Presidio Rancho, and have been acquainted for the last eighteen years with the said division line and with several local points in the vicinity. In 1871 I was at post "C. M. 181," but I know nothing of the lines running northerly from that point, except what I derive from the two official maps.

Q. 9. Mr. Howard now shows witness certified copy of complaint, amendment, and stipulation in the case in the U. S. Circuit Court, entitled as follows:

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

James Clinton Boltou, Plaintiff,

vs.

John L. Van Reynegom, Mary King, Philip Ray, Francisco Angenett, and others, Defendants.

No. 190.

Filed originally in 1865, and the amendment and stipulation filed in 1871, and also certified transcript of testimony of one William J. Lewis, sworn in said case in behalf of said defendant, Philip Ray, but not of the other defendants, including direct and cross-examination, and asks witness: If he testified in said cause, and if he is the same William J. Lewis mentioned in said transcript of evidence? A. I am the William J. Lewis who testified in that case.

WM. J. LEWIS.

John B. Howard now offers as Exhibits duly certified copy of a complaint of James Clinton Boltou, plaintiff, representing all the owners of the Rancho Corte Madera del Presidio, against John L. Van Reynegom, Mary King, Philip Ray and others, defendants, being suit No. 190 of the docket of the United States Circuit Court for the District of California, filed February 6th, 1871 (the original first filed in 1865, and the present complaint being an amendment thereto and substitution therefor), with an amendment and stipulation filed February 11th, 1871, together with the answer thereto of said defendant, Mary King, whose

true name is Mary J. King. Also the testimony of Samuel R. Throckmorton, George F. Allardt, and William J. Lewis, together with stipulations and agreements by and between the said Throckmorton (claiming to be a defendant therein) and others of said defendants, and the said plaintiff representing all the then claimants to the Rancho Corte Madera del Presidio, and said complaints and stipulations, limiting, fixing, and establishing by agreement the westerly boundary line of the said rancho as laid down on the official plat of survey known as the Ransom-Allardt survey of 1873-4. Also, the final judgment of said Circuit Court in said cause—final as to said Mary J. King and as to her rights of ownership and possession of the lands by her then occupied, and originally claimed in said proceeding by said Bolton, being the same lands now occupied and claimed by Frances D. Barlow and John J. Cushing, and of all the lands lying west of and immediately adjacent to the westerly boundary line of said rancho; and also, the title of the United States thereto by reason of the abandonment of the same by the claimants of said rancho, to wit: all the lands marked "Public Land" west of said rancho, as on said official plat.

Said documents, duly certified by the Clerk of said Circuit Court, are herewith offered as Exhibits, together with endorsements, date of filing and certificate of correctness, and are designated as "Circuit Court Exhibits," Numbers 1 to 10 inclusive, as follows, viz :

Exhibit No. 1, J. A. R.—Complaint as amended, with stipulation, etc.

Exhibit No. 2, J. A. R.—Answer of Mary King.

Exhibit No. 3, J. A. R.—Testimony of S. R. Throckmorton.

Exhibit No. 4, J. A. R.—Testimony of George F. Allardt.

Exhibit No. 5, J. A. R.—Testimony of William J. Lewis.

Exhibit No. 6, J. A. R.—Judgment of the Court in said cause.

Exhibit No. 7, J. A. R.—Stipulation.

Exhibit No. 8, J. A. R.—Stipulation.

Exhibit No. 9, J. A. R.—Affidavit of James M. Seawell.

Exhibit No. 10, J. A. R.—Affidavit of S. R. Throckmorton.

S. R. Throckmorton objects to so much of this record as what purports to be a part of this record, commencing at page 591, and continuing 592 and 593, up to this entry, because the same were interpolated and formed no part of this

record, having been inserted during recess, and the manner and mode thereof having been ruled against by the Surveyor-General; and the said Throckmorton asks to have the same expunged, because they are void, and improperly placed here. The said S. R. Throckmorton having objected to the mode and manner of offering Exhibits, and having appealed to the Surveyor-General, the Surveyor-General sustained his objection, and ordered the offering to be made of each paper separately.

J. B. Howard requests that it be entered of record that the above objection be simply that of S. R. Throckmorton, stating his opinion on the subject.

J. B. Howard now re-offers said Exhibits from "1," to "10" separately as follows:

Exhibit No. 1.—Complaint, amendment, stipulation, etc.

Mullen & Hyde object to said Exhibit on the ground: 1st. That it is incompetent for the purposes of establishing the exterior boundaries of this ranch, in conformity to the decree of the United States District Court and the record of juridical possession thereof, and it is in no wise binding upon the United States Surveyor-General in making a final survey thereof.

S. R. Throckmorton makes the same objection.

Peter Gardner objects to the above Exhibit and reserves grounds of objection for future statement within three days, from March 24th, 1876, on the grounds that the Court did not have jurisdiction other than to ascertain the boundaries segregated by this Department.

Also, Exhibit No. 2.—Answer of Mary J. King, defendant.

Mullen & Hyde object, and for the reason stated in objection to Exhibit No. 1.

S. R. Throckmorton makes the same objection.

Peter Gardner objects, and will file grounds within three days.—Same objection.

Also, Exhibit No. 3.—Testimony of S. R. Throckmorton in said suit.

Mullen & Hyde object, and for the reason stated in objection to Exhibit No. 1.

S. R. Throckmorton makes the same objection.

Peter Gardner objects, and will file grounds within three days, as incompetent, immaterial and irrelevant.

Also, Exhibit No. 4. Testimony of Geo. F. Allardt in said suit.

Mullen & Hyde object, and for the reason stated in objection to Exhibit No. 1.

S. R. Throckmorton makes the same objection.

Peter Gardner objects, and will file grounds within three days.—Same objection.

Secondly. Mullen & Hyde further objects, because said Geo. F. Allardt has already testified in this case, and said Exhibit No. 4 has not been shown the same, and thus afforded an opportunity either to explain any matters therein contained, provided there exists any conflict between the contents of said Exhibit No. 4 and the testimony of said Allardt as heretofore given in this case.

Secondly. S. R. Throckmorton makes the same objections and for the same reasons, as the foregoing Secondly of Mullen & Hyde.

Also, Exhibit No. 5—testimony of William J. Lewis in said suit.

Mullen & Hyde object, and for the reason that said Lewis has not been shown said Exhibit for the purpose of explaining any matters therein contained, that might or would seem or appear to differ from the testimony heretofore given by said Lewis in this case.

S. R. Throckmorton makes the same objection.

Peter Gardner objects—same objection.

Also, Exhibit No. 6—judgment of said Circuit Court in said suit.

Mullen & Hyde object, and for the reason stated in objection to Exhibit No. 1.

S. R. Throckmorton makes the same objection as Mullen & Hyde, and further that it is, on its face, a judgment for but a part of the rancho.

Peter Gardner objects because the court has no jurisdiction of the exterior boundaries, as has been decided in this case by the General Land Office; and that said action was appealed to the Supreme Court of the United States, and is now pending there and is not yet decided.

Also, Exhibit No. 7—stipulation filed in said cause.

Mullen & Hyde object to said Exhibit as immaterial and incompetent.

S. R. Throckmorton objects for the same reason as Mullen & Hyde, and also for the reason that it does not affect the boundaries of said rancho on final survey of the same.

Peter Gardner objects as incompetent and immaterial.

Also, Exhibit No. 8—stipulation filed in said cause.

Mullen & Hyde object to said Exhibit as immaterial and incompetent, and that it does not affect the boundaries of said rancho on final survey of the same.

S. R. Throckmorton objects for the same reasons as Mullen & Hyde.

Peter Gardner objects to question as immaterial, irrelevant and incompetent; besides it was a fraud on all the defendants, except S. R. Throckmorton, because it was done without the consent or knowledge, and against the wishes of the defendants and their counsel, J. McM. Shafter.

Also, Exhibit No. 9—Affidavit of James M. Seawell, in said cause, filed.

Mullen & Hyde makes same objections as to Ex. 8.

S. R. Throckmorton makes same objection.

Peter Gardner objects to question as incompetent, immaterial and irrelevant, and on the ground that it attempts to amend his own wrong.

Also, Ex. No. 10—Affidavit of S. R. Throckmorton in said suit.

Mullen & Hyde objects to Ex. No. 10, as irrelevant and incompetent.

S. R. Throckmorton objects to same, as irrelevant, incompetent, and because it does not affect the boundaries of the said rancho, on a final survey, when same shall be made under the order of the Secretary of the Interior, promulgated January 6th, 1872, ordering a survey of said rancho to be made in accordance with the act of juridical possession of said rancho of Corte Madera del Presidio; and further, for the reason that the said affidavit, when made, was intended to refer only to so much of the said survey therein referred to as marched with the eastern boundary line of the rancho of Saucelito; and was intended to be, as was all the testimony offered in that case by said Throckmorton, simply a defense and a bar against any other survey of said Rancho Corte Madera del Presidio, impinging upon or overlapping any part of the lands of the said rancho of Saucelito.

Peter Gardner objects.

J. B. Howard now offers certified copy of deed, from said defendant, Mary King, whose true name is "Mary J. King," to Francis D. Barlow, dated October 28th, 1873, for the lands claimed of said King by said Bolton.

Mullen & Hyde objects to deed as incompetent and immaterial.

S. R. Throckmorton makes same objection, and because it does not affect the final survey of this rancho.

B. S. Brooks, Esq., called for Frances D. Barlow, *et al.*, by J. B. Howard, and duly sworn, deposes and says:

My name is Benj. S. Brooks; I reside in San Francisco; my age is fifty years and upwards; occupation, attorney and counsellor at law.

Q. 1. Are you acquainted with the Rancho of Corte Madera del Presidio, in Marin County, and if so, for how long a time have you been acquainted with the same? A. I am acquainted with the said ranch; I have been acquainted with it, more or less, ever since I have been here, but more particularly for the last eleven years.

Q. 2. Have you known the state of the title under the confirmees to said rancho since 1864; the depositions subsequently made, and present ownership thereof, and if so, state. A. During that time, I have acted as the counsel of the Read heirs, of Rudolf and Emil Steinbach, and Emil Grisar, James C. Bolton and Thomas B. Valentine. Much I have done; much I have directed, and much that was done by others I have known at the time; still there may be some things done that I have not known.

Q. 3. State, if you know, what interest in said rancho the said James C. Bolton had when he acquired it, and what measures, if any, he took during the time he held title thereto, with reference to his interest therein.

Mullen & Hyde object: 1st. Because it is not the best evidence; and 2d, because it is incompetent for the purpose of this investigation, which is, simply to ascertain whether the Ransom survey conforms to the record of the juridical possession of this rancho, as deduced from the Mexican archives.

A. He was interested as a tenant in common with the Read heirs, in that portion of the rancho not included within the Mathewson survey; the date at which he acquired his interest will appear from the deed, which is August 12th, 1865—his deed calling for  $\frac{1}{2}$  interest. Mr. Bolton was a lawyer of New York; he came here as the counsel of Jno. C. Fremont, with letters to myself; while here he became acquainted with the Read heirs, and then or before with Steinbach; they entered into an arrangement for prosecuting the claim of the Read heirs to the land within the juridical possession, to which it was considered by them and all of us that they had a good title; I think that Steinbach came in, or it was agreed that he should come in at the same time; it was well understood by all that Bolton was here only temporarily, and that I was to attend to the matter

here, and that Mr. Bolton was to attend to the matter at the east; Steinbach was to pay me and the expenses, in consideration of which he received from Bolton the conveyance of an interest; Mr. Bolton, I think, left very soon after; as his representative I entered immediately upon the discharge of my duty as the attorney for these claimants, and have continued in the discharge of these duties unremittingly up to the present minute; as a part of such duty, besides the immediate prosecution of proceedings to obtain a new survey, I instituted the suits of Bolton against Kershaw, and Bolton against Van Reynegom, in the Circuit Court, and Read against Van Reynegom, *et al.*, in the State District Court, later; in all of which there were judgments for the plaintiffs.

Q. 4. Examine complaint, marked Ex. No. 1, and state if that complaint, as amended, was the complaint filed by you in the Circuit Court, and upon which judgment was rendered. A. Not having compared this paper with the original, I cannot say whether it is a copy or not; the original complaint filed in that cause was for the tract of land lying between the Mathewson survey, the Arroyo Corte Madera del Presidio—on which stood the remains of the old mill—and a line drawn from the old mill to the Holon; the south line of the tract, did not conform exactly to the arroyo, but, if I remember aright, it was a straight line drawn from the point of the sausal, where that arroyo desembogues in the estero, thence to the mill; after the evidence was closed, including an “ojo de vista” (ocular inspection on the ground) by the judge, and had been some time under consideration, a stipulation was entered into between plaintiffs and defendants, by their respective attorneys, by which the western line was brought to its position on the present official survey; said stipulation, with the amended complaint, was presented to the judge in open court, and ordered filed with an expression of great relief. I remember that there was an error in our first amended complaint; it did not conform to our intentions; Philip Ray and José Alberos were struck out, because they were occupants of the land which was cut off by the amendment.

Q. 5. Read the description of land in the second amended complaint, and also the stipulation Exhibit No. 7, and state if said description corresponds to the land sued for and stipulated as in the amended complaint and stipulation you refer to.

Objected to by Mullen & Hyde, and S. R. Throckmorton, as immaterial and irrelevant.

A. The description contained in the second amended complaint is unquestionably the land that we agreed the suit should stand for, and the judgment should cover. Whether the copies conform or not, I cannot tell, and the copy of the second amended complaint filed here corresponds, so far as the western boundary is concerned, the arroyo and the meander line; and I presume the rest of the boundary conforms to the western line of the Mathewson survey—I could not tell certainly without comparing it. As for stipulation No. 7, I should suppose that it did not describe the land that we intended to describe; and my recollection is that it does not; but I cannot specify from anything here what the error was.

Q. 6. Does not the second amended complaint describe the western boundary of said rancho, in accordance with the official plat; are not the descriptions identical?

Objected to by Mullen & Hyde, 1st, Because it is indefinite as to what official plat; and 2d, That it is not the best evidence; and 3d, It is immaterial.

S. R. Throckmorton joins in said objection.

A. It corresponds with the last official survey.

Q. 7. Examine Exhibits 3, 4, and 5, and state if George F. Allardt and Wm. J. Lewis, therein certified as witnesses in said cause, are the same Allardt and Lewis who testified in this examination. A. They are.

Q. 8. Examine Exhibit No. 3, the testimony of S. R. Throckmorton, and state if the said witness is the same Throckmorton who appears as a party to this examination. A. He is the same.

Q. 9. Examine Exhibits Nos. 8, 9 and 10, and state if you know whether said Throckmorton was, during the pendency of said suit, interested both with the defendants and with the plaintiff, and if so, the nature, duration and character of his said interest.

Objected to by Mullen & Hyde as incompetent and immaterial, except as may relate to Mr. Throckmorton himself.

Objected to by Mr. Throckmorton as immaterial and irrelevant, and as containing a contradiction which can only be reconciled by a long explanation.

A. At the commencement of the suit he was interested with the defendant, Philip Ray, who was his tenant, and he took upon himself the defense of said Ray, he claiming the Arroyo Corte Madera del Presidio, as marked on the last official survey, as the northeastern boundary of his Rancho of Saucelito. He had no other interest with the defendants

or any of them, and when that land was struck out, his interest in the defence ceased. He was the most active defendant, and the others seemed to trust a good deal to his success as implying their own; but he was making his own fight; he did not claim or pretend to represent them; pending the suit, I think he acquired an interest by purchase from Steinbach, in the plaintiff's title.

Q. 10. What was the extent of the interest acquired by said Throckmorton from plaintiffs, between the limits and bounds of the lands described in the second amended complaint, if any? A. He acquired an undivided interest, in the same tract of land, and the whole of it, which was conveyed to J. C. Bolton.

Q. 11. What interest did said Throckmorton have in the land sued for, at the date of the judgment in said suit, as in Exhibit No. 6? A. None.

Q. 12. What interest, if any, has said Throckmorton, in the lands embraced in the last official survey, or in these described in the second amended complaint? A. None.

Q. 13. Examine Ex. No. 6, and state if said judgment embraces all the lands sued for as described in the second amended complaint. A. It does, upon looking at Exhibit 6, and comparing it with the map of the official survey, it would appear that of a tract of land which was conveyed to him at the time of this arrangement a part thereof is inside of this survey. When I answered the preceding question, I gave the impression from my memory, and it remains the same, but the deed is better than my memory.

Q. 14. Are you on friendly relations with Mr. Throckmorton? A. Certainly.

Adjourned till 10½ o'clock to-morrow.

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Met at ½ past 10 o'clock, Saturday, March 25th, 1876.

J. B. Howard offers as Exhibit No. 12, certified copy of decision of Secretary of the Interior, dated January 6, 1872. Certified, February 7, 1876.

Peter Gardner re-called by J. B. Howard.

Q. 1. Did you know Mary King, a defendant in a suit in the United States Circuit Court No. 190, Bolton vs. Van Reynegom, Mary King and others, and the lands occupied by her during said suit, and claimed in the original complaint from her, and if so, state? A. I knew her; her name was Mary J. King. I knew the land occupied by her; the

land is situated outside and to the west of the Rancho Corte Madera del Presidio, according to the official plat; is situate in Township No. 1, N. R. 6 W, Mount Diablo Meridian, and constituting portions of sections 20 and 29. The exact location I cannot specifically point out.

Q. 2. Did you know that said Mary J. King appeared and defended the suit? A. She did.

Q. 3. Did you know the result of the suit as to said Mary J. King? A. It was decided in her favor.

*Cross-Examination by S. R. Throckmorton.*

Q. 1. Did you know a man by name of Shaw who lived in that neighborhood? A. I knew A. R. Shaw in that neighborhood, when he was living on that place.

Q. 2. Can you describe the piece of land he occupied, in the mouth of that gulch where Mrs. King lived.

Objected to by J. B. Howard as immaterial, until the interest of said Shaw is shown as to land within the survey, or he is brought in privity with some claimant thereto, or until the purpose intended is made known.

A. Yes, sir; he lived on section 29.

Q. 3. Can you tell what part of that land he lived on? A. He lived within a few yards of the new fence, a little north-east of where the house of Borotra is.

Q. 4. Can you tell how far up the valley his claims extended? A. I do not know that he had, or pretended to have a claim there.

Q. 5. Do you know that he lived there? A. He lived there.

Q. 6. Did he live there with his family? A. He lived there with his family.

Q. 7. Do you know of his having a child born to him on the 4th of July on that land? A. I do not.

Q. 8. Do you remember who lived to the North of his place at the time that he lived there. A. I do; John Gray and his brother lived north of Shaw, and they were succeeded in the occupation by a Chileno who kept sheep there. Gray claimed as a pre-emptor. I do not know whether he had filed his pre-emption claim or not.

Q. 9. How long did the Chileno live there? A. A couple of years, or so.

Q. 10. Do you remember the year Gray went there? A. I think it was 1864 when Gray was there; am not very clear as to the date.

Q. 11. Do you know of any one having pre-empted that

valley before Gray? A. I do not know about the pre-emption; I know that some person lived there before Gray.

Q. 12. Do you know that the heirs of Juan Read asserted that the persons living on the land we are now speaking of were their tenants?

Question objected to by J. B. Howard, as not being the best evidence; and further, that Circuit Court Exhibits 1 to 10 inclusive set forth the claim of the Read heirs to said lands, and the abandonment thereof, as public lauds.

S. R. Throckmorton excepts to the foregoing objection, because the said Exhibits from 1 to 10 establish no such conclusion, as is asserted; but on the contrary, the Judgment Exhibit No. 6 establish conclusively that no such abandonment was made or contemplated.

A. I do not know that they asserted that the parties were their tenants; but I do know that they, the heirs of Read, claimed the land.

Q. 13. Were you present most of the time during the trial, in the U. S. Circuit Court, of the cause entitled Bolton vs. Van Reynegom and others? A. I was.

Q. 14. Look at official map of Ransom & Allardt, and at the line marked thereon, from post C. M. 181 to redwood post P. Q. 99 W., R. 203, and state whether that is so laid down on said map as the western boundary of the Rancho Corte Madera del Presidio, and whether at that trial you heard testimony given by the witnesses for plaintiffs in that suit, and whether said testimony went to establish the boundary to the west of said line on official map.

Objected to by J. B. Howard, on the ground that the official map and the judgment roll in said suit are the best evidence.

A. That line is laid down on that map as the western boundary, but the testimony of the plaintiffs upon that trial went to establish the western boundary nearly half a mile to the west of said line, up to the old saw mill.

Q. 15. How long have you lived in the neighborhood of the Rancho Corte Madera del Presidio? A. About twenty-three years.

*Re-examined by J. B. Howard.*

Q. 1. State if you know, and point out on the official Allardt-Ransom plat, the location of "Wormouth's House" mentioned in Circuit Court Exhibit No. 5. A. I know where it is. It is near Station No. "C. M. 181," point of beginning on said plat.

Q. 2. Please state if you know, and point out the location on the official plat of the point, "Station 18" mentioned in Circuit Court Exhibit No. 4, as on defendants' map "B," in said suit No. 190 in Circuit Court. The testimony of Allardt is as follows: "My recollection" is that we considered that the solar, Station 18. Testimony of Lewis, Exhibit 5, locates said solar near Wormouth's house. The testimony of S. R. Throckmorton in said Circuit Court, Exhibit No. 3, as follows: "The land of the solar is a clear field, arable, and has been cultivated. The pencil line running through the solar, runs through a natural ravine, through which came in 1857, and quite lately, a trail through from San Rafael; and this solar formed an open field between that and the house. In vicinity of the mill, up to the mill, the redwood forest tapers off to single trees, large trees scattered, and soon comes to madroña, heavy laurel interspersed with an occasional redwood. Excepting the side of the creek, the ravines and gulches are clothed with redwood mixed with laurels and undergrowth. There are enough redwoods in the vicinity of the mill to call it a grove, but not enough to call it a forest. In the vicinity of the mill the slope of the hill is to the south, nothing to the west." The witness is requested to state if the above be correct according to his knowledge, and also to locate, if he can, on the official plat, said "Station 18," said "Wormouth's House," and said "solar," as established by said Throckmorton as above indicated; also, the location of the beginning of the forest of redwoods, as set forth in said exhibits, and the extension northerly from said solar of the westerly line of said rancho as indicated in said exhibits 3, 4, and 5, as you understood at the time from the testimony, agreements, and stipulations of said Throckmorton in said suit, and as you now understand the same from his position in the said suit.

Objected to by S. R. Throckmorton as irrelevant, immaterial, and as not tending to establish the boundaries of juridical possession of said Rancho Corte Madera del Presidio; also on the ground that disconnected and garbled extracts from testimony cannot be used as evidence, and because when Mr. Allardt used the words "are established the solar," the word "are" was not used in connection with any of the parties to these objections, but referred to an erroneous or uncertain location of said solar made by him and Dr. Mathewson at a former period and at a time when they had not full and proper instructions from this office for

the purpose of making said survey; also because said Throckmorton, spoken of in said testimony, did not locate the solar or pretend to do so from any knowledge of his own, and also because there exists in record of said suit in the Circuit Court referred to no agreement made by said Throckmorton with any parties, and because stipulations made by counsel, parties to that suit, is attempted to be perverted and fallaciously asserted as an agreement or agreements, neither of which, beyond said stipulation, exists in said cause, and because this question is made in its form a vehicle of misrepresentation and false conclusions.

A. Station "18" referred to is station "3" on the official Ransom-Allardt Map; "Wormouth's House" is near post C. M. P. 181 on said plat. "The beginning of the forest of redwoods," I cannot describe without examining the Exhibits thoroughly, but I can describe of my own knowledge where it is; it is at station "5" on the Allardt map.

Here J. B. Howard interrupts witness, and said; Solar as established by Throckmorton as above indicated, is near Station 3 on the official map, but it is not a proper location of the solar. The opinion of the witness is not desired, but only facts. J. B. H.

Shanklin, counsel for Throckmorton, moves to strike out the above objection made by Mr. Howard to the answer of his own witness, since the opinion of the witness was called for by the previous question of Mr. Howard, as to the correctness of Throckmorton's testimony concerning the location of the different points referred to in the question.

J. B. Howard requests the witness to answer according to his own knowledge only, and not to give any opinion on any subject, and question repeated as to location of westerly line of said rancho in said suit.

Shanklin, counsel for Throckmorton, objects to the foregoing instruction of witness, since it appears that the latter part of the instruction refers to new matter and not to the previous question or the Exhibit now before witness.

A. Mr. Throckmorton was the principal instigator of this stipulation, which was the principal foundation for the establishment of the boundaries designated in the judgment, for the other defendants nor their attorney knew nothing about it.

Q. 3. What was the location of the western boundary of said rancho, as urged and agreed to by said S. R. Throckmorton in said suit?

Question objected to by Mr. Shanklin, counsel for S. R.

Throckmorton, on the ground, 1st. That the judgment of the Court did not attempt to establish any boundary or boundaries of the rancho as such, but boundaries between parties referred to in the stipulation, which cannot be changed or affected by parol testimony; 2d. That it is not the best evidence; and because the judgment of the said Circuit Court, which is put in evidence in this case by J. B. Howard as the result of said stipulation, does not establish any western boundary to the said rancho Corte Madera del Presidio, as the result of said stipulation, either directly, or inferentially, or at all; but is simply for the possession of certain lands described as a part of said rancho by the courses and distances therein set forth, and is expressed as being for "the possession of those certain lands and premises, situate in the county of Marin, State of California, and described in the amended complaint herein as being part of the Rancho Corte Madera del Presidio, or Read rancho, bounded and described as follows, etc.;" said Exhibit No. 6 showing conclusively the judgment of the Court as not having established any boundary whatever, but only a judgment in ejectment, referring to a part of the land inclosed in said rancho.

Question withdrawn.

Q. 4. Was S. R. Throckmorton, now present, the same Throckmorton who appeared as a party witness and active man in said suit? A. The same man.

Shanklin, counsel for Throckmorton, moves to strike out the forgoing question and answer, so far as the same relates to S. R. Throckmorton as a party to the suit referred to, the documentary evidence only showing that he was called as a witness in the case.

Adjourned till 10:30 o'clock Monday next.

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Met, pursuant to adjournment, Monday 27th, and adjourned till Tuesday 28th.

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Met, pursuant to adjournment, Tuesday 28th, and adjourned till half past one.

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Adjourned at 2 o'clock P. M. until to-morrow, at half past ten A. M.

Wednesday, March 29th, 1876. Met, pursuant to adjournment.

Mullen & Hyde here offer to be filed as an Exhibit, and to be used in this case as a measure, as follows:

A metallic scale of cordeles, made and graduated so as to be equivalent to, and identical with a scale of 20 chains to an inch (the said last-named scale being the one used in compiling the official plat of the Ransom survey of the rancho of Corte Madera del Presidio), and which metallic scale of cordeles is colored as follows, to wit: the portion colored green, to represent a length of ninety cordeles, of fifty Castillian varas each; the portion colored black, to represent the length of sixteen cordeles, of fifty Castillian varas each; the portion colored red, to represent a length of ninety-four cordeles, of fifty Castillian varas each; the portion colored blue, to represent a length of two hundred cordeles, of fifty Castillian varas each.

The said lengths being attached to each other, and form a figure—shape it as you will—the periphery, or lineal length, of the exterior boundaries of which will measure exactly 20,000 *Castillian varas*.

Objected to by Sol. A. Sharp.

Geo. F. Allardt recalled by Mullen & Hyde.

Q. 1. Are you the same G. F. Allardt who has already testified as a witness in this case? A. I am.

Q. 2. Have you recently, and if so, state when, made any instrumental examination, and if so, state what, and how made, of any points on the ground of land represented as a portion of the Rancho of Corte Madera del Presidio, on the official plat of a survey purporting to have been made by the late Leander Ransom, and which plat I now show you—if so, state fully and in detail all matters thereto pertaining.

Objected to by Mr. Sharp on the ground that his official instructions to, and his return of the survey under said instructions, are the best evidence. Mr. Brooks makes the same objection, and that the same is irrelevant and immaterial.

A. I was on the ground, March 23d, 1876, where I found an old stone mound, which was pointed out to me by Peter Gardner.

For the description of said mound, I quote from my field notes, as made at the ground on that day: "Beginning at an old stone mound, on the top of a round grassy knoll; the mound is evidently an artificial one, about four feet in

diameter, and two feet high, composed of stone, from six inches to two feet long, and bears evidence of great age; by Aneroid measurement, it is 440 feet above the tide; it is the nearest high knoll to the bay; there are no other loose stones near the mound." From this stone mound, I ran, by compass and chain, N.  $15\frac{1}{2}$  degrees east true course, 35.77 chains, to a post marked "6.55;" which post is identical with Station 522; that is at the end of the 521st course, of the Ransom survey of said rancho.

Q. 3. From said old stone mound, did you take any bearings to any other objects, and if so, what objects, and what bearing?

Objected to by Sharp, as immaterial, irrelevant and incompetent.

A. I did; I took the following bearings, namely: Tiburon Peak, bears S. 41 E.; the extreme easterly point of San Quentin Ferry wharf bears N.  $12\frac{1}{2}$ ° E. The Peak of Tamalpais bears N.  $78\frac{1}{2}$ ° W., and California City Point bears very nearly due East.

Q. 4. Please describe the face of the ground that would lay on a direct line, passing through said stone mound, and the end of the 521st course on the map of Ransom survey of said Rancho of "Corte Madera del Presidio."

Same objection by Sharp.

A. From said mound, the ground descends quite regularly, to the end of the said 521st course; being a flat, grassy spur, extending to the bay; south of said mound, the ground descends for about five chains, and then ascends fifteen chains, to the top of the main ridge.

Q. 5. From the top of the ridge—lying between said old stone mound, and John Read's present house, the position of which is represented on the plat of the Ransom survey, near the course 241, did you take any bearing of any objects, and if so, what bearings, and to what objects?

Mr. Sharp objects as being irrelevant, and calling for facts foreign to the issue in controversy, and also that it is hypothetical: and because it assumes facts not in proof.

A. I did; from a point on the top of the ridge, said stone mound bears N.  $42\frac{1}{2}$  E., distant 20.23 chains, and said John Read's house bears S.  $47\frac{1}{4}$ ° W. The Peak of Tamalpais bears N.  $75\frac{1}{4}$ ° W., and Tiburon peak bears S. 47° E. The distance as I ascertained it approximately by triangulation from said stone mound, to the Peak of Tamalpais, is 375 chains; from said stone mound to Tiburon Peak is 193 chains.

Q. 6. You speak of said mound as being an *old* stone mound; please state what are the external indications of age that cause you to designate it as being *old*? A. Its general appearance.

Q. 7. Do the stones constituting the exterior of said mound show on their surface old mosses, and do said stones, as shown from the exterior of said mound, bear evidence of a want of disturbance in their several positions in said mound?

Objected to by Mr. Sharp, on the grounds that *any number of stones so gathered in that locality*, and thus placed together, would show the *same mossy evidence*, since *all the stones in that vicinity are covered with moss*.

A. The stones are covered with mosses on the side exposed to the air, and in my judgment have not been disturbed for several years; *how many years*, it is impossible for me to state.

Q. 8. Did you, on the ground, at the date of this last-named survey (23d of March, 1876), make any sketches of said old stone mound and the grassy knoll, upon the top of which said stone mound at said date stood, or of any other prominent features or landmarks in the immediate vicinity thereof?

Objected to as immaterial, irrelevant, and incompetent, and as not tending to prove any fact at issue in this controversy.

A. I made a topographical sketch of said knoll; also of the slope between said knoll and the bay; also of the main ridge near and south of said knoll.

Q. 9. Will you prepare a sketch, such as you have described in your last answer, at your earliest leisure, for the purpose of being filed in this case? A. I will do so.

Q. 10. Please indicate and mark in lead pencil on the official map the position of said stone mound, and the position on the top of the ridge, from both of which you took the bearing, as stated by you, and transfer the same on the plat filed by Mullen & Hyde with their motion of October 27, 1875, and now offered in evidence as Exhibit, marked as follows, "M. H. X. Y. Z."

Exhibit objected to by Mr. Sharp.

B. S. Brooks reserves the right of objecting to the foregoing questions.

A. I have transferred the same as requested, and marked and designated the same in red ink on said Exhibit for said *stone mound*; I have written "*stone mound*," and for said

ridge I have written, "top of main ridge," and I have sketched some topography at those points.

Q. 11. Please mark in red ink on said map the position of said course "521," and also that of John Read's house; as testified to by you, being near course 241 as represented on the plat of the Ransom survey. A. I have marked in red ink the end of the said 521st course, "end of course 521," and I have marked in red ink said Read's house with the words "J. Read's house."

Mullen & Hyde now offer in evidence, by certified copy, the testimony of Eusebio Galindo, James T. Stratton and Juan Read, as by them given in the case of James C. Bolton vs. John L. Van Reynegom *et al.*, in the case so entitled, before the Circuit Court of the U. S. for the circuit including the State of California, and marked M. H., A. B. C.

Q. 12. Since the date when you last testified in this case, have you had any interest in the result of this controversy; or have you ever had any interest in the same, immediate or prospective; or are you related by blood or marriage with any of the parties herein? A. I have not, nor have I ever had any interest in the result of this controversy, nor am I related either by blood or marriage with any of the parties thereto.

Mullen & Hyde here give notice that they will furnish topographical sketch referred to.

Mr. Allardt, the witness, is asked by Mr. Cutter for Mr. Gardner, to transfer from the official plat the position of the old stone mound mentioned; the position on top of ridge from which witness took the bearings, as stated by him in answer to previous question to-day; and also the end of 521st course of the Ransom survey, and mark them in red ink on Exhibit "P. G. No. 2."

A. I have so marked said points on said Exhibit, and properly designated them in red ink.

Mullen & Hyde withdraw Exhibit marked M. & H. A. B. C., by consent, and ask leave to file the whole record in the case of James C. Bolton.

Q. 13. In the distances that you state from said old stone mound to Peak Tiburon and Peak Tamalpais, are said distances by direct air line, or such as would be obtained by surface measurement on the ground? A. The distances are by direct air line, and correspond to horizontal chaining.

Q. 14. Would the undulations of the ground increase or diminish those distances? A. It would increase the distance as measured by a chain, along such undulations.

*Cross-Examination by B. S. Brooks.*

Q. 15. How many surveys have you made in the vicinity of the locality of which you speak in your direct examination to-day? A. I have surveyed in that vicinity the "California City tract;" also, the survey of this rancho under R. C. Mathewson; also, the tide land surveys for the State of California.

Q. 16. When did you first see the mound of stones testified to by you? A. On March 23d, 1876.

Q. 17. In making your surveys did you not frequently cross the rancho? A. I have traveled over the rancho at various times, in different localities of the same.

Q. 18. You have made other surveys on the rancho, have you not? A. Yes.

Q. 19. Have you not very frequently seen heaps of stones just like that on lands that have been ploughed? A. I have not.

Q. 20. Is it not customary on lands where a reaper is used, to gather up stones in similar heaps?

Objected to by Mullen & Hyde, because the question assumes, somewhat remotely, that the knoll upon which this old stone mound stands, either is or has been under cultivation, which fact is not established as yet.

A. I am not familiar with farming operations or the use of reapers.

Q. 21. Will you swear that that mound is over three years old? A. I would not positively. I am unable to state how old it is.

Q. 22. On which side of the stones is the moss? A. On the sides exposed to the weather.

Q. 23. Then I understand you to mean that the moss does not grow on the side of the west, any more than it does on the sides at the north, south, or east? A. No, I do not mean that; I mean that the moss grows on all sides of the stones except its bottom, on which it rests on the earth, or on other stones. If the mound were near one, I would expect to find moss on the bottom of the stones as well as on other surfaces.

Q. 24. You were taken then expressly to locate that mound, were you not? A. Yes, to locate the mound and determine the adjacent topography.

Q. 25. Did the man who conducted you there show you the mound? A. Yes.

Q. 26. If a person of ordinary common sense were to

construct a mound which he desired should have the appearance of antiquity, don't you think he would have sense enough to put the stones mossy side up? A. I think he ought to have sense enough to do so.

*Re-direct by Mullen & Hyde.*

Q. 27. Was said grassy knoll, on which said old mound was situated, on the 23d of March, 1876, under cultivation, or did it bear any evidence of ever having been under cultivation in any manner?

Mr. Brooks objects to competency of witness to answer, since he has already testified to his want of such knowledge.

A. Said grassy knoll was not under cultivation on March 23d, 1876, nor did I discover any traces of cultivation or ploughing, there or in that vicinity.

Q. 28. Could any person have passed over or have been upon said grassy knoll since the date when said old stone mound was established thereon without seeing said mound; could such a thing be possible? A. Said stone mound is a very prominent and conspicuous object, and no one could cross the knoll, with his eyes open, without seeing it.

Q. 29. In all the surveys that you have made, or been engaged in making of the lands represented on the plat of the Ransom survey of the rancho of Corte Madera del Presidio, did any of the lines thereof extend over this particular knoll, upon which this particular old stone mound is established? A. They did not.

G. F. ALLARDT.

*Cross-Examination of Mr. Brooks by Mr. Throckmorton.*

Q. 1. How long have you been acquainted with Mr. William J. Lewis, surveyor and civil engineer, who has testified in this case, or about what length of time? A. I do not know, and I do not know that I have ever been acquainted with him; I have come in contact with him as a surveyor, in the course of my professional practice as a lawyer, at rare intervals, during the last twenty years.

Adjourned till ten o'clock to-morrow.

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Thursday, March 30th, 1876. Met, pursuant to adjournment.

*R. C. Hopkins re-called by S. R. Throckmorton.*

Q. 1. Exhibit S. R. T. No. is shown to witness, and he is asked if the paper shown him, and which is on file in this case, marked in blue "383," is in his handwriting, and whether it is a copy of the instructions given to Leander Ransom for the survey of the rancho of Corte de Madera.

Objected to by J. B. Howard, 1st, because it does not appear that the witness was Surveyor-General in 1873; 2d, because records of the office of Surveyor-General must be proved by the certificate of that officer; and 3d, because said paper does not appear to have been signed by any person, nor filed with any record, and is not dated; it is addressed in pencil, and is evidently a rough draft of some paper not pertaining to the records.

Sol. A. Sharp makes same objections.

A. The Exhibit referred to is in my handwriting; I cannot say whether or not it is a copy or unsigned duplicate of the instructions given to Leander Ransom of the survey of the rancho of Corte Madera del Presidio.

J. A. Robinson, being called by Mr. Throckmorton, and sworn by H. G. Rollins, U. S. Surveyor-General, testified as follows:

Q. 1. What position do you hold in this office, and for what length of time have you held the same? A. I am Chief Clerk of the office, and have held such position going on six years.

Q. 2. Do you know, either from your own knowledge or from the official records of this office, whether any special written instructions were issued to Leander Ransom by the U. S. Surveyor-General for California, J. R. Hardenburgh, when the said Ransom was appointed as a Deputy U. S. Surveyor, for making the survey of the Rancho "El Corte Madera del Presidio," in 1873? A. The records at the office, under date of December 9, 1873, say that instructions were issued to Leander Ransom.

Q. 3. Do the records say that special written instructions were given, or that any written instructions were given? A. No, sir.

Q. 4. Do you know of any written instructions being on file for the survey of the aforesaid rancho, in this office, or that any such have ever been in this office, as a part of the record proceedings concerning said rancho? A. I do not find any among the papers in the case.

Q. 5. Have you ever known of any written instructions to have been given in the case to Col. Ransom? A. I remember that he had instructions to make the survey from General Hardenburgh.

Q. 6. Please to answer my question as to written instructions. A. I don't remember whether he had or had not.

Q. 7. Would you, from your relations with this office, be likely to know whether or not written instructions were given in this case? A. Yes, sir.

Q. 8. Have you any knowledge that written instructions were ever issued to Col. Ransom for the survey of the rancho of Corte Madera del Presidio? A. No, sir.

*Cross-Examination by S. A. Sharp.*

Q. 9. Please make a concise statement of all you know concerning or appertaining to the instructions issued to Col. Ransom, directing him to make a survey of the rancho of Corte Madera del Presidio.

Objected to by Mr. Shanklin, as not being cross-examination, and also because verbal instructions for the survey of a rancho was contrary to the rules and regulations issued by the department for making official surveys of Mexican grants.

A. Mr. Leander Ransom, the oldest Deputy connected with this office, was, by Mr. Hardenburgh, directed to make the survey of this rancho in 1873; he was furnished with a copy of the decision of the Secretary of the Interior, dated January 6th, 1872—copy of opinion of W. H. Smith, Assistant Attorney-General, dated December 26th, 1871—copy of the letter of Commissioner of General Land Office, transmitting map as guide to surveyor for making survey—copy of original diseño of the rancho—a copy of the record of juridical measurement and possession; and my recollection is, the map that accompanied the letter of the commissioner ordering the survey was furnished him or delivered to him. Whether he had written instructions to make the survey, I do not know; I know that he had verbal instructions from General Hardenburgh to make the survey; I think if written instructions were given him, they were prepared by R. C. Hopkins, then keeper of the archives; Mr. Ransom, in sworn return of—

Objected to by Mr. Shanklin, because witness has no right to quote from a paper in the case; the record must speak for itself.

Objection overruled; witness permitted to complete answer to the question.

Field notes, December 30th, 1873, in this case, uses the following language: "Agreeably to your instructions, both written and verbal," &c., &c., from which it would appear that he had written instructions.

As to the verbal instructions, after he had been appointed to make the survey some time, he came to the office of the U. S. Surveyor-General for additional instructions. He was in doubt as to including within the survey the marsh land bordering upon the grant or rancho. General Hardenburgh called in the attorneys in the case, Messrs. Brooks and Sharp; and Mr. Ransom was present, Mr. Hopkins, the Surveyor-General, and, I think, Mr. Valentine; the attorneys referred to made their arguments before General Hardenburgh, sitting in his room, and after hearing their argument, he directed Mr. Ransom to include the marsh land. Whether those instructions were in writing, I do not know.

Q. 7. Please continue any further statements, if any you have to make, as regards the general instructions to this office, under which this or other similar grants have been located. A. In making a survey of a grant, the office is governed by the decree of confirmation; instructions to the deputy, directing him to make the survey, are prepared in duplicate, embodying the substance of the decree of confirmation; one copy is delivered to the Deputy, with the other papers procured from the archives—copy of diseño, grant, &c.—the other is retained among the papers belonging to that case, in the office. In making a survey in accordance with a decision of the Secretary of the Interior, or Commissioner of the General Land Office, a copy of the decision ordering a re-survey is furnished the Deputy, with the necessary papers from the archives to enable him to carry out the order of the department.

J. A. ROBINSON.

Adjourned till 10 o'clock Monday morning, April 3d.

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APRIL 3d, 1876.

Met pursuant to adjournment.

Geo. F. Allardt recalled by S. R. Throckmorton.

Q. 1. Exhibit S. R. T. No. is here shown witness, being the plat and field notes of survey, made by G. F. Allardt

and referred to in the deed, from T. B. Deffebach, Inez Read et al., signed "*Inez Read Deffebach.*" Are you the person who made the survey and plat attached to the survey, as set forth in said Exhibit? A. I am.

Q. 2. For whom did you make the survey? A. For S. R. Throckmorton.

Q. 3. When? A. January 7th, 1871.

Q. 4. Were any of the lines, as represented on the plat in said Exhibit, run by you, at the time referred to, for the purpose of segregating a tract of land embraced in said survey so run by you, with reference to the line marked on "Ransom-Allardt," official survey of the Rancho of Corte Madera del Presidio, *as the western boundary of said rancho*? A. They were not.

Q. 5. Did any of the lines run by you in making said survey conform to or have any reference to a trial line run by Mathewson, from the solar to the Hojon, in 1858? A. None whatever.

Q. 6. Please to look at the letter here shown you, marked "Exhibit Solar No. 4," and state whether said Exhibit are the instructions under which you made a survey of the so-called western line of the "Ransom-Allardt" official survey of the Rancho of Corte Madera del Presidio. A. The instructions contained in said Exhibit, as I understood them, when making the survey, required me to ascertain the exact course and distance from the laurel marked "P. Q. 99," to the post marked "C. M. P. 181," being the 598th, or last course of said Ransom's official field notes of said rancho; this I did, and made return to the Surveyor-General accordingly.

Q. 7. Did you have any discretion, in locating said line, or establishing the western boundary of the Rancho of Corte Madera del Presidio, according to your own judgment, and from the papers of juridical possession of said rancho, on that occasion? A. I had no discretion in the matter—for the reason, that said western boundary had already been determined by Deputy Ransom, he having fixed the beginning and end of said line.

Q. 8. Are there any objects of geography or topography, which indicate a natural boundary on that line, referred to in your last answer, or is said line an arbitrary one? A. The line is an arbitrary one, between two fixed points, and follows no notable natural objects, streams or ridges.

Q. 9. Did you make the subdivisational survey of the land lying west of said *so called* western boundary line, as repre-

sented on the official Tp. plat of T. 1 N., R. 6 W., and if so, when? A. I did, on June 2d, 1874.

Q. 10. Was that before or after you ran the *so called* western boundary of the Rancho of "Corte Madera del Presidio," referred to in your preceding answer? A. I ran said western boundary first, and subsequently I ran the said subdivision lines, and connected them with said western boundary—the western boundary, and the subdivision lines were run while I was in the field on the same occasion—and all completed in two days; that is, on the 2d and 3d of June, 1874.

Q. 11. Was S. R. Throckmorton present on that occasion, or did he give any instructions or make any suggestions, while you were making the survey of the so-called western boundary line, as to its location? A. He was not present, nor did he offer any suggestions or instructions prior thereto concerning the said survey.

Q. 12. Where did you stop while you were making said survey? A. I and my party boarded and lodged at the house of Dr. J. J. Cushing.

Q. 13. Do you remember running the northern line of the tract surveyed for Throckmorton, on January 7th, 1871, concerning which you have testified to-day? A. I do.

Q. 14. At the time of making the survey of said northern line, marked "courses 3 and 4," was there any fence near the line of either of those courses, marking a southern boundary of the adjoining tract in that direction? A. There was a fence along the last half of the 4th course, running parallel to said course, and a few links north of it; the fence was the southern boundary of a ploughed field.

Q. 15. Ex. "No. 4 J. A. R." being shown to witness, he is asked: "At or about the time referred to in said Exhibit, on the trial of the cause of Bolton *vs.* Van Reynegom, in the U. S. Circuit Court in this city, were not the surveys you made for S. R. Throckmorton, and the testimony given by you supporting the same, made and given in reference *solely* to the boundary line between the Saucelito and Corte de Madera del Presidio ranchos?"

Sol. A. Sharp objects on the ground that the Exhibit itself is the best evidence.

A. The surveys which I made at the time for Mr. Throckmorton, was for the purpose of determining the boundary between Throckmorton and his neighbor Deffebach, along the Arroyo Corte de Madera del Presidio, and were merely a re-survey of lines previously run by Deputy Mathewson,

in surveying the rancho of "Corte de Madera del Presidio."

Q. 16. Did the surveys then made, or the testimony given by you in connection with said surveys, have any relation to the establishment of the so-called western boundary of the rancho of Corte de Madera del Presidio, as marked on the "Ransom-Allardt" map? A. I made no survey at the time of said western boundary, and my testimony, as I understand it, had reference to the initial point of said western boundary only, namely, the "solar."

G. F. ALLARDT.

Adjourned till to-morrow morning at 10½ o'clock.

April 4th, 1876.

Met pursuant to adjournment.

John Borotra, called and sworn on behalf of S. R. Throckmorton.

Q. 1. State your name, age, occupation and place of residence. A. My name is as stated; 37 years of age; occupation, "ranchero."

Q. 2. Are you acquainted with the tract of land, now claimed by S. R. Throckmorton as a part of the rancho of Corte Madera del Presidio, lying east and north of a portion of the arroyo of Corte Madera del Presidio. A. I am.

Q. 3. How long have you been acquainted with said place? A. About ten years, more or less.

Q. 4. Were you present when the northern line of said tract was surveyed by G. F. Allardt, in 1871; and if so, what part, if any, did you take in making the survey of said line? A. I was present, and carried the chain.

Q. 5. While said line was being run was Mrs. King, or any of the members of her family, present? A. Mr. King, her son, was present.

Q. 6. Did he point out or designate any of the boundaries of the land claimed by his mother? if so, state the boundaries. A. He pointed out a stake on the top of a hill, and a redwood sapling at the other end, on the bank of the Arroyo Corte Madera del Presidio, which formed the line.

Q. 7. Was the survey then made in accordance with the boundaries which he then pointed out? A. Yes, sir.

Q. 8. Diagram Exhibit No. 15 (plat and field notes of survey made by G. F. Allardt, January 7th, 1871, etc.) is here shown witness, and he is asked to point out on said

map the boundaries pointed out by Mr. King, according to which the survey was made. (Witness points out Post A; from point A to redwood stump "W.")

Q. 9. Since the survey so made, has there been a fence made on that line; and if so, by whom? A. Yes, sir; a fence made by myself, and a man that I had to help me.

Q. Was Mrs. King, or any of her family, present, when that fence was made? A. Yes, all of King's family were present.

Q. 10. Was Mrs. King satisfied with the location of the fence as you located it, on the line surveyed by Allardt. A. She was, as far as I know; she never objected to it.

Q. 11. Have you been in occupation of the land south of the fence since you built the fence? A. I have.

Q. 12. Are you in occupation of it now? A. Yes, sir.

Q. 13. Under whom are you now occupying it? A. Mr. Throckmorton.

JOHN BOROTRA.

J. H. Wilder, called and sworn on behalf of S. R. Throckmorton, says:

That he resides in San Francisco; occupation, Surveyor and Civil Engineer and Chief-Draftsman of the Office of the U. S. Surveyor-General, and has been so since 1859.

Q. 1. Official Tp. plat, of Tp. 1 N., R. 6 W., is here shown witness, and question asked, when was the subdivisional designation, by lots and otherwise, made of sections 28 and 29? A. In November, 1874.

J. H. WILDER.

Adjourned till 10½ o'clock to-morrow morning.

APRIL 5th, 1876.

Case called.

Mullen & Hyde now offer, by certified copy, the original complaint of James C. Bolton, in the case of James C. Bolton vs. J. L. Van Reynegom, in the U. S. Circuit Court for the District of California, for purpose of explaining more fully, and being supplemental to Ex. No. 1, as offered by J. B. Howard in this case, and stamped Surveyor-General's Office, March 24th, 1876, and which last Exhibit is marked Mullen & Hyde, Ex. "D. E. F.," April 5th, 1876.

Peter Gardner objects, as immaterial, irrelevant and incompetent.

Also, by certified copy, the answer in said case of one of the defendants, to-wit: Philip Ray, tenant of Samuel R.

Throckmorton, which Exhibit is marked Mullen & Hyde, "G. H. I.," April 5th, 1876.

Mullen & Hyde now offer in evidence diagram marked Mullen & Hyde's Exhibit, April 4th, 1876, marked "O. K." Exhibit objected to by Sol. A. Sharp.

B. S. Brooks also reserves objection.

Also, by certified copy, the testimony of Eusebio Galindo, James T. Stratton and Juan Read, as given by said parties in said case so entitled, and which Exhibit is marked Mullen & Hyde "A. B. C.," April 5th, 1876.

Peter Gardner objects, as immaterial, irrelevant and incompetent.

Also, by certified copy, map entitled map of the Rancho Corte Madera del Presidio, according to the original diseño and juridical measurement granted to Juan Read; scale, 20 chains to 1 inch; C. C. Tracy, Surveyor and Marker. Exhibit No. 2, to Tracy's deposition in said case, and which certified copy will be marked Exhibit L. M. N., Mullen & Hyde, April 5th, 1876.

Also motion of Mullen & Hyde to dismiss all proceedings in the case for reasons herein stated, and marked Mullen & Hyde, Ex. O. P. Q., April 5th, 1876.

Also by certified copy various papers pertaining to claim of land 1 north 6 west, M. D. M., as certified by Jas. T. Stratton, July 20, 1875, and marked Ex. Mullen & Hyde, K., April 5th, 1876.

Also letter of Mullen & Hyde to S. I. Burdett, Com'r G. L. O., marked Mullen & Hyde, Ex. R. S. T., April 5th, 1876.

Also by certified copy of map attached to the deposition of Wm. E. Hartnell, in case No. 104 of the late Board of Land Commissioners, and marked Exhibit, Mullen & Hyde, W. V. W., April 5th, 1876.

Also the original instructions, by certified copy, of Willis Drummond, Commissioner, to J. R. Hardenburgh, U. S. Surveyor-General for California, of date February 5th, 1872, and which is marked Mullen & Hyde, A, B, C, April 5th, 1876.

Counsel for S. R. Throckmorton here offers Ex. S. R. T. No. 18, certified copy of instructions to Leander Ransom to make survey of Rancho of Corte Madera del Presidio, dated July 1873, according to certain lines described in said instructions.

Also "Ex. S. R. T., No. 19," certified copy of instructions to G. F. Allardt, to run a certain line, on the Rancho "Corte Madera del Presidio," dated May 8th, 1874.

Also "Ex. S. R. T. No. 20," to accompany S. R. T. No. 13, being certified copy of power of attorney from T. B. Valentine to S. D. Valentine, dated April 28th, 1870.

*T. B. Valentine re-called by Mr. Throckmorton.*

Q. 1. Are you acquainted with the heirs of John Read, deceased; if so, please state who they are. A. I am. They are John J. Read, Hilarita, the wife of Dr. Lyford, and Inez, the wife of Mr. Thos. B. Deffebach; I think that the said Hilarita was married subsequent to the year 1869.

Q. 2. Are you acquainted with Maria Garcia de Boyle? A. I am. She is a half sister of John, Hilarita, and Inez Read, and the wife of Hugh A. Boyle. She is of the same mother, but not of the same father as John, Hilarita, and Inez.

T. B. VALENTINE.

Peter Gardner being re-called on behalf of Mr. Throckmorton, testified as follows:

Q. 1. Are you acquainted with the heirs of John Read; if so state who they are. A. I am. They are John J. Read, Hilarita Read, and Inez Read; Hilarita being married to Dr. Lyford, and Inez being married to T. B. Deffebach.

Q. 2. State if you know when Inez and Hilarita were married. A. I do not recollect the time.

Q. Do you know if Hilarita Read was married prior to or subsequent to May 24th, 1869? A. I think it was after that date.

Q. 3. State if you know who Maria Garcia de Boyle is. A. She is a half sister to the other three children before mentioned, by the same mother, and Hugh A. Boyle is her husband.

PETER GARDNER.

Mr. Shanklin, by certified copy, offers a map entitled "Plat of the Rancho Corte Madera del Presidio, finally confirmed to the heirs of John Read, surveyed under instructions of the U. S. Sur.-Gen'l, by Leander Ransom, Deputy Surveyor, in Oct., 1873, containing \_\_\_\_\_ acres. Var. 16° 30' East. Scale 40 chains to the inch," being the map attached to the field notes of the final survey of the Rancho El Corte Madera del Presidio, finally confirmed to the heirs of John Read, surveyed, compiled, and arranged under instructions from the U. S. Surveyor-General, by Leander

Ransom, Deputy Surveyor, Nov. and Dec., 1873, containing \_\_\_\_\_ acres, concluding with the affidavit of G. F. Allardt, dated January 27, 1874, and Leander Ransom, same date; said map here offered being made to accompany the testimony of Wm. J. Lewis, marked S. R. T. No. 21.

Also, Ex. 22 S. R. T., a scale of cordeles conforming to 40 chains to the inch.

Also Ex. No. 23, S. R. T., certified copy of the map annexed to deposition of Wm. Hartnell, and referred to in objections of S. R. Throckmorton, filed May 26th, 1875, being also Ex. Mullen & Hyde, U. V. W., April 5th, 1876.

Here adjourned until 10 o'clock A. M., to-morrow.

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THURSDAY, April 6th, 1876.

Met pursuant to adjournment.

Mullen & Hyde hereby give notice that they will file, by certified copy, as soon as the same can be prepared from the original records, a copy of the memoir, or exposition, addressed, in 1837, by General Vallejo, to the departmental authorities, particularly remarking the importance of Point Tiburon for the defence of the harbor of San Francisco, and to which reference is made on pages 393 and 394 of Hoffman's Land Reports.

R. C. Hopkins is asked to give the date of the San Rafael map, filed in the case as Exhibit S. R. T. No. 8, whereupon he states that the original records in relation thereto show that the survey of the common lands of the Pueblo of San Rafael was made by Ignacio Martinez on the 1st of October, 1834; that on the 9th of November, 1834, the field notes of the survey were sent to Governor Figuerra for his approval thereof; that on the 20th of November, 1834, Figuerra wrote to Martinez that because he had not shown the configuration of the tract surveyed, etc., the approval of the survey was suspended; and finally, that on the 21st of September, 1835, Ignacio Martinez wrote to the Governor, forwarding the map or diseño of the lands surveyed, which map now forms a part of the record in relation to the matter.

R. C. HOPKINS.

Q. 1. Thos. B. Valentine, called by Mullen & Hyde, in connection with Exhibit filed April 5th, 1876, and marked "L, M, N," and is asked the question whether he recognizes said Exhibit as used in connection with Tracy's depo-

sition, in the case of Bolton vs. Van Reynegom, *et al.* A. I do not recollect anything about it; it does not seem to be a copy of the Tracy map.

Q. 2. Please now look at the original from which this was traced, and state whether you recognize it as a map that you have seen before to-day, and which was used on the trial of said case. A. I don't recollect this map as being used on the trial of the case referred to.

Adjourned till 10½ o'clock to-morrow A. M., April 7th, 1876.

APRIL 7th, 1876.

Met pursuant to adjournment.

Mullen & Hyde now offer the deposition of Chas. C. Tracy, in the case of James Clinton Bolton vs. Jas. L. Van Reynegom, *et al.*, together with the Exhibit No. 2, marked Exhibit 2, to Tracy's deposition before the U. S. Circuit Court for the District of California, and which Exhibit is marked "Mullen & Hyde, D. E. F., April 7th, 1876," said map being referred to as part of said deposition, and filed therewith, and spoken of therein, in words as follows: "Exhibit No. 2 to Deposition of Tracy."

B. S. Brooks and Sol. A. Sharp reserve objections to foregoing offer.

R. C. Hopkins called by Mullen & Hyde.

Sharp objects to any new testimony being introduced at this stage of the proceedings.

B. S. Brooks makes same objection.

Surveyor-General rules that the testimony sought to be introduced by Capt. Mullen is alleged by him to relate to new matter, and that that being the case, the office requires of him an affidavit setting forth the fact.

Q. 1. Please look at the original record of the juridical possession of the Rancho of Corte Madera del Presidio, and state whether the word "Holon," therein contained in line 23, on page 1 thereof, appears to have been written in a space left blank at the date of the first writing of the certificate or paper, or body thereof. A. I think that the word "Holon" was written in a space left for that purpose, when the body of the instrument was written.

Q. 2. Is said word Holon written with the same ink, the same pen, and same handwriting, as in the body of said instrument? A. I think it is written with different ink, but in the same handwriting as the body of the instrument. As to the pen, I cannot tell.

Objections to foregoing and subsequent questions in detail reserved by B. S. Brooks and Sol. A. Sharp.

Q. 3. I ask the same question with reference to word San Pablo, on the same page below. A. I think it is written with the same ink as the word Holon on the same page, and that was written in a space left for that purpose.

Q. 4. I ask the same question with reference to the word "Palmas," "Animas," and "San Pablo," in page 5 of said original instrument. A. I make the same answer in relation to those words; that is, that they were written in spaces left and in different ink from the body of the instrument.

Q. 5. I ask the same question in reference to the words "Yndejena Neri" on page 9 of said record, and the same word on page 11. A. The words "Yndejena Neri," on page 9 appear to have been written in a space, and in different ink from the body of the instrument, and the word "Neri" on page 11 appears to have been written in a space and in different ink.

Q. 6. Is there any evidence of any kind in this office, to show whether the original record of juridical possession of the Rancho of Corte Madera del Presidio remained in the possession of the heirs of the claimant Read and his heirs, after the date thereof? A. There is none.

Q. 7. Have you reason to suppose that said record did remain in the possession of Juan Read and his heirs after the date thereof? A. I suppose it did; since it was customary to give the parties receiving juridical possession, a copy of the proceedings had in making the measurements and giving possession.

Q. 8. Do the official records in the archives show any other record of juridical possession of said rancho? A. They do not.

Q. 9. Do not the official reports on the mission boundaries of record in this office show that the land known as Rinconada del Tiburon was claimed and occupied by the Mission of San Rafael? A. Anciently, I think that the Mission of San Rafael claimed, and perhaps occupied by stock, a very large extent of country, north of and bounding on the Bay of San Francisco; I do not think, however, that the lands claimed and occupied by the Mission of San Rafael ever had any fixed boundaries—until an attempt was made to secularize the mission by converting it into an Indian pueblo, in September, 1835.

Q. 10. Would such records be likely to mis-state or

mistake the facts, and do they vary according to subsequent events? A. I think not.

Q. 11. What do you understand the words "Rinconada del Tiburon" to mean, as used in the report on the boundaries of the lands of the Mission of San Rafael of the date of October 1st, 1834, as shown by the archives of this office, and referred to in this case? A. The Spanish word "*Rincon*," means "inside corner." Rinconada, as used by Californians, means a large corner or elbow—hence the expression Rinconada del Tiburon means the tract of land embraced by the lines forming the point or peninsula of Tiburon.

Q. 12. Has your attention been heretofore attracted to the matters contained in questions 1, 2, 3, 4 and 5, on pages 672 and 673 of this record? A. It has.

Q. 13. Have you at any time, heretofore, given it as your opinion, in any manner, to any persons whomsoever, that the lands known as the Rinconada del Tiburon did not constitute a portion of the rancho of Corte Madera del Presidio, and of which juridical measurement was made and given, as set forth in the records of this case? A. I never have, that I remember of.

Q. 14. Have you not heretofore called the attention of any party whomsoever to the above subject matters, leading to the conclusion that said Rinconada del Tiburon did not constitute a portion of the rancho of "Corte Madera del Presidio?" A. Beyond giving testimony in this case before the courts, and in making translations of the original title papers in the case, I do not recollect that my attention has been called to this case, or that I have called the attention of any one voluntarily or specially to the matter; I do remember, however, that some 5 or 6 years since a gentleman, who at that time was stopping at my house, was employed by Mr. Gardner in this case; I think that I translated for him the original title papers; I do not remember whether I made written or verbal translations of the same; I remember that in examining the original papers, he observed that spaces had been left for certain names, and that these names were written in with different ink; what his theory of the case was I cannot now remember, nor do I think I gave it more attention than to translate the papers and make the required explanations. He is now dead.

Q. 15. Have you not heretofore furnished, to any person whomsoever, data relative to said matters for the purpose of showing that said Rinconada del Tiburon did not constitute a part of the rancho of Corte Madera del Presidio, of which

juridical measurement was made as set forth in this case? A. I cannot now remember of having furnished data to anyone for that purpose, nor do I remember of having given any opinion in the matter; I have from time to time given copies and translations of papers from the archives; how such papers may have been used I cannot say.

Q. 16. Then do you understand that the theory that the Rinconada del Tiburon did not constitute a portion of the rancho of Corte Madera del Presidio, has been entertained by parties entirely outside of this case, and for a period of at least five or six years prior to this date, and not including any parties to this controversy, and at a date subsequent to the rejection of the Limentour claim thereto? A. I cannot say.

R. C. HOPKINS.

Adjourned till 10 o'clock A. M., April 10th.

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MONDAY, April 10th, 1876.

Met pursuant to adjournment.

B. S. Brooks offers the following Exhibits, to wit:

Field notes of survey of the Rancho Corte Madera del Presidio, finally confirmed to heirs of Juan Read, surveyed, compiled and arranged, under instructions of U. S. Surveyor-General, by Leander Ransom, Dep. Surveyor, in September and October, 1873, with map attached thereto.

Objected to by Mullen & Hyde; grounds of objection reserved.

B. S. Brooks, for claimants, offers in evidence certified copy of deed from James C. Bolton to Thos. B. Valentine, dated July 25th, 1868, marked T. B. V. No. 6.

Also a deed from John J. Read, Hillaria M. Read, Thos. B. Deffebach, and Inez Deffebach, his wife, to James C. Bolton, dated August 12th, 1865, marked "Ex. T. B. V. No. 7."

Also a certified copy of the testimony of Eusebio Galindo, taken in the case of Bolton *vs.* Van Reynegom, as a part of the record of testimony in said case, marked Ex. T. B. V. No. 8.

J. B. Howard objects as to the not the best evidence of juridical possession, and U. S. is deprived of the benefit of cross-examining said witnesses, who are not shown to be dead or without the State.

Peter Gardner makes same objection, because the witnesses should be produced, that they may be cross-examined.

Mullen & Hyde object for the reasons as above stated, and second, because it is an *ex-parte* deposition, so far as this case is concerned, and therefore violates the instructions of the Hon. Com'r General Land Office of the 13th day of August, 1872.

Third, Because it does not bear internal evidence of ever having been used as evidence in said case before said Court, and the endorsement in words as follows: "Testimony of Eusebio Galindo, taken in Jas. L. Bolton *vs.* Jno. L. Van Reynegom, U. S. District Court," is in the hand-writing of R. C. Hopkins, and but recently written.

Fourth, Because said Exhibit does not show any cross-examination, or that the adverse parties were cited to appear at the time and place of taking said deposition; and ruling of Surveyor-General asked for to exclude said deposition as evidence in this case.

Surveyor-General rules as follows:

Also, a certified copy of the testimony of José de la Cruz Sanchez, taken in the case of Bolton *vs.* Van Reynegom, and Bolton *vs.* Kashaw, in the U. S. Circuit Court, marked "Ex. T. B. V. No. 9."

Objected to by Mullen & Hyde, as incompetent for the purposes of this case, and because said Sanchez is represented as being the same Sanchez who has already given a deposition some time in 1873, and filed in this case, also *ex-parte*, and which last deposition has mysteriously disappeared; and also because it is understood that said Sanchez lives within the City and County of San Francisco, and should be produced *in propria persona*, and should be produced for the purposes of cross-examination, and ruling of the Surveyor-General asked.

Surveyor-General rules as follows:

Adjourned till Thursday, April 13th.

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April 13th, 1876.

Met pursuant to adjournment, and adjourned till April 17th at 10½ o'clock.

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April 17th, 1876.

Met pursuant to adjournment.

Hiram Austin called and sworn on behalf of the claimants.

*Questions by Mr. Sharp.*

Q. 1. What is your name, age, occupation, and place of residence? A. My name is Hiram Austin, age 55 years, occupation surveyor and civil engineer, and residence San Rafael, Marin County.

Q. 2. Do you hold any official position in Marin County; if so, what official position? A. I am acting as County Surveyor of said county.

Q. 3. Do you know, and are you familiar with the rancho of Corte de Madera del Presidio? A. I do know it, and am familiar with it.

Q. 4. To what extent and in what capacity have you become familiar with said Rancho? A. I am thoroughly with all portions of said rancho, and have been so in my capacity of surveyor and civil engineer.

Q. 5. When did you last visit said ranch in your vocation of surveyor and civil engineer? A. I visited it on the 8th day of April, 1876.

Q. 6. Were you upon that occasion shown what has been represented as an "old stone mound," as referred to in the testimony of G. F. Allardt, during this investigation, as follows: "I was on the ground March 23d, 1876, where I found an old stone mound, which was pointed out to me by Peter Gardner. For a description of said mound I quote from my field notes as made on the ground on that day: Beginning at an old stone mound, on the top of a round, grassy knoll; the mound is an artificial one, about four feet in diameter and two feet high, composed of stones from six inches to two feet long, and bears evidence of great age; by aneroid measurement it is 440 feet above the tide; it is the nearest high knoll to the bay; there are no other loose stones near the mound. \* \* \* In next succeeding question, Mr. Allardt continues, "I took the following bearings, namely, Tiburon Peak bears S. 41° E.; the extreme easterly point at San Quentin Ferry wharf bears N. 12½° E.; the peak of Tamalpais bears N. 78½° W.; and California City Point bears very nearly due east? A. I was.

Q. 7. By whom were you conducted to said old stone mound? A. By Doctor Benjamin F. Lyford, the gentleman now present.

Q. 8. Did any other persons accompany you and Doctor Lyford on that occasion; if so, who were they? A. Thos. B. Valentine accompanied us, who was the only person.

Q. 9. Did you, on that occasion, have a copy of the testimony of G. F. Allardt, giving courses and distances bearing on the location of the old stone mound described by Allardt; also, a traced copy of Ex. marked "O. K.," filed by Mullen & Hyde, April 4th, 1876? A. I had a copy of the Exhibit, and a copy of the testimony containing courses, distances, &c., referred to in previous questions.

Q. 10. Did you, upon the ground and in the presence of Doctor B. F. Lyford and Thos. B. Valentine, make instrumental tests, and compare said tests with and to said bearings, as made by said G. F. Allardt, in his testimony given in this case? A. I did.

Q. 11. Did you, upon said test and comparison, ascertain the stone mound, to which you were conducted by Doctor Lyford, to be the *same identical stone mound* as indicated by said G. F. Allardt's testimony, as above given in this case? A. I ascertained by instrumental observation that the mound of stone to which I was conducted occupied the same location as the one from which Allardt made his observation.

Q. 12. What is the nature and general description of the land contiguous to and adjoining the stone mound and grassy knoll referred to in Allardt's testimony? A. The knoll on which the mound is situated is without brush or timber, and what would be considered rocky or stony soil; and the adjoining country slopes to the northeast, and is quite uneven.

Q. 13. Does this grassy knoll and the adjoining land bear any evidence that it has ever been cultivated? A. It does not.

Q. 14. From what special evidence do you infer that said grassy knoll and the adjoining land has never been cultivated? A. In the first place, the knoll and the surrounding land is too steep and rocky for cultivation by ploughing; in the second place, the rocks and stones lie in a natural position, with the mossy sides up, as though they had not been disturbed by cultivation.

Q. 15. Did you find loose stones in any quantity upon this grassy knoll referred to, in appearance similar with the stones with which this old mound was formed? A. I found an abundance of such loose stones; there are not less than five wagon loads within a radius of 100 feet.

Q. 16. On this occasion was your attention called to witness the building of a stone mound upon said grassy knoll, from loose stones gathered therefrom. A. It was.

Q. 17. By whom was it built? A. By Doctor Benj. F. Lyford.

Q. 18. How many minutes were occupied in its construction? A. Less than ten minutes, by the watch.

Q. 19. Did you, as a civil engineer, carefully inspect the said mound (constructed by Doctor Lyford) with special reference as to its exterior appearance, as regards the position of the stones therein placed, and their mossy evidence of antiquity?

Objected to by Mullen & Hyde, as irrelevant and incompetent, and it not appearing that it was the duty of a civil engineer to establish the mojoneras, as called for in the title papers; nor does it appear that it is the duty or part of the profession of civil engineers to build any mounds of this character in the line of their profession, and therefore the judgment of this witness as a civil engineer on this particular point has no weight greater than that of any other witness.

A. I did carefully examine the mound constructed by Doctor Lyford.

Q. 20. Under your most searching scrutiny how did this young mound compare with the old stone mound, as regards evidence of its great age? A. It has the same ancient appearance in every respect; it would be difficult for a stranger to discover any difference in appearance between the two, with respect to age.

Q. 21. Please state if the old stone mound presents the appearance of having been built with a view to its permanency, or were the stones placed in a careless manner, as if thrown there without respect to position or durability, as you saw it at the time referred to? A. The most of the stones lie in a promiscuous manner, without an appearance of having been placed to mark some exact specific point.

*Cross-Examination by Mullen & Hyde.*

Q. 22. Did you find the bearings and measurements, as reported by G. F. Allardt, as far as you examined the same, to be correct? A. I found the point located by Mr. Allardt, by their cross bearings, and used them to find the pile of rocks.

Q. 23. Please answer the question asked you. A. The

bearings and measurements given by Mr. Allardt correctly point out the location of the pile of rocks.

Q. 24. Did you, on the occasion spoken of, see any loose rocks on the top of the knoll on which the old mound referred to is situated? A. I did; by the top of the knoll I mean; all the ground within 100 feet, or thereabouts, of the stone mound referred to.

Q. 25. How, in shape, does the top of that knoll compare with the upper end of an egg set on end? A. The top of the knoll is, in shape, a very regular oval.

Q. 26. Had this mound, when you saw it, any well defined shape; and if so, what shape? I refer to the exterior thereof. A. I think a line drawn around the outer portions of the stones, as they lie on the ground, would have the form of an oblate spheroid.

Q. 27. Did not the outer faces of said old stone mound, on the occasion you speak of, bear evidence of having been put up or constructed with some degree of care, and that the rocks included within the said outer faces were the ones that were thrown in without any reference to colocation or care? A. The west and south sides of the mound show that they have been built up with some care; the east and north sides look like a pile of rubbish rock, as it would after being dumped on the ground from a wheelbarrow.

Q. 28. From said old stone mound as a center, within what length of radius would said knoll have the shape of a regular oval? A. The oval extends in a very regular shape for a distance of 200 feet or more on nearly all sides of the stone mound; the stone mound is not on the summit of the knoll, but is probably 50 feet therefrom.

Q. 29. Are you positive, that within a radius of 100 feet from the old stone mound, as a center, you saw lying on the ground not less than five wagon loads of loose stones? A. I am positive that there is that amount of loose stone within the radius of 100 feet from the stone mound as a center.

Q. 30. Did you examine said loose stones for the purpose of ascertaining whether they were carried to the places found within a recent time, say about the last thirty days? A. I did not examine them with special reference to that point.

Q. 31. Did said rocks, from the character of grasses growing on said knoll, or other superficial indications, appear to have been transported thither within a recent period? A. I noticed no indications of their being lately

moved; I recollect now that I noticed numbers within the radius of 100 feet from the stone mound, as a center, that lay with their mossy sides up.

Q. 32. Were not all the slopes of the knoll, upon which this old stone mound is situated, covered with a growth of green grass, within said radius of 100 feet? A. It is partly covered with rock, partly with grass, and partly bare ground.

Q. 33. Had you ever seen said old mound prior to the 8th of April, 1876? A. I am not positive that I had.

Q. 34. Have you had any experience in judging of the age of stone mounds similar in appearance to this old stone mound referred to? A. I have had occasion in retracing government surveys of Ranchos, etc., to hunt up and inspect stone mounds, where they have been monuments on government surveys.

Q. 36. If you were called upon to express your opinion as to the age of this particular old stone mound, what greatest age would you say it had or would you venture an opinion? A. I do not know of any means by which any one could decide by observation on the age of this pile of stones.

Q. 37. Did you observe at the said radius of 100 feet any indications leading to show that either the rocks or stones, or soil, had been recently disturbed? A. I did not, excepting what occurred on the day that I visited the place.

Q. 38. How far from the old stone mound is the place situated, where Doctor Lyford built his "*young stone mound*," as by you narrated? A. Within a distance of less than 50 feet—in an easterly direction therefrom.

Q. 39. Was any of the stones of the old stone mound used in the construction of the young stone mound, or was said old stone mound in any manner disturbed by any of the parties then present? A. None of the stones of the old mound were used in constructing the new one, and the old stone mound was in no way disturbed during my visit on that occasion, so far as I know.

Q. 40. Did said old stone mound bear any appearance of recent disturbance? A. The northeast portion of the mound has within a recent period fallen or been thrown outward.

Q. 41. From what place of rendezvous did you start on said visit to said mound? A. I came from San Rafael to Mr. Read's house, from whence I went on foot in company with Mr. Lyford and Mr. Valentine to the knoll and mound in question, which is situated in a northeast direction at a distance of about one mile from Mr. Read's house.

Q. 42. Who led the way? A. The gentlemen mentioned, who were in company with me.

Q. 43. Did either of them say or intimate that they had been there before? A. I don't recollect what they said, but I understood from what was said generally that they knew where the mound was.

Q. 44. Did you, en route, mistake any other mound for this particular one that you were in question of? A. I have no recollection of making any such mistake; I did not look for or expect to find the mound until it was shown me by the gentlemen who accompanied me.

Q. 45. Then you found the mound in the manner as by you stated, without the use of instruments up to that time?

A. I found that mound in the manner stated; I then used the instrument to determine as to whether it was the same mound visited and described by Mr. Allardt.

Q. 46. What instrument did you have? A. A surveyor's transit instrument.

Q. 47. With a tripod? A. Yes, with a tripod.

Q. 48. Did you make any measurements of distance?

A. I did not test Mr. Allardt's measurements; I made some measurements.

Q. 49. What angles did your measure from said monument or bearings take? if any, please give the same, without using the memoranda that was furnished you. A. I used the bearings of Allardt, and found therefrom that I was at the same stone mound as described by him.

Q. 50. Did you see Mr. Read at his house on this occasion? A. I did.

Q. 51. Did you have any conversation with him on that occasion or at any other time relative to that stone mound?

A. I do not think that I did.

Q. 51. Did you leave the young stone mound built by Doctor Lyford, just as he constructed it? A. I did.

Q. 52. How far was it necessary to transport the stones to construct the young stone mound, constructed by Doctor Lyford? A. About ten feet—the stones of which this mound is constructed range from a few inches to two feet in length.

Adjourned till ten o'clock to-morrow morning.

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TUESDAY, April 18th, 1876.

Met pursuant to adjournment.

John J. Read, called and sworn on behalf of the claimants.

By Mr. Sharp:

Q. 1. What is your name, age, occupation and place of residence? A. My name is John J. Read; age 39 years; occupation farmer; and residence Marin County, California; on the Rancho Corte Madera del Presidio.

Q. 2. Do you know the stone mound situated upon said Rancho "Corte Madera del Presidio," to which your attention (upon the ground) was called by Doctor B. F. Lyford on the 1st day of April, 1876? A. I do.

Q. 3. Please state what other persons accompanied you and Doctor Lyford on that occasion? A. Mr. R. C. Hopkins and Mr. Hugh A. Boyle.

Q. 4. Has your attention been previously called to the same locality? if so, please state, if you recollect, when and how your attention was *first specially called* to the *position now occupied*, by what has been designated as the "*old stone mound*." A. In 1858, when I took charge of the rancho from the Administrators, in driving up the stock around the ranch, I found a stake that had five or six rocks *holding the stake in position*.

Q. 5. Please state, if you know, who piled the additional stones upon those five or six you found against, or around the bottom of the stake you have referred to—so that (what is designated) the old stone mound presents its present size and condition.

Objected to by Mullen & Hyde, because it assumes as facts matters not proven to be such.

A. I myself built it, with my own hands, as I have built a good many others on the ranch.

Q. 6. What motive had you, if any, in thus building upon these five or six little stones, you found placed against and holding this stake, to which your attention was first called? A. Nothing more than to clear off the ground.

Q. 7. Have you frequently built *like stone piles upon other similar localities*, over which you were in the habit of passing in search of stock on said rancho? A. I have *built a good many*, in different places on the rancho.

Q. 8. Has the land upon which these stone piles you have referred to *been cultivated*? A. *No, never*, and never will be; it is too rocky.

Q. 9. Is that stake still standing within the stone pile first referred to, upon which the old stone mound is built? A. No.

Q. 10. State, if you know, when, and by whom, said stake was removed, and where was this stake placed at that time? A. It was removed the same day that I made that pile of stones; it was removed by myself, and was put in the crevice of a rock, which is shaded by a laurel tree.

Q. 11. Have you since seen said stake; if so, please state when and where? A. I have, on the 1st day of April, 1876, and at the same place where I placed it when I removed it in 1858.

Q. 12. Has said stake since been removed from the crevice of the rock, in which you placed it in 1858? if so, please state, if you know, when and by what person it was removed. A. Yes, it has been removed, by myself, on the 1st of April, 1876.

Q. 13. Was there any other person present at the time, and saw you remove said stake from within the crevice of this rock, as above referred to? if so, state who was present, and what was done with said stake on that occasion, to wit, 1st of April, 1876. A. Yes, Mr. R. C. Hopkins, Doctor Lyford, and Hugh A. Boyle, and I handed the stake to Mr. Hopkins, who took charge of the same.

Q. 14. When you, in person, took charge of said rancho in 1858, did you, or did you not, also see several stakes, standing in different lines in this locality, of similar size, and comparative age as to their external appearance—suggesting that they were all connected with some special survey?

Objected to by Mullen & Hyde, as leading and assuming reasons as facts, matters not proven to be such.

A. *I did*; I saw a *good many standing up*, and a *good many knocked down*, as the California City tract, and on that side of the hill.

*Cross-Examination by Mullen & Hyde.*

Q. 15. Had you, prior to 1858, ever seen said old stone mounds? A. No, I was not over the rancho before that time.

Q. 16. What time in 1858 was it that you first saw this mound, and this stake? A. It was after the month of June, 1858, when I took charge of the rancho.

Q. 17. Was any one present with you when you piled these rocks, and removed this stake? A. No, no one.

Q. 18. You were alone then, were you? A. I was.

Q. 19. What was your object in removing this stake? A. I had no special object.

Q. 20. Did you remove the other stakes referred to by you? A. No.

Q. 21. Explain to us, if capable of explanation, how it comes that you removed this particular stake, and carrying it off, placed it in the crevice of a rock, and yet did not disturb any other of the several stakes standing in that locality? A. Being a high knoll, when I was after stock, used to stand on the top of it to look on the slope of the hill; I got off of my horse, and without thinking anything more than to clear off the ground, I took the stake out, that the rocks were holding, and went to work and gathered all the loose rocks that were on the knoll near the stake, and built that hill of rocks, and I took the stake, and laid it where I have already stated, without thinking anything about it.

Q. 22. Why should you exercise such great care, at that time, in preserving the stake, as you have stated? A. As I have already stated, I did so without thinking anything about the stake.

Q. 23. Why did you not take the same care, with reference to the other stakes of the same kind, size, etc? A. I do not know; but, I did not ride over the other portions of the rancho as often as I did over this place; because from this knoll I could see all the slope of the hill, which saved me from riding over nearly one-half of the rancho.

Q. 24. Had you, just prior to the 1st day of April, 1876, visited said old stone mound, and said crevice, where the stake was placed, and if so, how long prior? A. No, I had not; I had not seen said stake since I placed it there, till the 1st day of April, 1876, nor had I thought of it.

Q. 25. How many mounds similar to this have you built on this Rancho of Corte Madera del Presidio? A. I do not know; I have not counted them, but I have built a good many, perhaps twenty or thirty.

Q. 26. Please state and describe the localities where you have built, say ten of them. A. I have built them in different places, where there is plenty of loose rock to build them, and wherever I have pleased to build them.

Q. 27. Please answer my question. A. I have built that one, and I have built one within about 250 or 300 yards, in a westerly direction, from the stone mound referred to, on the top of a hill; I cannot state the time at which I built it; but it was a short time after I built the one in question.

Q. 28. When did you last see the last mound described? A. On the 1st day of April, 1876.

Q. 29. Describe a second mound and locality. A. I can't describe it.

Q. 30. Describe a third. A. I can't describe it.

Q. 31. Describe a fourth. A. I can't describe it.

Q. 32. Describe a fifth. A. I can't describe it.

Q. 33. Describe a sixth. A. I can't describe it.

Q. 34. Describe a seventh. A. I can't describe it; they are on the ground and anybody can go and look at them.

Q. 35. Describe an eighth. A. I can't describe it.

Q. 36. Describe a ninth. A. I can't describe it.

Q. 37. Describe a tenth. A. I can't describe it.

Q. 38. How far from the old stone mound is the crevice of the rock in which you placed said stake? A. About 150 yards, or 200.

Q. 39. Describe the size and character of said stake, as you saw it in 1858. A. The stake is about 18 inches or two feet long; about three inches square, and of redwood; it had no bark upon it.

Q. 40. Was said stake split or sawed? A. I cannot say whether it was split or sawed, but it was smooth enough to put marks upon it.

Q. 41. Had it any marks upon it in 1858? A. Yes, it had.

Q. 42. Can you describe, such as were on it in 1858? A. Yes.

Q. 43. Do so. A. The marks were VII W.

Q. 44. Any other marks in 1858? A. Not that I know or recollect.

Q. 45. What special survey, did you at that time suppose that this mound or this stake suggested? A. I did not think of any survey at that time, but afterwards, I thought it was *Buckelew's Survey*.

Q. 46. Did the other stakes by you referred to have similar marks thereon, or any marks thereon? A. Most all the stakes were marked.

Q. 47. Describe the marks on the same as you saw them. A. The marks were with the same kind of numbers as this one, and with *different letters*, pointing out *E. W. N.* and *S.* in that way.

Q. 48. Describe the letters and numbers on all the stakes you saw marked. A. It is imposible for me to describe the letters on all the stakes; for I think there were more stakes there than I could count in an hour or two, if I had to walk to every one of them, and pick them out.

Q. 49. Describe the letters on these stakes, as you saw

them in 1858. A. I have already described them to the best of my recollection.

Q. 50. Well, what letters did they have on them? A. It is impossible for me to recollect all the letters they had on them.

Q. 51. Describe, or state, what letter was on any one of them? A. W.

Q. 52. Any other letter on the same stake? A. VII.

Q. 53. Anything else? A. Not that I can recollect.

Q. 54. Was this same letter "W," and these figures on all the stakes? A. No, different letters and different numbers.

Q. 55. Why did you not preserve some of these stakes, so marked and numbered, in the same manner and with the same degree of care with which you state you did with the stake that you removed from the old stone mound referred to? A. I do not know.

Q. 56. On the 1st of April, 1876, did you find this old stone mound in the same condition in which you left it in 1858? A. Almost in the same condition, with the exception that there were a few small rocks down.

Q. 57. Describe the manner in which, in 1858, you built said old stone mound, and the shape and the size thereof. A. I believe that I have already stated that I found the stake on the top of the knoll, with five or six rocks, holding the stake; I took up the stake, and fixed up the rocks, and built on the top of those few rocks, with all the loose rocks that were laying on the top of the ground near the stake; I cannot state about the size of the pile of rocks, because I did not measure it; the shape was kind of round; I tried to get it as even as I could.

Q. 58. Was this because you supposed this old stone mound was a monument, suggesting that it was connected with some special survey? A. No; I did not suppose anything, or think anything of a survey, or anything else—at that time.

Q. 59. Did you not suppose that the other stakes were monuments, suggesting that they were all connected with some special survey? A. I had heard that the other stakes were for town lots, that Buckelew had laid out on the California City tract.

Q. 60. Did you hear the same thing in reference to the stake which you removed from the old stone mound? A. No—because where that stake was set was considered outside of the California City lines, or tract.

Q. 61. Then the stake in the old stone mound had no connection with the special surveys that were marked with the other stakes? A. That is more than I can say.

Q. 62. Have you seen any of those other stakes referred to since 1858? A. I have.

Q. 63. How recently? A. I do not recollect, but it was when, I believe, Mr. Buchanan was surveying for Peter Gardner.

Q. 64. Was any one with you at the time? A. I believe Buchanan, the surveyer, was with me, and either Peter Gardner or his brother.

Q. 65. Do you know where that man Buchanan is, and state his first name, if you know it. A. I do not know where he is nor do I know his first name; the last I heard of him was that he had gone to Los Angeles.

Q. 66. Was that stone mound ever inside of what was called the California City tract? A. No.

Q. 67. Are you one of the parties in interest in this case? A. I am; I am one of the heirs of John Read, deceased.

Q. 68. Was there any rock mounds at the localities where the other stakes were placed? A. No; some of them were driven in the ground and others were down.

Q. 69. Were all these other stakes inside the California City tract? A. The most of them were; there were a few outside.

JOHN J. READ.

*Hiram Austin recalled by S. A. Sharp, for claimants.*

Q. 1. Witness is here shown a map and asked if he recognizes the same; if so, what does it represent, and how long since you have known the same? A. I have the map before me; I saw this map first in 1865, 63, or 67, I am not positive which year, at Peter Gardner's house; it is a plat of the surveys or a portion of them at least, made under the direction of B. R. Buckelew, in laying out the streets and blocks of California City and Marin City.

Q. 2. Does it also contain other platting? if so, state what. A. It does; among other things, it shows the exterior boundary lines of the tract of land known as the *California City Tract*; it also shows the shore line of the Bay of San Francisco, and it shows the base and meridian lines, from which the streets and streets are laid off and numbered.

Q. 3. Do you believe said map to be a copy, or an original plat of the surveys referred to?

Objected to by Mullen & Hyde, as incompetent; original maps, or copies thereof, cannot be proved in any such manner.

A. I believe it to be an original plat; the work on it showing that it was made from the field notes of the survey.

Q. 4. Does the map before you purport to be an original or a copy; or does its appearance indicate that it is ancient or modern? A. The appearance indicates that it is a number of years old; I know it to be as much as nine years old; but I have no means of knowing how old it is; the indications on the map would indicate to any draughtsman that it was platted from the field notes, and consequently an original map.

Q. 5. Witness is shown Exhibit "P. G. No. 2," and is asked if this map correctly represents the California City Tract, as claimed, and now in possession of Edwin Gardner; and marked on said Exhibit: "Claim by Edwin Gardner, 320 acres."

Objected to by Mullen & Hyde as irrelevant.

A. The lines drawn on the map, and shaded yellow, correctly represent the location of the California City tract, so-called, as now in possession of Edwin Gardner; a portion of the sentence "California City, claimed by Edwin Gardner, 329 acres"—is written outside of the lines drawn to represent the California City tract.

Q. 6. Does the tract you have mentioned on your last answer, correspond with the tract represented upon the old Buckelew map, which has been exhibited to you, and which you state from its appearance to have been made from field notes and which map we now offer, marked "Ex. B. R. Buckelew No. 1," by traced copy.

Objected to by Mullen & Hyde; said two Exhibits being in evidence will speak for themselves; said last Exhibit is objected to as incompetent; it has no scale; it has no meridian; it bears no title; it does not show when or by whom, or for what purpose it was made, nor authenticated in any manner whatsoever, but bears on its face marked discrepancies, as to the exterior boundaries of the tract-referred to.

A. It does not; the showing of the boundary lines on the Buckelew map, No. 1, correspond with the description given in the deed of the tract from Buckelew to Gardner, while the tract as shown Ex. P. G. No. 2, does not show lines corresponding with the deed above referred to.

Q. 7. Look at Exhibit P. G. No. 2, at the place marked

“old stone mound,” and state whether that is the same mound referred to in the testimony of Mr. Allardt and in your former testimony in this case, and whether it is correctly represented thereon, and your means of knowledge? A. The point marked “old stone mound,” on Exhibit P. G. No. 2, shows the location of said mound with respect to surrounding objects shown on said Exhibit. By surrounding objects I mean the shore line of the Bay of San Francisco, California City Point, the lines of the California City Tract, and particularly the point marked on the map as the end of the 521st course of the Ransom survey. I ascertained this state of facts by reducing the measurements on the Buckelew map No. 1, and applying them on the map marked P. G. No. 2, as also by applying the bearings taken by Mr. Allardt as shown in his testimony and tested and found correct by myself on the ground.

Q. 8. The witness is here shown Exhibit “M. and H. X. Y. Z.” and is asked if he has compared said last named Exhibit with Exhibit P. G. No. 2, with reference to the exact position of what is represented thereon as stone mound, and state if they agree with each other as to position of the stone mound as above referred to? A. I have compared the position of the point marked “stone mound,” on the Exhibit M. and H. X. Y. Z. with the position of the point marked old stone mound on Exhibit P. G. No. 2, and find them to be identical.

Q. 9. Witness is now shown Exhibit Buckelew No. 1, being a traced copy of the map heretofore designated by him in his testimony as Buckelew’s map of California and Marin cities, and is asked to locate the position of said old stone mound thereon. A. I have heretofore, by careful measurement, located the exact position which the old stone mound occupies with reference to surrounding objects on the Exhibit before me, and it is shown on said Exhibit by a red dot within a small red circle in the central portion of the left hand end of the map. The certificate dated April 17th, 1876, and signed by me, and also the reference to the scale signed by me, and also the references and writing, referring to the dot as representing the position of the old stone mound signed by me, and the other writing on the map referring to the old stone mound, and the dot representing the same, signed by me, were made by me on this traced copy, and do not appear upon the original. My object in making the said certificates and writings and signing the same was to elucidate and explain my evidence. All of which appears in each of said writings.

Q. 10. Please look upon said last mentioned Exhibit and state what the position marked with a red dot surrounded by a circle represents? A. It represents the crossing of two streets; one is shown on the map as a Street 1 N, and the other as a Street VII W. The Exhibit before me shows only the portions of the original which were drawn in ink. The pencil portions are not copied.

Mullen & Hyde object to the introduction and use of, as an Exhibit in this case, the copy traced on linen of what is purported to be a map of what is termed the Buckelew survey of the California City Tract, for reasons as follows:

1st. Because said traced copy is not certified or otherwise authenticated by the U. S. Surveyor-General, as being a full, true and correct copy of the original thereof as heretofore offered and already on file in this case.

2d. Because said traced copy is not certified or authenticated by any other person, capable or authorized in law to certify to the correctness thereof.

3d. Because said traced copy, when introduced and filed, had thereon writings, figures, annotations and other addenda not contained on the original thereof.

4th. Because said traced copy fails to show lines, annotations and other matters delineated on the original, which in our judgment are essential and necessary to be shown, and which not being so shown, under said tracing only a partial and garbled copy of the original.

5th. Because said original would appear to be representations of matters by new or fresh lines delineated on a sheet of very old and soiled paper, as if for the purpose of giving antiquity to said original, and lays the same open, and liable to, if not deserving of the objection, of being prepared for a specific purpose in this case, to wit; for the purpose of confounding an old stone mound, claimed to be, by us, an old land mark of the original survey of this rancho with the intersection of two imaginary streets of an imaginary town "site," and which town, in fact, has not, nor ever did have, nor is ever likely to have any existence, and which, even on said original plat, does not appear ever to have been laid down, as having any existence on paper.

6th. Because said original plat is purported to represent and delineate the field notes of an actual survey, when neither said field notes, nor survey, nor any part of either, nor the surveyor who made them, nor living witnesses capable of testifying to the facts, nor any official or other custodian thereof to account for their loss or absence.

7th. Because all of said matters and said testimony pertaining thereto are sought to be established by a gentleman a stranger to the survey, a stranger to the original map so far as the record shows, but who, apparently in anticipation of certain specific questions to be propounded to him, had not in the presence of this office when asked to locate the exact position thereon of certain objects, shows by his answers that he had already, and not in the presence of this office or of counsel, located the same.

8th. Because the correctness and truth of all of said matters are sought to be established by a witness heretofore called, and only two days ago, and by the same party who now calls him, and whose direct testimony had not only been closed and subjected to the cross-examination of these objections and in accordance with the rule invited insisted upon by the parties producing this witness and made against these objectors, the U. S. Surveyor-General established it as a rule to be followed without exception in this case, that the truth of such matters could not be shown in any such manner, and did decline, and did refuse to permit these objectors to introduce new matter in this manner unless preceded by affidavit of the party so offering the same, and did compel against their wishes these objectors to make and file in this case an affidavit before they could proceed in this manner, and counsel now moves that all testimony given by Mr. Hiram Austin, from page 717 to page 724 be stricken out for the reasons above stated, and that neither now nor hereafter they constitute any portion of the evidence of this case, and the Surveyor-General is now called upon to rule upon said motion.

Objections overruled and motion denied.

Questions by Mr. Sharp:

Q. 11. Please take Mullen & Hyde Exhibit marked O. K., filed April 4, 1876, and is asked to please pass a line in pencil due east and west, through the center of said old stone mound thereon represented, and is asked to measure along said line thus drawn in pencil due west 800 feet, and at the termination of said distance make a dot in circle, and is asked, could a person standing in the locality of said dot in circle, see California City Point; if not, please state why said point could not be seen? A. I have drawn the lines and points called for in the question on the Exhibit referred to; the dot in the penciled circle falls in a ravine, or depression, from which California City Point cannot be seen, on account of the intervention of the hill on which the old stone mound is situated.

Q. 12. Please likewise draw a line in pencil, through the center of said mound, on a true meridian, and measure along said line thus drawn 800 feet due south, and indicate the termination of said line by a dot likewise in circle, and is asked could a person standing upon said dot, or termination of said measurement, see what is known as the part of San Quentin Point due north of said line; if not, please state the reasons why.

Objected to by Mullen & Hyde as irrelevant and immaterial.

A. They could not see that part of Point San Quentin due north of the stone mound, from the point indicated, on account of the intervention of the hill, on which said old stone mound is situated.

Q. 13. Witness is now shown a certified traced copy, marked Ex. B. No. 2, and is asked to mark, in ink, the same points and lines and circles upon said traced copy. A. I have transferred said lines and points as desired.

Q. 14. Have you, upon the ground and from the records of Marin County, seen any evidence that such a survey as Buckelew's survey of Marin and California cities, as represented upon Ex. Buckelew No. 1, has ever been made; if so, please state what such evidence shows?

Objected to as immaterial and incompetent.

A. I have, on the ground included in these surveys, seen numbers of stakes marked, which from tests applied in measurements, the data of which I took from this map proved to be monuments, set to perpetuate lines of streets and blocks, as shown on this map; I have also had occasion, in my official capacity of County-Surveyor of Marin County, to re-locate on the ground a lot conveyed by B. R. Buckelew to Susan Wright, said lot being one of the lots shown on this map, in the portion of this plat known as Marin City, at Point San Quentin, the description in that deed, (which is a matter of record in the Recorder's Office of Marin County,) refers to and follows, in measurement and direction, the lines of streets and blocks, as shown on this map, marked "Ex. Buckelew No. 1;" there have been also, within the last 18 months, other stakes on Point San Quentin, so marked as to be evidently of the same series of monuments found on California City Survey.

Mullen & Hyde move that the foregoing answer be stricken out, as secondary and incompetent.

Q. 15. Can the site upon which this old stone mound is situated be seen by a person standing upon the deck of a

steamer crossing from Saucelito to San Francisco, over the usual course of steamers between these two points?

Objected to by Mullen & Hyde as immaterial.

A. It cannot.

*Cross-Examination by Mullen & Hyde.*

Q. 16. You state that you first saw the original of "Ex. Buckelew No. 1" in 1865, 66, or 67; please state when, where and in whose custody you next saw said original?

A. I have not seen it since that time until the present occasion.

Q. 17. Did you not see said original outside of this office prior to being recalled by claimants to testify in relation thereto? A. I saw it in my office, in San Rafael, and here, before I saw it yesterday.

Q. 18. How did it get into your office in San Rafael, and when? A. Doctor Lyford brought it to my office in San Rafael, one evening last week.

Q. 19. For what purpose? A. I think his object was to see at what point on the map Mr. Allardt's bearings and measurements would locate the old stone mound.

Q. 20. Did he state that to be the object? A. He did not state to me explicitly what object he had in view, that I recollect of—but I judged afterwards from what occurred during the time he was at my office; and I think also he wished to ascertain whether I recognized the map as one that I had previously seen.

Q. 21. Does this original map appear on its face as to lines in ink and pencil, and annotations, the same in all respects as when you saw it in 65, 66, or 67? A. I recollect that a portion of the lines were drawn in ink, and a portion in pencil at that time; but do not know absolutely that there have not been additional lines inked in since that time.

Q. 22. Do you know whether any of the lines thereon have been re-traced in ink since you first saw it? A. I do not know whether there has been or has not been.

Q. 23. Did you indicate on this map in any manner the position that would correspond to the position of the old stone mound, as represented on the other Exhibits, concerning which you testified yesterday? A. I made no marks, or dots, nor any addition to the map whatever, I may have pointed out on the map where the point would come.

Q. 24. I notice on this original map two dots in lead

pencil, freshly made, which I will point out to you, and mark in pencil opposite to them A. B. within circles; were said two dots on the map when you first saw it? A. I think the dot A., at the time I saw the map last week, had an appearance like the two dots above it, but has since been shaded deeper with a pencil; I think the dot B. was not on the map at that time.

Q. 25. Was dot B. on this map yesterday, when you were testifying in relation to said map, then before you? A. I cannot tell whether it was or not.

Q. 26. Please project on said original map, in pencil, the position corresponding with the position of the old stone mound referred to. A. I have not the necessary instruments here to do so, and it would require more time than I have at my command just now—I am willing to do so in presence of counsel, whenever an opportunity offers.

Q. 27. Did you make this traced copy of the original? A. No, I did not, but carefully compared them.

Q. 28. Did you project on this tracing the position of a red dot marked in a circle thereon, to represent the position of the old stone mound? A. I placed the dot surrounded by a red circle which indicates the location of the old stone mound on this map, from measurements and courses taken thereon.

Q. 29. Did you furnish the data to any other person? A. I did not.

Q. 30. What data and from what sources obtained, did you indicate said position? A. I used Mr. Allardt's field notes as given in his testimony and proven by myself on the grounds to be correct as far as bearings are concerned.

Q. 31. Please indicate on this tracing by a red dot marked "B" the position corresponding with the position of the dot marked "B," referred to by you in answer to question 24? A. Surveyor-General explains that dot "B" was placed on the map by himself this morning, while considering the objections of counsel for contestants.

Q. 32. Do you know the date, when the so-called Buckelew Survey was made? A. I do not.

Q. 33. Do you know of any reason why any points on the ground, outside of the land you speak of, as having been deeded by Buckelew to Gardner, should be marked to denote intersection of streets, and which points are shown to be entirely outside of what purports to represent a town site on the original map marked as Exhibit Buckelew No. 1, in ink? A. At the time that the town site was laid out, Buck-

elew owned, or claimed to own, several thousand acres of land in Marin County, which included the Read Rancho, on which California City was laid out, and the Rancho of Punta de San Quentin, on a portion of which Marin City was laid out; the tracing marked Ex. Buckelew No. 1, does not show the portion of the town site which is shown on the original by lines drawn in pencil; a large portion of which town site was outside of the tract of land conveyed by Buckelew to Gardner.

Q. 34. Do you know, or have you any means of ascertaining what signs or characters were used or employed in said survey to denote and mark the intersections of streets?

A. These which I have seen, or to which my attention has been called, have been marked with letters N. S. E. or W. and with Roman numerals indicating the position of the stakes on which the marks were made from the crossing of the base and meridian lines, as shown by the lines and figures on said map.

Q. 35. Have you seen the stake, which is said to have been removed from the old stone mound in 1858, by John Read? A. I have.

Q. 36. Does it bear any letters and numerals, and if so, what? A. It has very distinctly, on it, the Roman numerals VII. and the letter W; the stake appears to me to have had other marks or figures cut thereon, but they have become illegible, as I judge, from the lapse of time.

Q. 37. If said numerals were used to denote the number of the street from the base line and said W to indicate its direction from the meridian, would not said stake apply to any point of street VII., from the base with an intersection of any other street at right angles therewith equally as to the intersection of streets indicated in said plat as Street I. N. and VII. W, in the absence of any positive proof to the contrary? A. Most undoubtedly it would.

Q. 38. Have you seen any other stakes, either on the Marin City plat, or California City plat, similarly marked, and if so, when? A. I have, at different times during the last ten years, in making surveys and in passing over these lands, seen stakes marked with the letters and numerals in my answer to question 34.

Q. 39. Can you, and will you, if possible, please do so, furnish this office for the purposes of this case, any one of the stakes, that you have found so marked, say within the next 30 days? A. I know of one that I can furnish and will furnish it.

Q. 40. When, where and in whose custody did you last see the stake, which it is alleged stood in the old stone mound and as having been removed therefrom by Mr. John Read? A. I saw it last in the Surveyor-General's Office, in San Francisco, but I don't know in whose custody it was; I think it was on Monday or Tuesday of this week.

Q. 41. In whose custody did said stake appear to be at that time? A. I saw it in the hands of Mr. Wild, Doctor Lyford, and had it in my hands in the draughtsmen's room, but do not know in whose custody it was.

At this stage the witness says I know of one which I will furnish now, which is marked II S. on one side and X. W. on another side. This stake I found standing without doubt in its original position, and from crossbearings taken and measurements made on the ground and from that position, and applied to the Buckelew Map of California City, it undoubtedly stood at the point shown on the map as the crossing of the street II. south with the street X. west.

Q. 42. Are the marks "X W." made in the same manner and with the same instrument as the figures "II S.?" A. I have no means of knowing; they were both made by some sharp instrument, as the point of a knife, but I have no means of knowing whether they were both made by the same knife.

Q. 43. Please indicate on the original Buckelew Map the position where you found said stake? A. I am indicating that point with my pencil.

Witness now points to a position on line ten from the meridian, which he marks in pencil with a cross.

Q. 44. Can you, and will you, produce the stake which is said to have been taken from the old stone mound? A. It is not in my possession nor keeping.

Q. 45. Where did you get the other stake from which you already produce? A. Dr. Lyford procured and handed it to me on the occasion of my reference to it.

Q. 46. Please indicate on the original Buckelew map the street in the ink portion thereof, the intersections of which with other streets would likely have been marked with II. S? A. It would be the second street south of the base line.

Q. 47. If the lines of that street were prolonged westerly and in the same direction, would the intersection thereof with street corresponding with X. W, be coincident with or different from the position which you have marked in pencil with a cross on the traced copy of said original?

Objected to by Mr. Sharp, as incompetent, irrelevant, and immaterial.

A. The pencil cross on the traced map is drawn at the crossing of the second street south of the base line running parallel with said base line and the street marked X. W.

Q. 48. That answer not being responsive to my question please answer the question as I asked it? A. The cross on the traced map is not made on the street which Mr. Mullen understands to be the second street south of the base line, but it is at the crossing of the second street south of the base line and the street marked X. W., if the streets are numbered from the base line south along the street marked X. W., beginning at the base line.

Q. 49. Have you ever seen any other map purporting to be a survey of this same town site? A. I have seen one representing the California City Tract, but with no showing of streets or blocks.

Q. 50. Is there anything on file in the County Surveyor's office, in Marin County, relating to the subject matter? A. Nothing relating to the town site of California City.

HIRAM AUSTIN.

Adjourned till 11 o'clock to-morrow, the 20th day of April, A. D. 1876.

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APRIL 21st, 1876.

Met pursuant to adjournment, and adjourned till 9½ o'clock to-morrow morning.

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FRIDAY, April 21st, 1876.

Met pursuant to adjournment.

I. H. Wildes, called and sworn as a witness on behalf of claimants.

Q. 1. What is your name, age, and place of residence?

A. My name is I. H. Wildes, age 21 years and upwards, occupation surveyor and civil engineer, and chief draughtsman in the office of the U. S. Surveyor-General for California.

Q. 2. Did you direct a traced copy to be made of a map marked "Ex. Buckelew No. 1?" A. I did.

Q. 3. Is it usual in your office, when called upon to make traced copies of maps from an original map, to copy

any pencil marks not filled in with ink? A. It is not, our maps in the office often contain notes of explanation, etc., in pencil, in making copies of such maps. It is not usual to copy such notes.

Q. 5. Please look at the original map marked Exhibit Buckelew No 1, and state what the lines in pencil, extending the lines of straight and diverging streets, up to their respective base line, would seem to represent? A. They would seem to represent, to the best of my judgment, the base line, from which the lines of streets and blocks were projected.

Q. 6. Would you from this fact consider this an original plat? A. I should so consider it from the fact of the pencil lines being on it; from the fact, also, that a copy of the plat would not require the pencil lines.

Q. 7. Then I understand you to mean that you do not consider these lines in pencil pertinent to a finished map representing blocks and streets, not filled in? A. I do not.

Q. 8. Please look at the original map, and state for what evident purpose was the line drawn high up into the adjoining land (drawn in ink) and marked base line, taking into consideration the peculiar location of land in respect to that with water? A. As far as the map shows, evidently for the purpose of the projection of the lines of streets at right angles thereto.

Q. 9. Please look with special reference to the same question on the plat of blocks and streets on the western portion of said map, and answer with reference thereto. A. I make the same answer as to question 8.

Q. 10. After making said traced copy of said "Ex. Buckelew No. 1," were you directed to deduce from Ex. marked "Mullen & Hyde," X. Y. Z., and certified traced copy of M. & H. O. K., "Ex. P. G. No. 2," the position marked "old stone mound," and indicate the same upon said traced Exhibit, marked Buckelew No. 1; if so, please state how, and what position it occupies? A. I was requested so to do; I measured the distance at right angles from the Ranges 5 and 6 W of T. 1 north; I then measured a distance at right angles thereto, through California City Point to the position marked "Old Stone Mound" on Ex. P. G. No. 2. I then marked the position of the old stone mound, as nearly as I could upon "Ex. Buckelew No. 1" (traced copy) that is, as nearly as I could by the comparison of the two scales.

Q. 11. Did you do so without the slightest knowledge as to the reasons why or where said mound would locate on

said Exhibit? A. No reasons were given to me, nor did I ask any.

Q. 12. Is the position in a red dot and circle, the one you indicated? A. I presume it to be so; I marked it in pencil, but it seems to be the same position that I indicated in pencil.

Q. 13. Did you, or did you not test said position this morning and found the same to be correct? A. I did so.

*Cross-Examination by Mullen & Hyde.*

Q. 14. Did you mark on the traced copy of Ex-Buckelew No. 1, the red dot in a red circle at the place so indicated on said tracing, or was it done by somebody else? A. I did not; it was done by somebody else.

Q. 15. Are you positive that the position of said red dot in said red circle, is coincident with the lead pencil dot, that you indicated thereon? A. As nearly as I am able to judge it is, by measurement on the map.

Q. 16. Was this done in this room and in our presence, pending the hearing of this case, or elsewhere and under other circumstances? A. It was done in my own room, and not here, nor in presence of any one now present, except Dr. Lyford.

Q. 17. Will you please, in our presence, test the accuracy of the projection of said point? A. I have done so, and the distance corresponds within two links, and the angles within  $2\frac{1}{2}$  degrees; in this matter mathematical exactness cannot be expected on traced copies of maps measured by the scale.

Q. 18. Does this last measurement assume that the extreme point of California City Point, as delineated on tracing of Buckelew No. 1, is coincident with California City Point, as located on "Ex. M. & H. O. K.?" A. It does.

J. H. WILDES.

R. C. Hopkins, called and sworn on behalf of claimants.

Q. 1. Were you present on the Rancho of Corte Madera del Presidio, on the 1st day of April, 1876, when a certain stake was found within the crevice of rocks overshadowed by a small laurel tree; if so, please state fully what was said and done on that occasion, concerning what has been designated as the old stone mound, and the stake referred to? A. On the first day of April, 1876, at the request of Doctor B. F. Lyford, I accompanied him to the Rancho of Carte Ma-

dera del Presidio, for the purpose of examining the old stone mound referred to; we went directly to the house of John Read, on said rancho; from that place we went in company with John Read and Hugh A. Boyle to a place that I understood to be the grassy knoll, described by G. F. Alhardt in his deposition herein, and was shown what I understood was the old stone mound, also referred to by said Alhardt in his testimony.

This stone mound, Read stated in my presence, had been mostly built by himself; that in 1858, when he took possession of the Rancho of El Corte Madera, a stake stood at the spot where the stone mound now stands; and that at that time, there were several stones placed around said stake; that he removed said stake at that time, to wit, in 1858, and placed it in the rift of a rock some few hundred yards from where it stood, and in the direction of his residence.

When asked if the stake was still there, he replied that he did not know, that he had not seen it since the time that he placed it in the rift of the rock referred to. Whereupon, we all went in company to the rock indicated, and as making an examination of the rifted rock, the stake heretofore referred to, was found laying therein, with, I think, the side exposed to the action of the atmosphere, upon which, upon examination, some indistinct marks were found, which I think, upon close examination, proved to be VII. W; I was asked to take charge of this stake, which I did, and the same is now in this office.

Q. 2. Will you please to deliver the said stake into the special custody of the Surveyor-General, as an Exhibit, and for his special instruction and use, in this case, as he may deem proper? A. I will do so.

Mullen & Hyde move to strike out of foregoing answer all statements made by John Read as incompetent and hearsay.

Q. 3. Please state if you are familiar with the laws, usages, and customs, observed by the authorities of Mexico in making grants of land in California? A. I am.

Q. 4. State if in the grants so made, you find the location and boundaries are usually correctly given, so far as relates to courses and distances, and if not correctly given, about what would approximate the description, the courses and distances given on the original title papers, and the true courses and distances as found on the ground, by observation and measurement, in your opinion.

Objected to by Mullen & Hyde, as immaterial and incom-

petent; what would be true in one case, would not necessarily be true in another, and no uniform difference in such matters, could possibly exist, and the answer of witness must necessarily be surmise and guess work.

A. I find from my experience, acquired in the examination of the title papers of Spanish grants in California, that the boundaries as called for in the original grant or titulo, are generally vaguely given; and that when courses and distances are given in the title, they are generally found upon observation and measurement to be unreliable: I speak now of the calls as given in the original grant or title deed, which bears the signature of the Governor and Secretary of State, and which generally refers, for particular description of the premises granted, to a *diseño* or map, which is generally rudely and inexactly made.

In the juridical possessions as given by Alcaldes or Justices of the Peace, I have also found, from an examination of all the records of such possessions now on file in this office, the same general uncertainty and incorrectness, so far as relates to courses and distances, as given by the officers making such surveys; in some instances, the points of the compass being reversed, and perhaps scarcely ever corresponding to the true courses, by observation; and the same inexactness will also be found as regards the distances, as set out in the records of juridical possession. And this, perhaps, is not surprising, since these grants were generally surveyed without instruments, and by persons unfamiliar with that kind of work, and who, while they knew and could describe landmarks, had but little idea of courses and distances.

As to the measure of this discrepancy, of course I can only make an estimate, but I would say, that taking all the measurements of surveys made of Spanish grants, when possession was given, together, that the discrepancy between the courses and distances as given, and the true courses as found by measurement, could not be less than fifty per cent. † or — from the truth.

Q. 5. Can you give a probable reason or explanation for these discrepancies? if so, please do so. A. In the early times in California, land was of little value, unless some spring or other desirable locality were in question; hence, the boundaries of ranchos were not of that importance that as land marks are with us; the measurements were therefore carelessly made, and for the want of instruments, and of a knowledge of their use, the courses were incorrectly

given—the country was isolated, and thinly settled; the people were pastoral in their habits, living mostly on horseback; and travelling more by land marks than by roads; and measuring distances more by the fleetness of the horses they road than by measurement, or even an intelligent estimation.

These habits of a people, would necessarily beget inexactness and vagueness, in all matters pertaining to the description or measurement of lands.

Adjourned till 10 o'clock to-morrow morning.

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SATURDAY, April 22d, 1876.

Met pursuant to adjournment.

*Examination of Hopkins resumed.*

Q. 6. In giving instructions for the locations of Spanish grants in California, has it been usual or would it have been possible, generally, for the Surveyor-General, in his office, to give positive orders to his deputies, as to the lines to be selected in making the location and survey, or was it usual to leave much to the discretion and intelligent judgment of the deputies in making the survey?

The testimony referring to the customs of the office, objected to as irrelevant and incompetent, and unnecessarily encumbering the record with matters not pertinent to the case.

Mullen & Hyde make the same objection.

A. In giving instructions to deputy surveyors for making surveys of Spanish grants, it has been usual for the Surveyor-General to give the deputies copies of the descriptive calls as found in the decree of confirmation, the original title, and in the act of juridical possession, and also a copy of the diseño as found in the expediente of the grant, together with any other data that might be found in the original title papers or in the testimony given by witnesses before the Board of Land Commissioners and the District Court. But as these data sometimes involved inconsistencies, the deputy, in making the survey, was often compelled to exercise his best judgment in endeavoring to harmonize as far as possible these discordant elements in seeking a proper location of the rancho to be surveyed, hence, much depended on the intelligent judgment of the surveyor.

*Cross-Examination by Mullen & Hyde.*

Q. 7. This case discloses the fact that no instructions signed by the Surveyor-General can be found of record in this office, nor any orders signed by the Surveyor-General, positive or otherwise, given to Deputy Ransom by said Surveyor-General, nor any authority of any kind signed by said Surveyor-General to Leander Ransom to make any survey of this rancho; therefore please state whether the plat representing a purported survey of this rancho bears any internal evidence that Deputy Ransom ever went upon the ground, having in his possession any of the data as set forth in your answer to question 6, for the purposes of making an actual survey on the ground, and in the manner which seems to have been the custom in making surveys of Mexican and Spanish grant land claims under the act of March 3d, 1851, by the U. S. Surveyor-General. A. None, save the endorsement found thereon: "Surveyed under instructions from the U. S. Surveyor-General, by Leander Ransom, Deputy Surveyor, in September and October, 1873, and G. F. Allardt, Deputy Surveyor, in June, 1874."

Q. 8. Since your connection with the Surveyor-General's Office, in 1855, have you ever known any map to have been ever made by compiling the field notes of any unsworn private surveyor, and have the same purport to represent the actual survey of a private land claim, under the act of March 3d, 1851? A. Beyond making an examination, translations, etc., of the original title papers, and making out the necessary instructions to deputies therefrom, or furnishing the necessary data, therefore I have had little or nothing to do with anything in relation to the action of the office upon the returns of the deputies, of surveys made in the field; therefore, I cannot state with any degree of certainty what may have been done in the office in such cases.

Mullen & Hyde object to the Exhibit referred to in question 2, page 752, for the following reasons; and does so, at this time and place, for the reason that during the examination of yesterday the record failed to show that said Exhibit was offered as so recorded, and for the reason as stated by Doctor Lyford, that the words "as an Exhibit and" were inadvertently left out, and have been inserted to-day.

2d. It is incompetent.

3d. Because, it fails to show any marks thereon, such as are represented to have been used in denoting the intersection of streets in harmony with the original map "Buckelew No. 1."

4th. Because it fails to show that it belongs to the system or class of stakes similar to the one marked II. S. and X. W., and which last stake seems to have been taken from the ground, exposed to the weather, on all sides, while this last Exhibit was taken from the rift of a rock where it is alleged to have laid protected for 18 years, and the side or face that was exposed to the weather, by laying uppermost, bears, in the judgment of those producing it, quite plainly the marks that are alleged to have been thereon as early as 1858, and no other marks, or letters, or figures were discernable on any of the other sides thereof.

R. C. HOPKINS.

J. B. Howard appears for claimants in the absence of Sol. A. Sharp, Esq., and George F. Allardt recalled for cross-examination, and for the purpose of identifying testimony alleged to have been given by him (the said Allardt, in the U. S. Circuit Court in Case 190, Bolton vs. Van Reynegom et al).

Q. 1. Examine Ex. No. 4 J. A. R.—U. S. Circuit Court, and state if you testified for the defendants in said case on direct and cross-examination as stated, and if said Exhibit correctly represents the testimony then and there by you given.

Objected to by S. R. Throckmorton, as incompetent and irrelevant to these proceedings, and because said testimony has no bearing upon the question of the boundaries of the Rancho of Corte Madera del Presidio, as described in the evidence of the papers of juridical possession in this case, and because said testimony referred to was given and offered in another case, the issues of which have no connection with this survey and the said testimony not having been offered or given for the purpose of establishing any survey whatever, but having been offered and given simply for the settling of an initial point in dispute in said case—and also, because the witness has already been fully cross-examined upon the same subject matter in this examination.

Objected to by Mullen & Hyde, because this said Exhibit is a copy of testimony certified to be correct, by the Clerk of the U. S. Circuit Court, and as given as stated in said certificate, and its correctness cannot be questioned in this case, in this manner, and particularly by Mr. Howard, who is the party who presented and filed said Exhibit; and while his relations as attorney in this case seems to have been shifted from those he heretofore represented and now sub-

stituted for Sol. A. Sharp, Esq., his relation to this Exhibit remains unchanged and is not subject to his cross-examination for the purposes stated in the question, and the Surveyor-General is now by us called upon to rule upon the propriety of such proceedings.

Objections sustained by Surveyor-General.

Mr. Howard excepts.

A. I did testify in said case and Court, and believe that this Ex. No. 4 contains a correct copy of my testimony, but such testimony not being signed by me, I cannot be positive, of my own knowledge, as to its accuracy.

Q. 2. Examine the official Ransom Allardt map and state if you assisted officially. Deputy R. C. Mathewson in 1858, in making a survey of said Rancho Corte Madera del Presidio: and if so, whether you ran a provisional line from Post C. M. 180, to Redwood Post P. Q. 99, and W. R. 203, at said date, as the westerly boundary of the lands of said rancho.

Objected to by Mullen & Hyde, as the acts of this witness in said matters, if possessing any virtue, in this case, and done officially, were the acts of his principal Mathewson; and if of record, said record would be the best evidence.

2d. Because the question is indefinite as to what is intended to be understood by the word "provisional line."

3d. Because it is immaterial.

S. R. Throckmorton makes some objection, and for reasons in addition thereto, that the witness has already fully testified in this case, in regard to the provisional line referred to in the question, as being an experimental line, and as not establishing any line referred to in the juridical possession; and further, that the said provisional line has no connection with, or relation to, the western boundary of said rancho, as already proved by this witness.

A. I assisted said Mathewson in making the survey of said rancho in 1858, and I did run a line from "C. M. P. 180" to "C. M. P. 181," and from "C. M. P. 181," to said redwood post "P. Q. 99" and "W. R. 203." But I did not know at the time whether said provisional line was intended by Mathewson to represent the western boundary of said rancho.

Q. 3. Is that line identical with the western line as represented by the Allardt Ransom survey of 1873 and 1874?

A. It is.

Q. 4. What papers and documents did Deputy Mathewson have in 1858, in making said survey?

Objected to by Mullen, as the instructions to Mathewson are of record in this office, and the papers speak for themselves.

S. R. Throckmorton interposes a like objection and for the reason that said official instructions set forth what papers the U. S. Surveyor-General furnished him for his said guidance.

A. I have already described those papers in this examination; I do not remember now what they are; I cannot designate them from memory.

Q. 5. I cannot now find the list you refer to. Please state as nearly as you can from memory. A. He had the instructions signed by the U. S. Surveyor-General J. W. Mandeville, a *diseño* and a copy of the juridical measurements in his handwriting.

Q. 6. Did he have the decree of confirmation or a copy thereof? A. I think a copy of the decree was contained in the instructions.

Q. 7. Did he have the *diseño* or map of the land from the expediente?

Objected to by Mullen as irrelevant, the said Mathewson survey having been by the Secretary of the Interior set aside. All matters of whatsoever kind or nature pertaining thereto are necessarily immaterial in the present investigation so far as relates to said Mathewson, or those who assisted him in any capacity in making the survey.

S. R. Throckmorton joins in this objection, and for the reason that Mr. Allardt has already testified in full in this case and that this survey does not affect the western boundary of this survey.

A. He had a *diseño* with him, but I do not know whether it was a copy from the expediente.

Q. 8. You say he had all the papers and documents mentioned in the instructions of September 22d, 1858, which instructions are now shown you? A. I do not know whether he had them all or not.

Q. 9. You say he had the record of juridical possession or a copy of it? A. I said he had a copy of the juridical measurements.

Q. 10. Where would you have located the western line of said rancho if you had made the survey with the papers furnished Mathewson? A. Not knowing all the papers Mathewson had with him, I cannot answer that question definitely.

Q. 11. To particularize: if you had the papers mentioned

in said instructions of September 22d, 1858, marked Ex. 13 J. A. R., together with the record of juridical measurements, how would you have located said westerly line; I mean the grant, the decree of confirmation, diseño or map, record of juridical measurements and letters of instruction? A. You ask me where I would locate the western line of said rancho? If I were governed by the calls in juridical measurement I should run said western boundary from the solar due north, to the Arroyo Holon, but if I were governed by the description in the grant, I would run the western boundary line in such a manner as to bound the rancho by the Mission Lands of San Rafael on the north, this northern boundary being the Arroyo Holon.

Q. 12. What papers or documents, were presented to you, in your examination in these proceedings, by Mr. Throckmorton, or other objectors, by reason of which you expressed an opinion the Arroyo Corte de Madera might constitute the westerly boundary line of said Rancho of "Corte Madera del Presidio?"

Objected to by Mullen & Hyde, and S. R. Throckmorton.

A. There were several Exhibits shown me, and I was asked how I would locate the western boundary, if guided by said Exhibits; I do not remember the numbers or contents of said Exhibits.

Q. 13. Please examine Ex. S. R. T. No. 23; also marked "Ex. Mullen & Hyde U. V. W., April 5, 1876, Filed May 26, 1875," purporting to be a map annexed to deposition of William Hartnell, referred to in objections of S. R. Throckmorton from Land Case 104, and state if that is one of the Exhibits by force of which you were guided to the opinion that the Arroyo de Corte Madera might form the western boundary line of the Rancho of Corte Madera del Presidio? A. It was not.

Q. 14. Had you seen said document prior to the 5th of January, 1876, on which day you testified that said arroyo might constitute the western boundary of said rancho? A. I have seen this Exhibit before; but do not recollect when I first saw it, nor whether or not it was prior to January 5th, 1876.

Q. 15. Is the solar you mention, in answer to question 11 of this date, identical with the solar, or starting point, as represented near Post C. M. P. 180 or 181? A. It is.

Q. 16. Do you know whether the owners of the Rancho Corte Madera del Presidio, in the year 1858 or thereabouts, consented and agreed to the selection made by Deputy

Mathewson of the survey of said rancho, by legal subdivisions, as represented on the official plat of said survey of 1858, and herein offered as the official plat by the U. S. District Attorney?

Objected to by Mullen & Hyde, as incompetent; consent of said claimants, if ever made, cannot be established in this manner; and if ever made, must be a matter of record, and if of record, would be immaterial for the purpose of locating this grant, and does not bind either the United States or any of the parties in this case.

S. R. Throckmorton makes same objection.

A. I do not know.

Q. 17. Did they object?

Same objections by Mullen & Hyde and Throckmorton, as to preceding question and for same reasons as above.

A. I do not know.

J. B. Howard now offers in behalf of claimants:

1st. Agreement for a partition of said rancho.

2d. A report of arbitrators or commissioners.

3d. A plat and description of the part allotted to Hilaria Read, one of said heirs and owners thereof.

4th. Deed in partition from Jno. J. Read and Inez Read Deffebach, the two remaining heirs and owners to the said Hilaria Read.

5th. A map of said rancho, Ex. 2, to deposition of Tracy, showing the location of said rancho as partitioned, as aforesaid and according to the said survey of said Mathewson in the year 1858.

The Exhibits 1, 2, 3, and 4, are offered in original and certified copies thereof, will be filed in this case and marked H. R. L., "A." "B." "C." and "D."

Exhibit No. 5 is herewith filed in original, marked Ex. H. R. L. E.

The foregoing Exhibits are all objected to by Mullen & Hyde and S. R. Throckmorton, as immaterial and incompetent, portion of said Exhibits being mere memoranda agreements as among themselves, and not binding upon any other parties.

Q. 18. Please examine Mullen & Hyde "D. E. F." and Ex. "H. R. L. E." and "H. R. L. B." and state if said Ex. "D. E. F." is, or is not a compound map, representing features of said Exhibits "H. R. L."—"B." and "E." A. The map D. E. F. is generally a combination of the other two maps, that is to say, the map D. E. F. seems to show all the lands that are shown on the other two maps combined.

J. B. Howard now moves to strike out all objections filed against said Ransom-Allardt survey of said rancho, by Mullen & Hyde, attorneys for their clients, for the reason that said objections were not filed in season.

2d. All objections filed herein by S. R. Throckmorton, or his attorney, for the reason that he is not shown to claim adverse to said grant any lands embraced within said survey.

3d. All objections filed herein by Peter Gardner, because he is not shown to have any title or claim, to any lands embraced within said survey or grant, and all other objections coming within the portion of the foregoing; secondly, to strike out all papers, documents, plats, and Exhibits, representing or relating to the claims of José Y. Limentour, Wm. A. Richardson, Wm. T. Coleman and Hart, S. R. Throckmorton, or the University of California; and farther, especially to strike out Ex. S. R. T. No. 23, being a map—on the ground that all of said claims are held as invalid, by the Executive Departments of the U. S., and cannot be considered in these proceedings; and because said documents, papers, claims, and Exhibits are not valid, and represent no interest that can be recognized by the United States, and are not binding on the claimants, and constitute no evidence of juridical measurement or of the boundaries or ownership of the lands in question. Said motion to apply to all papers and documents improperly filed in these proceedings.

Mullen & Hyde object to all of said matters and motion, for reasons as follows: to be given on Monday, April 24th, 1876.

S. R. Throckmorton objects to all of said matters and motion, for reasons to be given on Monday, April 24th, 1876, to which day, at 11 o'clock A. M., he moves that this Comision adjourn.

G. F. ALLARDT.

Adjourned till 11 o'clock on Monday morning, April 24th.

APRIL 24th, 1876.

Met pursuant to adjournment.

Mullen & Hyde object to motion being granted, and for reasons as follows:

1st. It appears, on page 761 of this record, that J. B. Howard appears as counsel, as a substitute for Sol. A. Sharp, Esq., who is counsel for certain claimants herein as set forth in this record.

2d. It also appears that said Sol. A. Sharp is neither a claimant or a party in interest in this case, but appears in the capacity of counsel and attorney for certain claimants herein.

3d. That where there are several defendants or contestants, as in this case, and where it appears that each appears by his own attorney, the proceedings herein on behalf of these defendants, and contestants, must be conducted by their respective attorneys, and that the attorney of any one defendant or contestant cannot give any notice of motion, or make any motion or validly file any motion or accept notice of motion, or stipulate or do any other thing for another at any stage of the proceedings in this case.

And counsel does therefore move that all the matters from page 761 to page 776, inclusive, as elicited, shown or moved through J. B. Howard appearing for Sol. A. Sharp, Esq., be stricken out, and be considered no portion of the evidence, or matters pertinent in this case; and the Surveyor-General is asked to rule on the motion.

S. R. Throckmorton joins in the foregoing objections and for same reasons as stated by Mullen & Hyde, and unites in in the same motion as made above by Mullen & Hyde.

Objections sustained by Surveyor-General and motion of claimants denied. Claimants except to the rulings and appeal to the Commissioner, and will farther show, by evidence, that said J. B. Howard has been and now is, and heretofore been the attorney of said claimants, and furthermore, that the claims and interests of said claimants, Hilaria Read de Lyford, Inez Read de Deffebach and Jno. J. Read, are identical and in full harmony with those of the United States, and the pre-emptors Cushing, Barlow and Riley.

Counsel for Valentine (B. S. Brooks) objects to the foregoing motion and exception, on the ground that said Valentine is one of the claimants, and the said motion and exception is not made by his authority or consent, and also on the ground, that he, said Brooks, is the counsel for and represents said claimants, as shown by the record in said case, and that said motion and exception are unauthorized on their part.

J. B. Howard expressly disclaims any representation herein of T. B. Valentine, S. R. Throckmorton, or any of the interests of said parties in these proceedings—and disclaims any representation of B. S. Brooks, Esq., and only claims to represent the interests, for this purpose, of the clients of Sol. A. Sharp, Esq.—above named.

J. B. Howard now offers for the claimants, in behalf of Sol. A. Sharp, Esq., a copy of Whitney's State Geological Survey, of 1873, of Bay of San Francisco and vicinity, for the purpose of showing the location of the said Rancho Corte Madera, of Raccoon Straits, of Tiburon Point, and Angel Island.

Exhibit objected to by Mullen & Hyde, as being secondary and a compilation, and as showing upon its face that the rancho, township and Sec. lines represented thereon are delineated and so shown from materials furnished by the U. S. Surveyor-General's office, and therefore incompetent and not the best evidence for the purpose of showing the "locus" of this or any other Spanish grant claim.

J. B. Howard also offers in connection with Ex. H. R. L. A. B. C. D. and E., a deed in partition from said Hilaria Read and Inez Read Deffebach to said Jno. J. Read; and a deed in partition from said Jno. J. and Hilaria Read, to said Inez Read Deffebach, marked Exs. H. R. L. "F." and "G.," by certified copies thereof.

Offer objected to as incompetent for the purpose of establishing the "locus" of this grant, or any other purpose except that of matters as between the parties of the first and second parts thereto.

Doctor Benjamin F. Lyford, called and sworn in behalf of claimants, testified as follows:

Q. 1. State your name, age, residence and occupation?

A. My name is B. F. Lyford, age 38 years, profession physician, and reside in the City of San Francisco.

Q. 2. Do you know the claimants as represented by Sol.

A. Sharp in this case? if so, state who they are. A. I do. Jno. J. Read, Hilarita Read de Lyford, Inez Read de Deffebach, who are the children of Juan Read, deceased.

Q. 3. What relation do you bear to said claimants, or either of them? A. I am the husband of Hilarita Read de Lyford, and brother-in-law to Jno. J. Read and Inez Read de Deffebach.

Q. 4. State, if you know, what attorneys at law or in fact, have represented the said Hilaria Read de Lyford in these proceedings, and what attorney or attorneys are authorized to appear for the said claimant.

Objected to by Mullen & Hyde, because the record shows what attorneys appear, and for whom they appear, and because it is incompetent.

A. Sol. A. Sharp appears on the record for Hilaria Read

de Lyford, Jno. J. Read, and Inez Read de Deffebach, and in his absence Jno. B. Howard is also now authorized to appear, and has appeared, as heretofore shown by this record.

S. R. Throckmorton, a claimant, here enters of record his disclaimer of being represented in any way in this case by J. B. Howard, and he makes this disclaimer to avoid, by implication or in any other way, being represented by J. B. Howard in this case.

Q. 5. Please examine the official plats of said survey, the Ransom & Allardt, 1873-1874, and the Mathewson of 1858, and point out and designate the lands thereon, now owned and claimed by said named claimants, Hilaria Read de Lyford, Jno. J. Read, and Inez Read de Deffebach.

Objected to by S. R. Throckmorton as irrelevant and incompetent; the records being the best testimony not determining the boundaries of the Rancho of Corte Madera.

B. S. Brooks joins in objection for T. B. Valentine.

Q. 6. Question withdrawn, and witness requested to state if said named claimants own and claim all of said lands, represented in the partition deed and proceedings herein filed, represented by Exs. H. R. L., A. B. C. D. E. F. G.

Objected to by B. S. Brooks as irrelevant, incompetent and immaterial; S. R. Throckmorton makes same objection as made by him to previous question.

A. Witness refers to Ex. "B.," the map and plat attached thereto, giving the conjoined segregations upon said plat, and referring to the central division marked "A." thereon—"Portion of Jno. J. Read, area 2,061 51-100 acres, as now claimed and occupied by the said Jno. J. Read, as his allotted portion of said rancho as divided.

The divisions C. C., portion of Hilaria Read de Lyford, area 1,020 51-100, and 446 47-100 as the portion now claimed and occupied by the said Hilaria Read de Lyford—as divided.

The division marked B., portion of Inez Read de Deffebach, 646 51-100 acres, as the portion now claimed and occupied by said Inez Read de Deffebach, excepting about 190 acres, disposed of since making said partition as divided.

*Cross-Examination by Mullen & Hyde.*

Q. 1. Please state whether either Hilaria Read de Lyford, Inez Read de Deffebach, or Jno. J. Read, claims any interest of any kind, immediate or remote or contingent, present or prospective, in or to any portion of what is represented as Peninsular Island on the plat of the Ransom-Alhardt survey of the Rancho Corte Madera del Presidio.

Objected to as not being cross-examination, by J. B. Howard.

B. S. Brooks joins in objection.

A. Not to my knowledge.

Q. 2. Has Hilaria Read de Lyford any interest contingent, or other, in the determination of the award of Peninsular Island in controversy in this case?

Objected to by J. B. Howard as not cross-examination.

B. S. Brooks joins in objection.

A. The question is very indefinite; but she has no present interest in the lands designated on the plat as Peninsular Island.

Q. 3. Would said Hilaria Read de Lyford be, in any manner whatsoever, benefitted, if said Peninsular Island should be included in the final survey of this rancho?

J. B. Howard objects.

B. S. Brooks joins in objection.

A. She might or might not be benefitted.

Q. 4. In what manner might she be benefitted, by having said island included within said survey? A. She might be remotely benefitted by its being occupied and built upon, and by enhancing the value of the adjacent property.

Q. 5. In any other manner? A. She at present has no pecuniary interest in Peninsular beyond that, to my knowledge.

Q. 6. Has she or her family, at present, any contingent interest? A. Not to my knowledge.

Q. 7. Do you, as her husband, at the present time, or have you as such at any time, claimed, to have any contingent interest, pecuniary or otherwise, in having said island included within the final survey of this rancho? A. No pecuniary interest whatever, past, present or remote—of my own.

Q. 8. I now ask the same questions as numbered 2, 3, 4, 5, 6, 7, in the case of Inez Read de Deffebach.

Objected to by J. B. Howard and B. S. Brooks, as not cross-examination.

A. I do not know what pecuniary interest she has in said peninsula, if any.

Q. 9. Have either one of these three parties, to wit, Hilaria Read de Lyford, Inez Read de Deffebach and Jno. J. Read, any interest, immediate or remote, contingent or otherwise, in any portion of the Rancho of Corte Madera del Presidio, outside of the portion deeds, and lands represented on the plats referred to in connection therewith?

Objected to by J. B. Howard, who instructs the witness not to answer the question, as it may involve questions relating to the title to swamp and overflowed lands adjacent to said rancho, and pertaining thereto, or *riparian* rights and otherwise.

Mullen & Hyde call upon the Surveyor-General for a ruling in the case.

Surveyor-General rules that witness answer the question.

A. The question is a matter of law; the records and Exhibits in this case will be the best evidence.

Q. 10. Please state specifically what lands outside of the land in said partition described, said parties claim, and the whole thereof. A. My last answer will apply also to this + so far as relates to this rancho.

Q. 11. Please answer my question—I refer to the lands constituting or claiming to be a part of the Rancho of Corte Madera.

Objected to by J. B. Howard, because the question is not confined to lands embraced within the survey.

2d. Because it is not cross-examination; and 3d, because it has been substantially answered by the witness in his statement of the interest of said parties, and that he did not know of the interests of said parties outside said partition deeds; furthermore, these objections were made and witness directed not to answer, simply and only because there is no officer or judge present with authority to rule out irrelevant testimony, and there is no other means of closing this examination than by directing the witness not to answer further.

On motion of witness, adjourned till 10½ o'clock tomorrow morning.

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TUESDAY, April 25th.

Case called.

A. I do not know the interest they claim in the Rancho Corte Madera del Presidio, except those mentioned in Ex. A. B. C. D. E. F. and G., all marked H. R. L. A., including the records, all of which will be the best evidence.

Q. 12. What do you understand to be Ex. E.? (I mean Ex. H. R. L. "E.") A. It is a map of said rancho "Ex. 2," to deposition of Tracy, showing the location of said rancho.

Q. 13. Please look at said Exhibit H. R. L. "E," being Ex. 2 to deposition of Tracy, and state whether said claimants, named in your direct testimony, claim any interest in and to all the lands represented thereon as being within the exterior boundaries of the Mathewson and Tracy survey, and not including Peninsula Island.

Mr. Sharp, for claimants, objects, as it is not cross-examination, and immaterial and incompetent.

A. I cannot state of my own knowledge as to what they claim beyond the records and Exhibits filed in this case.

Q. 14. State particularly all you know with reference to any claim thereto or therein by Hilaria Read de Lyford. A. I cannot state of my own knowledge her claims beyond those shown in said Exhibits and records referred to.

Q. 15. Do you know or have any means of ascertaining whether either of said parties have any interest, present or prospective, or resulting in any portion of the land lying between the western boundary of the Mathewson survey and the western boundary of the Tracy survey, as represented in said Exhibit H. R. L. "E.?" I refer to any interest in the whole thereof.

Mr. Sharp, for claimants, objects to question as incompetent and irrelevant.

A. I have no means of knowing other than by the records.

Q. 13. Is not this Exhibit one of the record papers setting forth the extent of such claim, and said Exhibit filed by your own counsel? A. A note attached to said Exhibit reads as follows: "The red line indicates the survey made by R. C. Mathewson, without regard to the lines of the juridical possession. The yellow lines indicate the additional quantity, according to the juridical measurement, including the peninsula of the same color. A indicates the solar mentioned in the act of the juridical possession. B, the 'Punta de Sausal,' mentioned in the juridical survey."

Question 13 repeated.

Same objection by Mr. Sharp, for claimants.

A. It is one of the papers filed by my counsel, and in explanation of such I refer to the preceding answer.

Q. 14. Then Hilaria Read de Lyford does claim some interest of some kind and of an undivided character in and to each and every parcel of land lying between the west

boundary of the Mathewson and the west boundary of the Tracy survey of the Corte Madera Rancho, as represented in Ex. H. R. L. "E?"

Mr. Sharp for claimants make same objection.

A. For your knowledge and information I refer you to the records affecting the lands within designated, and cannot answer beyond those.

Q. 15. Is that the only answer you can give to that question? A. I cannot answer it in any other way as regards this case in controversy.

Q. 16. You are the husband of one of the parties in interest in this case, are you not? A. I am.

*Cross-Examination by Mr. Gardner.*

Q. 1. Have you and your wife and the rest of the heirs made their selections of one square league of land, referred to in the decree of final confirmation?

Objected to by Mr. Sharp as incompetent and irrelevant; also it appears that Mrs. Lyford and Mrs. Deffebach are married women and incapable of making a selection, and also as calling for a conclusion and not a fact.

A. I know nothing of such selections excepting from the record.

BENJ. F. LYFORD, M. D.

Case adjourned until 2 o'clock.

*G. F. Allardt, called by Mr. Throckmorton on Cross-Examination.*

Q. 1. In your testimony given on the 22d inst, in this examination, you said that you would give the western boundary of the Rancho Corte Madera del Presidio, in such a manner as to bound the rancho by the mission lands of San Rafael on the north; this northern boundary being the "Arroyo Holon;" will you please look at the Ex. marked "Whitney's Geological Map, 1873;" will you look at the point "Arroyo de los Esteros" on said map, being the arroyo running nearly in an easterly direction from the ridge of Mount Tamalpais, and say if you recognize that as the Arroyo Holon, mentioned in your testimony.

J. B. Howard objects to question for this: that it does not truthfully state the facts testified to by said witness, in relation to the boundaries of said rancho under the juridical

measurement thereof, and the decision of the Secretary of the Interior of January 6th, 1872.

A. I do; it is evidently intended to represent the Arroyo Holon.

Q. 2. Will you please look at the map and answer if you recognize the Arroyo Corte Madera del Presidio, which heads near the arroyo you have just described? A. I do; it is marked Arroyo Corte Madera del Presidio.

Q. 3. Do you recognize in those two streams on said map the Arroyo Holon, which in your former testimony you gave as the northern boundary of said rancho, and the Arroyo Corte Madera del Presidio, which for its whole course you gave as the western boundary of the Rancho of Corte Madera del Presidio? A. I recognize both arroyos on this map; the Arroyo Holon being marked Arroyo de los Esteros and the other arroyo being marked Arroyo Corte Madera del Presidio.

Both arroyos seem to be correctly delineated on this map; I recognize these two arroyos on this map as the arroyos referred to by me in my testimony regarding the northern and western boundaries of said rancho.

*Cross Examination by Peter Gardner.*

Q. 1. Your answer to question 11, you say that the northern boundary is the Arroyo Holon. Will you point out in the juridical papers where it says the northern boundary is the Arroyo Holon?

Objected to by Mr. Sharp as being incompetent and irrelevant.

A. In the copy of the juridical measurements I find the following words, viz: "They commenced said measurements, and, going from S. to N., they measured to an arroyo called Holon." These words locate the Arroyo Holon at the northern end of said line, and seem to determine said arroyo to be a boundary of the rancho in that direction, that is to say, on the north.

Q. 2. Do you find anything in the juridical papers which causes you to follow said arroyo down from the point you first mentioned? if so, state what and where it is.

Objected to by Mr. Sharp, as incompetent and irrelevant.

A. I cannot answer that question, unless I have all the juridical papers before me. (The papers are now presented to the witness.) Near the bottom of page 11, and top of

page 12, of said juridical papers, I find these words: "On the north, towards the Pueblo of San Rafael, the boundary is arroyo called Holon," and a forest of redwood trees, which is also called Corte Madera de San Pablo.

Q. 3. By whom was that language used?

Mr. Sharp objects, as before.

A. It purports to be the testimony of the Alcade's assistants, viz: Manuel Sanchez, Eusebio Galindo, Thomas Jeremias, José de las Cruz Sanchez.

Q. 4. Do you find any such thing in the act of juridical measurement?

Objected to by Mr. Sharp, as before.

A. What thing?

Q. 5. The language you just used. A. I do not.

Q. 6. Do you find it in the grant?

Mr. Sharp objects, as before.

A. I have not the grant before me.

Mr. Brooks here offers a certified copy of judgment roll, in the case of James C. Bolton *vs.* Israel Kashaw, *et als.*, marked Exhibit T. B. V., No. 10.

Objected to by Messrs. Gardner and Throckmorton, as incompetent, immaterial and irrelevant.

The witness is here handed a copy of the grant, and says:

A. The paper handed me is a printed copy of the decision of the Secretary of the Interior, and the opinion of the Assistant Attorney-General, in the case of the survey of the Rancho Corte Madera del Presidio. On page 11 is what purports to be the translation of title and juridical possession. I do not find those words here.

Q. 7. Do you find words to that effect?

Objected to by Mr. Sharp, as before.

A. I find these words: "bounded by the Mission of San Rafael."

Q. 8. What evidence did you have before you to locate the solar near Post C. M. P. 181, referred to in question 15?

Objected to by Mr. Sharp, as before.

A. I never located it myself, but was governed in my opinion by the judgment of Deputy R. C. Mathewson, in the matter.

Q. 9. Did you have any evidence before you, in your experience in this matter, that there was a building lot there as early as 1834?

Objected to by Mr. Sharp, as before.

A. I had not.

Q. 10. Do you know the Arroyo Holon of your own knowledge, or by hearsay?

Objected to by Mr. Sharp, as before.

A. I know it of my own knowledge, having been at the arroyo a number of times, and have surveyed it in its entire length.

Q. 11. State how and when you first knew it of your own knowledge.

Objected to by Mr. Sharp, as before.

A. It was first pointed out to me, as the Arroyo Holon, in the year 1858.

Q. 12. By whom?

Objected to by Mr. Sharp, as before.

A. I don't remember.

Q. 13. Is not said arroyo at, or near its source, called the Arroyo Holon, and at or near the mouth, the Arroyo de los Esteros?

Objected to by Mr. Sharp, as before.

A. I do not know.

Q. 14. Witness is shown Exhibit Whitney's Geological Map, of 1873. Do you recognize any public or vacant lands between the Arroyo de los Esteros, thereon, and the lines of Corte Madera Rancho, as shown on the map?

Objected to by Mr. Sharp, as incompetent, irrelevant, and opening up new matter, and not cross-examination.

Objected, also, by Mr. Throckmorton, for the same reasons.

A. There seems to be some vacant land lying between the Arroyo de los Esteros and a zigzag line, which probably represents the western boundary of the Rancho Corte Madera del Presidio, according to the Mathewson survey, but it is not marked vacant land.

Adjourned till to-morrow, the 26th day of April, 1876, at 10 o'clock.

G. F. ALLARDT.

APRIL 26th, 1876.

Met pursuant to adjournment.

Mr. Sharp, for claimants, moves that the Surveyor-General re-instate the pages of the testimony, from page 761 to page 776 inclusive, which appears to have been stricken out on motion of Mullen & Hyde.

And Mr. Sharp now here adopts the appearance of Mr. Howard for his clients on the occasion of the taking of said testimony.

The Surveyer-General says that he has no power to strike out testimony when once reduced to writing; and that the ruling made by him April 24th, as written on page 778, was not intended to strike out any portion of the record.

T. B. Valentine called by Sol. A. Sharp.

Q. 1. Were you acquainted with James C. Bolton, the person mentioned in Ex. T. B. V. No. 3, dated August 12th, 1865? A. I was acquainted with him, and have known him since about the year 1867.

Q. 2. Were you acquainted with Rudolf Steinbach, Emil Steinbach, and Emil Grisar, as early as 1866, 67, 68, and 69? A. I knew them all during those years.

Q. 3. What, if any, connection had they with James C. Bolton with regard to Ex. T. B. V. No. 3? A. Mr. Rudolf Steinbach told me that, in 1865, he knew of the Bolton agreement about the time it was made.

Q. 4. When did he tell you this? A. At the time I made the purchase from Bolton, on the 28th of July, 1868.

Q. 5. You had notice of the existence of the original of Ex. T. B. V. No. 3, on the 25th of July, 1868, had you not, when you made your purchase? A. I had.

Q. 6. Was, or not, the fact of the existence of the original of Ex. T. B. V. No. 3 a matter of notoriety among all persons having or claiming any interest or any portion of the Rancho Corte Madera del Presidio, or any lands adjacent thereto, as early as 1867, '68, '69, '70, and '71?

Objected to by S. R. Throckmorton, on the ground that, as an agreement referring to real estate, it should be a matter of record, in order to give notice; and further, that it is irrelevant, incompetent, and immaterial, because it cannot affect this record of title, inasmuch as Hilaria Read and Jno. Read have divested themselves by deeds of conveyance, now on record, of all the right, title, and interest, both in law and equity, present or prospective, in all the lands conveyed by them to Bolton, and that Inez Read de Deffenbach, the remaining party in interest in said lands, has by deed of record conveyed to said S. R. Throckmorton all her right, title, and interest to the one-fourth part of all the lands so heretofore conveyed by Jno. Read, Hilarita Read, and herself, to said James C. Bolton.

A. I think it was generally known that an agreement was made with Bolton, to recover the lands outside of the Mathewson survey, and within the juridical possession, for an interest in the lands outside of the Mathewson survey.

T. B. VALENTINE.

Sol. A. Sharp, counsel for claimants, offers certified copy of decree of the District Court of the U. S., in the case of the United States *vs.* José Y. Limentour, marked "H. R. L. H."

T. B. Valentine called by Peter Gardner.

Q. 1. Did you ever have a school land warrant laid on the land adjoining to the north and west of the Mathewson survey, on the Corte Madera de San Pablo, claiming that land as public land? A. Not that I remember; and I know that I never had any interest in any warrant laid on that land.

T. B. VALENTINE.

H. C. Newhall called and sworn on behalf of claimants (Sol. A. Sharp, attorney).

Q. 1. Please state your name, age, and place of residence and profession. A. Henry C. Newhall, 38 years of age; reside in San Francisco, by profession a lawyer.

Q. 2. Do you know S. R. Throckmorton; if so, about how long have you known him? A. I do know him, since 1868 or 1869.

Q. 3. Look at Exhibit, marked S. R. T. No. 13, and state if you are one of the persons who signed the original, of which said exhibit purports to be a copy.

S. R. Throckmorton objects, as being incompetent and irrelevant, and the record is the best evidence.

A. I am.

Q. 4. Look at Exhibit, marked T. B. V. No. 3, and state if you ever knew of the existence and the contents of the original, of which said last named Exhibit purports to be a copy; if so, when did you first know of it?

Objected to by S. R. Throckmorton, as incompetent and irrelevant, and as having no connection with the subject matter of Exhibit S. R. T. No. 13.

A. I don't know that I ever saw the original; I have seen a copy of this paper, represented to me to be a copy of the original agreement, and which was shown to me by some one of the Read family or by Mr. Valentine, at the time I was first employed in the case of Bolton *vs.* Van

Reynegom, *et als.*, some time in 1868 or 1869, and so represented by them to be a copy of the original ; I read it then, and conversed frequently with some of the parties interested in the case concerning the subject matter of that case ; also read it frequently afterwards.

Q. 5. State if you know whether S. R. Throckmorton and Hugh A. Boyle before and at the time of the execution of the original deed of which Exhibit marked S. R. T. No. 13 purports to be a copy, knew or had notice of the existence and contents of the original of which Exhibit marked T. B. V. No. 3 purports to be a copy ; and if so, state your means of knowledge.

Objected to by S. R. Throckmorton as incompetent, irrelevant and immaterial, and because this witness is no proper source from which to obtain the information sought in the question, and because the question nor any of its bearings has any relevancy to the rights of property of any of the parties in this controversy, for the reason, viz: that the entire status of ownership in the lands described in said Exhibits, by reason of full and complete divestiture by deeds of conveyance made by all the parties conveying the said lands to said James C. Bolton, by whom said covenant marked T. B. V. No. 3 is said to have been made, has changed, and that the said covenant T. B. V. No. 3 has no standing or value in this case. The whole of the parties in favor of whom the same purports to have been made, have, since the execution of said covenant marked T. B. V. No. 3, and before the execution of deed marked Exhibit S. R. T. No. 13 were executed, had entirely divested themselves of all right, title and interest to the property therein described.

A. Mr. Boyle undoubtedly did, because as his attorney in the case of Bolton vs. Van Reynegom *et als.*, we frequently conversed about the contents and purport and object of the original, of which Exhibit marked T. B. V. No. 3 purports to be a copy, and prior to the date of the Exhibit marked S. R. T. No. 13 ; and that I should presume that Mr. S. R. Throckmorton was well aware of the contents of the original of which Exhibit marked T. B. V. No. 3 purports to be a copy, from the fact that prior to the execution of the deed marked S. R. T. No. 13, we had frequently conversed about the same. That in such conversations he appeared to know the contents and object of the agreement, a copy of which is marked T. B. V. No. 3. By "we" I mean Mr. Throckmorton and myself.

Q. 6. Before, and about the time of the execution of the original, of which Ex. S. R. T., No. 13, purports to be a copy, did you have any conversation with S. R. Throckmorton, in relation to the lands or portions of the Rancho of Corte Madera del Presidio, included in the Mathewson survey—if so, state as nearly as you can what was said on that occasion.

Objected to by S. R. Throckmorton as incompetent, immaterial and irrelevant, and because all the subject-matter relating to property and lands owned or claimed by said S. R. Throckmorton are matters of conveyance, by deeds duly executed and recorded, and which cannot be changed or affected by any recitals or assertions at desultory conversations by or with anybody; and because it is not shown that the parties to these instruments were present during any such conversations, or were influenced thereby.

A. I frequently had conversations with Mr. Throckmorton, prior to the date mentioned, in reference to the lands both included within and excluded from the Mathewson survey; during such conversations it was stated that the Read heirs had undisputed title to the greater portion of the lands within the Mathewson survey, and that such portions as were included in the Bolton contract, Ex. "T. B. V. No. 3.," were the subject-matters of the suit of Bolton *vs.* Van Réynegom.

S. R. Throckmorton moves to strike out so much of the foregoing answer as relates to the land covered by the suit of Bolton *vs.* Van Reynegom, the same not being included in the Mathewson survey, to which the question only referred.

*Cross-Examination by P. Gardner.*

Q. 1. For what object was said Ex. T. B. V. No. 3 withheld from being recorded until the late date of 1871? A. I don't know.

Q. 2. Was it not withheld for the purpose of keeping the said defendants in said action from the knowledge of there being any such agreement made until after the said case was decided by the Court? A. I have no doubt that you and the other squatters, and Mr. Throckmorton, knew the full contents of the Bolton agreement long prior to the trial of the suit mentioned, and I base such belief upon frequent conversations with all of you in relation to this matter.

Q. 3. Do I understand you, as an attorney at law, that the last answer is an answer to my last question? A. I think it is.

H. C. NEWHALL.

Walter Van Dyke, U. S. Attorney for the District of California, offers as follows:

Motion: That the Honorable Surveyor-General of the U. S. for California dismiss the proceedings on the Ransom-Al-lardt survey of said rancho now under consideration, and that the plat of survey of said rancho, made by U. S. Deputy Surveyor R. C. Mathewson, of October 18, 1858—plat filed Sept. 19, 1859, and survey approved by Surveyor-General on the 15th of August, 1860, and duly approved and published according to law, under the Act of Congress, approved June 14, 1860, be substituted as the official plat of survey of said rancho in the place and stead of Ransom Al-lardt's survey, and that the same, plat and papers, be forth-with forwarded to the honorable the Commissioner of the General Land Office at Washington, for the issue of letters patent of the United States for said rancho and according to said Mathewson's survey to the confirmees, the heirs of Juan Read. This motion is presented and made on the ground that said survey of said rancho by said Deputy Ma-thewson, approved and published as aforesaid, became final under said Act of June 14, 1860, and proceedings had, and that said survey is final.

In support of this motion, said attorney of the United States submits the following, to wit: The record of proceed-ings had in said case and survey prior to July 1st, 1864, and those embodied in the written motion, and Exhibits here-with, filed as follows:

1st. Motion of the United States to dismiss proceedings, etc., marked "U. S. A. No. 1."

2d. Order of approval of said Mathewson survey by the Surveyor-General, dated August 15, 1860, marked Exhibit U. S. A. No. 2.

3d. Certificate of publication of said survey, under the act of June 14, 1860, marked Ex. U. S. A. No. 3.

4th. Order entered directing return of survey into Dis-trict Court, on Sept. 13, 1860, marked Ex. U. S. A. No. 4.

5th. Order of said District Court approving said survey Sept. 28, 1865, marked Ex. U. S. A. No. 5.

6th. Decree of said U. S. District Court, dated October 16, 1865, reciting that the foregoing proceedings were in-advertently had, and ordering the approval of said survey

set aside, and the proceedings had dismissed. The above Exhibits, Nos. 2, 3, 4, 5 and 6, are offered by duly certified copies.

And the said United States, by her said Attorney, hereby gives notice that said motion will be urged before the Surveyor-General, the Commissioner of the General Land Office, and the Honorable Secretary of the Department of the Interior, and will ask the immediate consideration of the matter.

The said U. S. Attorney also offers in this connection the map of the region adjacent to the Bay of San Francisco, State Geological Survey of California, by J. D. Whitney, State Geologist, for the purpose of showing the location of the Rancho Corte Madera del Presidio, as surveyed by said Deputy Mathewson, marked Ex. U. S. A. No. 7.

Objections to the foregoing motion and Exhibits by S. R. Throckmorton, to be enumerated to-morrow morning, April 27, 1876, after half-past 10 o'clock; also, by any other parties who may see fit to make objections to the same.

Adjourned to Thursday, April 27th, 1876, at 10:30 A. M.

Met this day, April 27th, 1876, pursuant to adjournment.

The motion of the District Attorney is suspended, to be re-instated and renumbered at the close of the case, subject to the objections made, and to be made, by the contending parties, as per order of the Surveyor-General.

Mr. S. R. Throckmorton now offers Exhibit "S. R. T. No. 24," deed (being certified copy) Juan J. Read, Hilaria M. Read, Thomas B. Deffebach and Inez Deffebach, his wife, to James C. Bolton, dated August 12th, 1865, heretofore offered in this case, and also marked "T. B. V. No. 7."

Sol. A. Sharp, for claimants, objects for the reason that said Exhibits already appear in evidence, and because it is incompetent and irrelevant, and also, that the contestant offering the deeds does not claim any interest thereunder.

Also, Exhibit (certified copy) S. R. T. No. 25, deed of James C. Bolton to Thomas B. Valentine, dated July 25, 1868, heretofore in this case, and marked T. B. V. No. 6.

Sol. A. Sharp, for claimants, makes the same objection.

Also, Exhibit S. R. T. No. 26, certified copy of deed of James C. Bolton to Rudolph Steimbach, dated September 16, 1865.

Same objection by Sharp.

Also, Exhibit S. R. T. No. 27, certified copy of deed from Rudolph Steinbach to Emil Steinbach, dated March 28th, 1866.

Same objection by Sharp.

Also, Exhibit "S. R. T. No. 28," Power of Attorney (by certified copy) of Emil Steinbach to Rudolph Steinbach, dated February 18th, 1864.

Same objection by Sharp.

Also, Exhibit S. R. T. No. 29, certified copy of deed of Emil Steinbach to Emil Grisar, dated June 16th, 1866.

Same objection by Sharp.

Also, Exhibit "S. R. T. No. 30," certified copy of deed of Emil Grisar to S. R. Throckmorton, dated June 19th, 1866.

Sol. A. Sharp makes same objection.

Also, three partition deeds offered in connection with Exhibit S. R. T. No. 13, which last Exhibit is deed from Thomas B. Deffebach, Inez Read, T. B. Valentine, H. C. Newhall, Maria G. de Boyle. The said partition first named and referred to being marked as follows:

1st, "S. R. T. No. 31." Deed from S. R. Throckmorton to Hugh A. Boyle, dated January 28, 1871.

2d, Exhibit S. R. T. No. 32. Deed from S. R. Throckmorton to Thomas B. Valentine, dated January 28, 1871.

3d, Exhibit S. R. T. No. 33. Deed from S. R. Throckmorton to Inez Read de Deffebach, wife of T. R. Deffebach, dated January 28, 1871.

Mr. Sol. A. Sharp makes the same objections as before.

Also, Exhibit "S. R. T. No. 34." Deed from Hugh A. Boyle to H. C. Newhall, July, 1871.

S. R. Throckmorton sworn as a witness in his own behalf.

Q. 1. Are you the Sam'l R. Throckmorton referred to in Exhibits S. R. T. No. 31, 32, and 33? A. I am, and a contestant in this case.

Q. 2. Please look at Exhibit S. R. T. No. 13, and explain, if you can, the relations, if any, that existed between the three Exhibits last referred to, and the deed of T. B. Deffebach, et al., to Julius C. McCeney, being "Exhibit S. R. T. No. 13." A. The three deeds marked Exhibits S. R. T. No. 31, 32, and 33, executed by me respectively to Hugh A. Boyle, Thos. B. Valentine, and Inez Read Deffebach, were executed by me as deeds of partition, deeding to them their respective interests, as between myself and the parties

thereto, and the said deed executed by them to Julius C. McCeney, that is to say, the deed executed by Thos. B. Deffebach, et al., to Julius C. McCeney, marked Exhibit S. R. T. No. 13, was made to him for my use and benefit, and was made in his name for convenience, and to avoid confusion, and was made in the execution of said partition.

Recess till 2 o'clock.

S. R. THROCKMORTON.

Exhibits offered by Edwin Gardner, to wit: "Ex. G. R. No. 1," Edwin Gardner's objections, and subdivisions of the Mathewson survey, by the heirs of Jno. Read.

"Ex. G. R. No. 2." Probate Court, Marin County. In the matter of the estate of Jno. Read, deceased. Certified copy of order, appointing Jno. S. Gibbs administrator or guardian for minor heirs.

Ex. G. R. No. 3. Certified copy of deed, Jno. S. Gibbs, administrator, to B. R. Buckelew.

Ex. G. R. No. 4. Certified copy of appointment of Jas. McShafter and T. Murphy as guardians.

Ex. G. R. No. 5. Certified copies of complaint and answer and decree, Garcia et al. vs. Buckelew and Gibbs, 7th Dist. Court, Marin County.

Ex. G. R. No. 6. Certified copies of complaint, answer, and judgment, Albert Gardner vs. B. R. Buckelew, 7th Dist. Court, Marin County.

Ex. G. R. No. 7. Certified copies of complaint, answer, and judgment, Edwin Gardner vs. B. R. Buckelew, 7th Dist. Court, Marin County.

Ex. G. R. No. 8. Certified copy of deed, V. D. Doub to Edwin Gardner.

Mr. Sharp, for claimants, objects to each and all the foregoing exhibits, marked respectively G. R. No. 1 to G. R. No. 8 inclusive, on the ground that each of the same is incompetent and irrelevant, and do not tend to elucidate nor prove any of the issues in this proceeding. Also, that G. R. No. 1 was not filed in time. Also, it appears that John Read, the grantee of the ranch, died before the admission of the State of California, and during the time that the Mexican law of descent prevailed, and there was no authority for the appointment of any administrators of his estate; and said exhibits do not connect, nor tend to connect the said Edwin Gardner with the grant of said rancho, or show any title in him to any portion of said Ranch, Corte Madera del Presidio.

Peter Gardner is called in rebuttal, and sworn.

Question by Mullen & Hyde :

Q. 1. Did you, on the twenty-third day of March, 1876, visit, in company with G. F. Allardt, the old stone mound, concerning which the said Allardt has testified in this case?

A. I did.

Q. 2. State when prior to said date, if ever, you first saw said old stone mound? A. In the fall of 1853 or 1854.

Q. 3. At the date when you first saw said old stone mound, was there any stake standing therein? A. I do not recollect.

Q. 4. Had there been any such, would you not be likely to remember the fact? A. I do not recollect anything about that particular stake, as the whole California City tract was surveyed and laid off in lots, and marked with stakes.

PETER GARDNER.

Peter Gardner offers the following Exhibits on behalf of self :

P. G. No. 1, being his objections to the survey.—P. G. No. 2, Gardner's Map, heretofore offered.—P. G. No. 3, being certified copy of instructions to R. C. Mathewson.—P. G. No. 4, heretofore offered.—P. G. No. 5, being depositions of Francisco Sanchez, J. J. Papy and M. G. Vallejo.—P. G. No. 6, petition of Widow Read for the lands adjacent to the Rancho Corte Madera del Presidio.—P. G. No. 7, being a certified copy of pre-emption claim of John J. Read, dated the 28th day of May, 1863.—P. G. No. 8, being Exhibit marked T. B. V. No. 3.—P. G. No. 9, being a certified copy of location of school-land warrants and plats, T. B. Valentine *et al.*

Mr. Sharp, for the claimants, objects to each and all of said Exhibits, as being incompetent and irrelevant, and also because said Peter Gardner has no status on the record in this case.

B. S. Brooks and S. R. Throckmorton, *in propria persona*, join in the above objection.

Testimony here closed.

Here again appears Walter Van Dyke, U. S. Attorney for the District of California, and moves as follows :

Motion.—That the Hon. Surveyor-General of the U. S. for California dismiss the proceedings on the Ransom-Allardt survey of said rancho now under consideration, and

that the plat of survey of said rancho made by U. S. Deputy Surveyor R. C. Mathewson, of October 18th, 1858—plat filed September 19th, 1859, and survey approved by Surveyor-General on the 15th of August, 1860—be substituted as the official plat of survey of said rancho, in the place and stead of Ransom Allardt's survey, and that the same—plat and papers—be forthwith forwarded to the Honorable the Commissioner of the General Land Office at Washington, for the issue of letters patent of the United States for said rancho, and according to said Mathewson's survey, to the confirmees, the heirs of Juan Read.

This motion is presented and made on the ground that said survey of said rancho by said Deputy Mathewson, approved and published as aforesaid, become final under said act of June 14th, 1860, and proceedings had, and that said survey is final.

In support of this motion said Attorney of the United States submits the following, to wit: The record of proceedings had in said case and survey prior to July 1st, 1864, and those embodied in the written motion and Exhibits herewith filed, as follows:

1. Motion of the United States to dismiss proceedings, etc., "U. S. A. No. 1."

2. Order of approval of said Mathewson's survey by the Surveyor-General, dated Aug. 15th, 1860, marked Exhibit U. S. A. No. 2.

3. Certificate of publication of said survey under the act of June 14th, 1860, marked Ex. U. S. A. No. 3.

4. Order entered directing return of survey into District Court, September 13th, 1860, marked U. S. A. No. 4.

5. Order of said District Court approving said survey, September 28, 1865, marked Ex. U. S. A. No. 5.

6. Decree of said U. S. District Court, dated October 16, 1865, reciting that the foregoing proceedings were inadvertently had, and ordering the approval of said survey set aside and the proceedings had, dismissed. The above Exhibits Nos. 2, 3, 4, 5, and 6, are offered by duly certified copies.

And the said United States, by her said attorney, hereby gives notice that said motion will be urged before the Surveyor-General, the Commissioner of the General Land Office, and the Honorable Secretary of the Department of the Interior, and will ask the immediate consideration of the matter. The said U. S. Attorney also offers in this connection the map of the region adjacent to the Bay of San Francisco, State Geological Survey of California by J. D. Whitney,

State Geologist, for the purpose of showing the location of the Rancho Corte Madera del Presidio, as surveyed by said Deputy Mathewson, marked Ex. U. S. No. 7.

Adjourned until Tuesday, the 2d day of May, 1876, at 10 o'clock A. M.

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Case called this 2d day of May, A. D. 1876, at 10:30 o'clock A. M.

Mullen & Hyde object to the foregoing motion, and said Exhibits, and for reasons stated on pages from 830 to 838 inclusive.

Mullen & Hyde, while uniting as they do in the motion of Hon. Walter Van Dyke made herein—as they understand the same—to set aside the Ransom-Allardt survey of the “Rancho Corte Madera del Presidio,” and because, as they allege, for the various irregularities, and by virtue of other matters set forth and shown in the record of these proceedings, do object to the substitution therefor, and the reinstating of, the so-called “Mathewson survey of said rancho,” as approved by U. S. Surveyor-General Mandeville, and for reasons which they set forth and as follow, to wit:

1st. That admitting, which they do not, that any and all action of U. S. Surveyor-General Mandeville, heretofore had in the matter of the survey of the “Rancho Corte Madera del Presidio,” to be correct and valid, the same was not final but was subject to the control, supervision and right of review of the Hon. Commissioner of the General Land Office, and because said control and right of review was vested in said Commissioner by law.

By the Act of Congress of July 4th, 1836, (5 Statute 107) reorganizing the G. L. O., it was specially provided:

That all the Executive duties then or afterwards to be prescribed by any law touching the disposition of the public lands or any private claim thereto, were made subject to the supervision and control of the Hon. Commissioner of the G. L. O.

That the making this particular survey by U. S. Surveyor-General Mandeville was one of the Executive duties referred to in said law, and that General Mandeville's action in the premises was subject to the supervision and control of said Commissioner of the G. L. O.

That the action of the Hon. Com. G. L. O., already had herein, and the subsequent review thereof on appeal to the Hon. Secretary of the Interior, whose right of supervision

extends to all matters over which the Commissioner has jurisdiction, was the exercise by that officer of such supervisory power and control, and that this action and judgment of these officers was a final disposition, by the highest executive authority of the U. S. Land Dept., over this subject matters, and is now "*res adjudicata*;" and as such, the parties thereto having been represented and fully heard, are now concluded, and that the said matter is not now subject to review by their successors in office, and that the U. S. Surveyor has no jurisdiction in the premises, and cannot entertain said motion.

2d. Because said motion contains recitals of matters as facts which are incorrectly stated, in this,

That plat of Mathewson survey was approved by U. S. Sur.-Gen'l Mandeville, on Aug. 15th, 1860, when said date should have been Sept. 15th, 1859; and that said survey was published (meaning thereby correctly, and validly and legally published) under the act of June 14th, 1860, which is error.

3d. Because, what purports to be the original of said "Exhibit U. S. No. 2," filed in support of said motion, is nothing more than a series of loose sheets of printed memoranda (dated Aug. 15th, 1860) of certain matters therein contained and posted in memorandum form of scrap book, and that said original does not bear the signature of the U. S. Surveyor-General Mandeville, subscribed thereto; but said name, like the remaining material matters therein contained, is printed; and said original seems to be a series of memoranda sheets for convenient reference to the matters therein contained, as shown by the many and various lead pencil jottings and annotations thereon; and that neither the said original memoranda, nor a certified copy thereof, is the best or even competent evidence of the fact or date of approval of the survey of this rancho; but that the original writing of the date of the approval of said survey, as signed by U. S. Sur.-Gen'l Mandeville on the original plat of the survey of said rancho, is the best evidence of both of said facts; and that said date is not Aug. 15, 1860, but is Sept. 19th, 1859.

4th. Because what purports to be the original of "Exhibit U. S. A. No. 3," is not in harmony with what purports to be the original of "Exhibit U. S. A. No. 2," in this, that the date of approval of survey of the rancho in the one case is set forth as Aug. 15th, 1860, and in the other as Sept. 19th, 1859.

5th. Because said "Exhibit U. S. A. No. 3," must be taken in its entirety; and when so taken, it appears that the original thereof is from a book of printed forms, with blank spaces left in said forms to be filled up, and which spaces are so filled up in said original, by matters therein; but that it is specially shown and written in *red ink*, on the face of said original and also on the face of the certified copy thereof, that the *Mathewson survey of this rancho was, on the 13th day of Sept., 1860, ordered into the U. S. District Court.*

That on said 13th day of September, 1860, the Mathewson survey of this rancho, as set forth in said "Exhibit U. S. A. No. 3," had not been published for four weeks in two newspapers, as prescribed by law, but that said survey had been published in *one* newspaper for *four* weeks, and for only *three* weeks in another newspaper, and that prior to its publication for four weeks in two newspapers, as prescribed by law, and as set forth in said Exhibit, the said survey was ordered into the U. S. District Court, as provided for by section 2 of the Act of June 14th, 1860.

That immediately thereupon, to wit: September 13th, 1860, the U. S. Surveyor-General lost all public jurisdiction thereof, and on that same day, September 13th, 1860, as shown by said Exhibit U. S. A. No. 4, the U. S. District Court assumed jurisdiction (and that, too, upon the motion and the filing objections to said Mathewson survey by the claimants herein) of the subject-matter of said survey, and that said District Court retained said jurisdiction and control thereof, and continued to exercise the same until October 16th, 1865, as shown by "Exhibit U. S. A. No. 6," and which was filed in said U. S. District Court on the 24th of October, 1865, and that the Act of 14th June, 1860, reserved to the courts of the United States the power of such revision of the surveys of all private land claims.

That on July 1st, 1864, neither the survey of this Rancho, as made by said Mathewson, nor the plat of said survey, as approved by U. S. Surveyor-General Mandeville, had been approved by the U. S. District Court for California, nor by the Commissioner of the General Land Office, and that, therefore, under section 2d of the Act of July 1st, 1864, the provision of section 1st of said Act became applicable thereto, and that thereunder said survey had to be published as provided for in said Act of July 1st, 1864.

That whatever approval of said survey, as had by said U. S. District Court, was by said Court vacated and set aside,

and, therefore, the said Mathewson survey, both under section 3d of said special Act of July 1st, 1864, as well as under the special Act of March 3d, 1851, and the general laws of July 4th, 1836, again came under the supervision, control, and right of review of the Commissioner of the General Land Office.

Finally. A survey of a private land claim in California, made under the provision of the Act of Congress of March 3d, 1851, and approved by the U. S. Surveyor-General, *prior* to the Act of June 14th, 1860 (which were the facts in this case), could not be legally published under said act, but must be published under the provisions of the Act of July 1st, 1864.

MULLEN & HYDE,  
Attorneys for Objectors.

Mr. Shanklin, counsel for S. R. Throckmorton, objects to the motion made by U. S. District Attorney Van Dyke, and to the papers filed by him in support of his motion, for reasons as follows:

1st. That the District Attorney knew that the case of the United States *vs.* the Heirs of Juan Read, had been dismissed in the District Court by proceedings had the 16th day of October, A. D. 1865, as will appear by the certified copy of proceedings had therein on that date, and now offered. [See next page—839.]

2d. Because the papers offered in support of the motion are only a partial record of the court proceedings therein.

3d. Because the grant of the Rancho Corte Madera del Presidio was a perfect grant, under the Mexican laws; and the survey thereof, under the Mexican laws, had settled, fixed and determined the boundaries of said Rancho more than ten years prior to the treaty of Guadalupe Hidalgo, and, under said treaty, the United States acquired no rights, in any respect, over said rancho, as to the character of the grant or the determination of any of its boundaries, and acquired no power to change said boundaries.

At a term of the District Court of the United States, in and for the Northern District of California, held at the Court Room of the said Court, in the City and County of San Francisco, in the district aforesaid, on Monday, the 16th day of October, A. D. 1865.

Present, Hon. Ogden Hoffman, Judge.

THE UNITED STATES,  
 vs.  
 THE HEIRS OF JUAN READ. }

Upon reading and filing the notice of motion, on the part of the District Attorney, to dismiss the exceptions to the survey and the affidavit of B. S. Brooks and S. A. Sharp, Attorneys of the claimants, from which it appears that the order or decree heretofore entered was entered under misapprehension, On motion of B. S. Brooks, Esq., Attorney of the claimants, it is ordered that the said order or decree overruling said exceptions and approving the survey, be set aside—be vacated and annulled; and it is further ordered, on the like motion, that all proceedings in this court touching the said survey, be, and the same are hereby dismissed.

OGDEN HOFFMAN,  
 District Judge.

A true copy of original order now on file, in the case U. S. vs. Juan Read.

Attest: GEO. C. GORHAM, Clerk.  
 By S. Neall, Dep. Clerk.

[Endorsed.] Order setting aside survey approved by U. S. District Court, September, 1865, Corte Madera del Presidio. U. S. Surveyor-General's Office. Filed Feb. 5, 1867.

Mr. B. S. Brooks, on behalf of claimants, objects that the Surveyor-General has no jurisdiction to entertain said motion, because 1st, the Surveyor-General has no jurisdiction to review the proceedings of the Honorable Commissioner and Honorable Secretary of the Interior; 2d, the matter now pending is upon the order referring the matter back to the Surveyor-General under special directions, and the power and duty of the Surveyor-General is confined to a compliance with the instructions of the Honorable Commissioner and Secretary. 3d. The question of the finality of the Mathewson survey has been adjudicated by the District Court, the former Surveyor-General, the Commissioner

of the General Land Office, and the Secretary of the Interior, and the question is now *res judicata*, and their decision has become the law of the case. Mr. Brooks also concurs in the objections of Mr. Mullen and of Mr. Shanklin.

Mr. Shanklin, counsel of Mr. Throckmorton, concurs in the objections of Mr. Brooks.

J. H. Wilde, chief draftsman of the United States Surveyor-General's office, called by Mullen & Hyde.

Q. 1. Were you in the office of the Surveyor-General in 1859? A. I can't remember whether I came in September or October, 1859; but in October I certainly was, and have been ever since.

Q. 2. In whose handwriting are the certificates on plat No. 206, being that of Mathewson's survey of this rancho? A. The certificate of approval of survey is in the handwriting of Bielawski, chief draftsman in the Surveyor-General's office at that time, except the signature "J. W. Mandeville," which is in the handwriting of said Mandeville.

The certificate of publication, the body of it is in my own handwriting—I was then assistant draftsman; the signature is in the handwriting of the United States Surveyor-General, J. W. Mandeville.

Q. 3. What is the book now shown you, entitled on the back: Certificate of Advertised Surveys, Volume I? A. It is a record book of this office; it contains the certificate of publication of surveys for the years 1860 and 1861.

Q. 4. Is a similar record continued down to this date? A. To the best of my knowledge it has been, as I have had occasion to refer to it from time to time.

Q. 5. Is the Volume I, as originally prepared for use, of blank paper or of printed forms? A. It is of printed forms.

Q. 6. Are the words, "and I further certify that no order for the return thereof to the U. S. District Court has been served upon me," written or printed? A. Printed.

Q. 7. Is it struck out in any instance in said volume? A. It is not.

Q. 8. You find a memorandum in red ink at the top of the page on divers pages similar to that on page 66? A. I do.

Q. 9. What is it, and by whom made? A. It is an entry of the fact that the survey has been ordered into the District Court, and the date of the order; they are in the handwriting of different clerks in this office; I should say

that the one on page 66 is in the handwriting of C. E. Glidden, chief field-note clerk in this office at that time.

Q. 10. Is that volume an official record of this office, and is that entry an official entry? A. It is the only record of that kind that I know of, and has always been kept.

Q. 11. Where is Mr. Glidden? A. He is dead.

Q. 12. Is page 66 of said Volume I the original of Exhibit U. S. A. No. 3? A. It is.

Q. 13. Look at the book now shown you, labelled on the side: "Ranchos ordered into U. S. Dist. Court," and state what it is. A. It is a record book, kept in this office, of the orders ordering the surveys of ranchos into court.

Q. 14. What is entered in said book? A. Names of ranchos, the date when the order was filed, when the survey was filed, and a column of remarks.

Q. 15. Do you, on page 14, find an entry respecting this rancho; if so, what is it? A. I do. Under the head of name of rancho, "Corte Madera del Presidio," and under the head of when order filed, "Sept. 13th, 1860;" under the head of when survey filed, "Dec. 22d, 1860," and under the head of remarks I find nothing.

Q. 16. Look at the book now shown you, and state what it is. A. It is a record kept in this office of publication of private land claims.

Q. 17. Is that the original from which Exhibit U. S. A. No. 2 is taken? A. It is.

Q. 18. How is this book formed? A. It is a scrap-book originally, in which printed forms are pasted, similar to Exhibit U. S. A. No. 2. These printed forms are filled up and pasted in. There are no blank ones in it, and the book is not full.

Q. 19. Does Exhibit U. S. A. No. 2 conform in all respects to the said original; if not, wherein does it differ? A. The word copy is not on the original; certain pencil annotations that are on the original are not on the copy. At the end of each line are certain figures in pencil which appear to be a date, and they are probably the date of the approval of the survey. The first column preceding the names are the names of places in ink, with a pencil mark drawn across them. At the end of these names, in most instances, the letter "C," sometimes in red ink and sometimes in pencil. There are various other check marks in pencil that I do not understand, which are not on the copy.

Walter Van Dyke, the U. S. District Attorney, on behalf of the United States, offers supplemental to the Ex. U. S.

A., 1 to 7, the following papers: 1st. Published certificate of approval and publication of said Mathewson's Survey. Publication in the *Sonoma County Journal*, from August 24th to September 14th, 1860, and in the daily and weekly *San Francisco Herald*, five insertions, certificate dated U. S. Surveyor-General's office, San Francisco, August 16th, 1860.

The above are offered in original, and copies thereof filed, marked Exhibit U. S. A. No. 8, and Exhibit U. S. A. No. 9.  
Adjourned till 3 o'clock P. M. this day.

3 o'clock P. M.

Sol. A. Sharp, for claimants, joins in the objections of B. S. Brooks, to the said motion of Walter Van Dyke, U. S. District Attorney; also, because the Rancho of Corte Madera del Presidio was segregated from the public domain by the act of juridical possession, under the Mexican Government, and thereby became a grant of the specific quantity, and the specific tract of land so measured off to the grantee, which was binding on the Mexican Government, and is equally binding on the Government of the United States, under the treaty of Guadalupe Hidalgo, and neither our Government, nor any of its courts or officers, have any power or right to change the same.

Mr. Sharp now, at this date, May 20, 1876, moves on behalf of the clients he represents, that the case be now closed and submitted, together with the motion of the District Attorney, on briefs to be filed within thirty days from this date, with leave to Mr. Throckmorton's attorney to file an Exhibit from District Court in this case. B. S. Brooks joins with J. B. Howard, Walter Van Dyke, U. S. attorney, Peter Gardner, and S. L. Cutter, attorney for E. E. Gardner, join in and second the above motion.

S. R. Throckmorton moves to amend said motion and substitute therefor, in accordance with the consent and order of the United States Surveyor-General, that this case be adjourned until 10 o'clock A. M. of Thursday next.

Amendment not accepted by any of the attorneys.

S. R. Throckmorton protests against said adjournment.

The amendment is denied, and the case declared closed.

July 14, 1876, S. R. Throckmorton filed Exhibit marked "S. R. T. No. 35," being notice of motion to dismiss pro-

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ceedings in U. S. District Court in case of U. S. vs. Heirs of Juan Read.

No. 306 PINE STREET, SAN FRANCISCO, CAL.

I, J. A. Robinson, United States Commissioner, duly appointed, qualified and acting, do certify that the witnesses named in the foregoing record in the matter of the survey of the Rancho Corte Madera del Presidio, were each by me first duly sworn on their respective corporal oaths, to testify the whole truth touching the matters in controversy in said cause; That their testimony was taken on the several days specified in the foregoing record, at the office of the United States Surveyor-General.

July 15, 1876.

Attest: J. A. ROBINSON,  
United States Commissioner.

{SEAL.}



PHR  
not in Row



not in  
year

