

MEMORIAL
and
ACCOMPANYING PAPERS

IN RELATION TO THE

TOWN OF BEMICIA,

ON THE SOSCOL RANCHO, SOLANO COUNTY CALIFORNIA,

C. B. HOUGHTON, }
SAMUEL C. Gray, }
EDWIN DANFORTH, }

LANSING B. MJZNER,
Attorney for Trustees.

Commercial Steam Presses, Francis, Valentine & Co.. 517 Clay Street, San Francisco.

MEMORIAL.

To the Honorable the Senate and House of Representatives
of the United States, in Congress assembled:

GENTLEMEN :

Your petitioners, Trustees of the town of Benicia, California, on behalf of the citizens of said town and for their benefit, would respectfully ask your Honorable Body to pass an Act allowing them, as in the case of Denver City, to enter at the minimum price the land on which said town of Benicia is situated. A copy of which said Denver City Act, approved May 28th, 1864, and a rough draft of the Act above requested are hereto annexed, marked A and B ; and in support of said petition offer the following reasons :_

That said town of Benicia was laid out in the year 1847, on the tract, of land known as the Soscol Rancho, then and for sixteen years afterwards thought to be private property ; that the founders of said town purchased the site thereof; in the year 1847 for a valuable consideration, from Gen. M. G- Vallejo, the grantee and then owner of the said Soscol Rancho; that a map of said town was duly filed in the office of the County Recorder in the year 1850; that the lots in said town have been sold and resold thousands of times; and that the Government of the United States recognized Vallejo's title ' thereto by purchasing from the said founders of Benicia the land adjoining said town, on which are now situated the extensive U. S. Barracks, Quarter-master's and Ordnance Departments.

.(See certificate of Geo. H. Riddell, County Recorder of

Solano County, hereto annexed, marked "C.")

That improvements have been made and homes established on a great number of said lots; that the Benicia Collegiate Institute, Benicia Female Seminary and Catholic Convent, three of the first schools in the State, have been built in said town; also three fine churches and the important iron works of the Pacific Mail Steamship Co.

That in many instances the lots and blocks in said town have been purchased in good faith to the extent of fifty and one hundred acres, and reduced to cultivation the same as other lands on the Soscol Rancho ; that with the exception of about one hundred lots in the center of the town, the value of the remaining three thousand will not average \$10 per lot, it taking nearly two and a half of said lots to make one acre, which would be \$25 per acre, whereas the value of the entire rancho will not average over fifteen dollars per acre.

(See, affidavit hereto annexed, marked " D.")

That as the Act of Congress of March 3d, 1863, hereto annexed (marked " E ") allows the purchasers and occupants on said Soscol Rancho, (except Benicia) to enter at \$1,25 per acre all their lands, amounting in some instances to several thousand acres to the single individual; it is difficult to see why the fifteen hundred citizens of Benicia, on the same rancho, should be required to pay for about sixteen hundred acres over one hundred dollars per acre, as appears to be contemplated by the Act of Congress approved July 1st, 1864, (hereto annexed, marked " F,") wherein it is provided that each lot, not exceeding four thousand two hundred square feet, shall not be sold for less than ten dollars ; and as an acre contains over ten times that quantity, it follows that the citizens of Benicia who have done no wrong, will have to pay over eighty times as much for their land as other and adjoining claimants will have to pay on the same rancho, who happen to be outside of the town survey.

That the said Act of July 1st, 1864 (marked F as aforesaid), entirely fails to meet the necessities of the citizens of Benicia for the further reason, that it limits the quantity of land to be entered for any one town to six hundred and forty acres; from which it will be seen that, in case we are required to proceed under said Act, two thirds and possibly a greater pro-

portion of the lots in Benicia will be left out of the survey, and the owners and occupants thereof will be without a remedy, as they are specially excluded from the benefits of the Soscol Act of March 3d, 1863, (marked " E ", as aforesaid,) and required to proceed under the Town Site Act of 1844, (hereto annexed marked "G,") which said Town Site Act has been repealed by section 5 of the said Act of July 1st, 1864, (marked "F" as aforesaid.)

That while the said Act, (marked "F " as aforesaid,) limits the quantity of land in any one town to six hundred and forty acres, the town of Benicia was laid out seventeen years prior thereto on about sixteen hundred acres, of what was at the time supposed to be private land, and notwithstanding many

of the lots in said town were formerly worth thousand of dollars each, not more than one hundred of them are now worth ten dollars for each four thousand two hundred square feet, while the remaining three thousand are worth no more than the average of land on the whole Soscol Rancho.

That in the survey made by the United States Surveyor General for California, as directed by said Soscol Act, marked ".F" as aforesaid, the town plat of Benicia, as hereby asked for, was not included, and no claim for any of the land asked for in our said bill has been presented to the Register and Receiver of the Land Office, as other claimants on the said Soscol Rancho were required to do.

From which it will be seen that as the said Soscol Act, marked " F " as aforesaid, and the United States survey made thereunder, excludes the municipal claim of Benicia to the extent of over sixteen hundred acres; and the Act of July 1st, 1864, marked "F" as aforesaid, (which is now the law of the land), limits municipal claims to six hundred and forty acres; it follows that the owners and occupants of the over-plus, about one thousand acres, are entirely unprovided for, and sooner Or later a special act of Congress will have to be passed for their relief. But the bill asked for now will obviate all the difficulty, and secure the just and equal rights of all parties who were inadvertently excluded from the operation of said Soscol Act, marked " E " as aforesaid. It will be remembered that Benicia is the only municipal, claim on the said Soscol Rancho—

the important town of Vallejo never having been incorporated, and the original proprietors thereof are now applying for the same under said Soscol Act, that the title when passed to them may enure to their grantees.

That as your honorable body did, at the last session, pass an Act allowing the citizens of Denver to enter nine hundred and sixty acres of land on which said town is situated, at one dollar and twenty-five cents per acre, when there was no question about the said town being on public land, it is taken for granted that the same privilege will be extended to the citizens of Benicia, who for sixteen years supposed their town was on private property, and the United States Government was of the same opinion, and acted accordingly (under advice of the Attorney General,) in purchasing a portion of said land for a military depot.

(Reference is hereby made to the accompanying affidavits, Congressional and Legislative Acts and Reports, decisions of Courts, and to all testimony heretofore adduced in support of said Soscol Act.)

In conclusion, your petitioners rely upon the disposition of your honorable body to do equal justice to all good citizens, to carry out in good faith the treaty of Guadalupe Hidalgo and to protect rights, or supposed rights, acquired in faith of that treaty.

And as in duty bound, your petitioners will ever pray,

C. B. HOUGHTON
E. DANFORTH,
S. C. GRAY,
Trustees.

EXHIBITS. .

[A]

DENVER CITY ACT—PUBLIC ACT No. 80.

An Act for the Relief of the Citizens of Denver, in the Territory
of Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the provisions of an Act of Congress entitled " An Act for the Relief of the Citizens of Towns upon the Lands of the United States, under, certain circumstances," approved May 28d, 1844, be so extended as to authorize the probate judge of Arapahoe county, in the Territory of Colorado, to enter, at the minimum price, in trust for the several use and benefit of the rightful occupants of said land and bona fide owners of the improvements thereon, according to their respective interests, the following legal subdivisions of land, or such portions thereof as are settled and actually occupied for town purposes by the town of Denver aforesaid, to wit: Section number thirty-three, and the west half of section number thirty-four, in township number three south, of range number sixty-eight west of the sixth principal meridian: Provided, however, That there shall be reserved from such sale and entry such blocks or lots in the town of Denver as may be necessary for Government purposes, to be designated by the Commissioner of the General Land Office.

SEC. 2. And be it further enacted, That in all respects, except as herein modified, the execution of the foregoing provisions shall be controlled by the provisions of said Act of 23d May, 1844, and the rules and regulations of the Commissioner of the General Land Office.

Approved May 28, 1864.

[BJ

PUBLIC ACT No. ---

An Act for the Relief of the Citizens of Benicia, in Solano County,
State of California

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the provisions of an Act of Congress entitled " An Act for the Relief of the Citizens of Towns upon the Lands of the United States, under certain circumstances," approved May 23d, 1844, (which is hereby revived, for the purposes of this Act only), be so extended as to authorize, the Trustees of the town of Benicia, Solano county, California, to enter, at the minimum price, in trust for the several use and benefit of the rightful occupants of said land and the bona fide owners of the improvements thereon (at the time of the rejection of the Vallejo title to the Soscol Rancho by the Supreme Court of the United States,) ac-

ording to their respective interests, the following legal subdivisions of land, or such portions thereof as are settled and actually occupied for town purposes by the town of Benicia aforesaid.

Beginning at a post on the bluff bank of the Straits of Carquinez, marked " R. No. 6," the same being station No, 6 of the United States Military Reservation, and running thence along the line of said Reservation with the true meridian, the variation of the the magnetic needle being 16° 30' East.

1. N. 1° 30', E. 20.18 chs., to a post-marked "R. No. 5," the same being corner No. 5 of the United States Military Reservation ; thence continuing along the line of said Reservation.

2. N. 29° 30', East 11.47 chs., to the corner post marked " R. No. 4," corner No. 4 of the United States Military Reservation ; thence continuing along the line of said Reservation.

3. N. 61°, W. 17.89 chs., to the corner post marked" R. No. 3 " corner No. 3 of the United States Military Reservation. thence continuing on the line of said reservation.

4. N. 29°, E. 50.17 chs.; at 33.00 chs. intersect Township line between Townships 2 and 3 North, Range 3 West, Mount Diablo Meridian ; 15.40 chs. West of corner to Townships 2 and 3 North, Ranges 2 and 3 West; 50.17 chs., to a round

post marked "R. S. No. 2," corner No. 2 of the United States Military Reservation ; thence leaving the line of said Reservation, and running thence—

5. N. 60° 30' .West 212.70 chs. to station ; thence—

6. S. 29° 30', W. 47.17 chs., to station on the edge of the bluff bank of the Straits of Carquinez; thence with the meanders of said Straits to the place of beginning; and containing sixteen hundred and thirty five acres and thirty nine one-hundredths of an acre, the same being part of fractional sections 27, 34, 35, and 36, in Township 3 North, Range 3 West, and fractional sections 1 and 2, in Township 2 North, Range 3 West of Mount Diablo Meridian. As per, official survey and map now on file in the office of the United States Surveyor General for California.

Provided, however, That there shall be reserved from such sale and entry such blocks or lots in the town of Benicia as may be necessary for Government purposes, to be designated by the Commissioner of the General Land Office. And, provided, further, That the land hereby allowed to be entered shall in no manner trench or encroach upon the lands of the United States Military Depot at Benicia.

SEC. 2. And be it further enacted, That in all respects, except as herein modified, the execution of the foregoing provisions shall be controlled by the provisions of said Act of 23d May, 1844, and the rules and regulations of the Commissioner of the General Land Office.

UNITED STATES LAND OFFICE,
San Francisco, Cal., Dec. 14th, 1864
The undersigned, Register and Receiver of the United States

Land Office in San Francisco, California, do hereby certify that no application has been made to us under the Act of Congress of March 3, 1863, known as the Soscol Act, to enter under the provisions of said Act any of the lands within the limits of the town of Benicia, and farther that no survey of the lands occupied by said town has been returned to this office.

JOHN F. SWIFT, Register.
JAMES H. SHAKKLIN, Receiver.

town, and be made in conformity to the legal sub-divisions of the public lands, authorized by the Act of 24th April, 1820, and shall not in the whole exceed three hundred and twenty acres; and provided also, That any act of said trustees, not made in conformity to the rules and regulations herein alluded to, shall be void and of none effect; and provided also, That the corporate authorities of the town of Weston in the county Platte, State of Missouri, or the County Court of Platte County in said State, shall be allowed twelve months from and after the passage of this Act, to enter, at the proper land office, the lands upon which said town is situated.

Approved May 23, 1844

A F F I D A V I T S

State of California, County of Solano, ss.:

John B. Frisbie, being duly sworn, deposes and says that he came to California in the year 1847, where he has continued to reside ever since. Deponent further says that he is, and has been for the last seventeen years, well acquainted with the tract of land known as the town of Benicia; that said town is situated on the Soscol Rancho, and was surveyed and laid out as a town in 1847, by Robert Semple and Thos. O. Larkin, under a conveyance from Gen. Vallejo, the Mexican gran tee o the Soscol Rancho; that since that time it has grown to be one of the important interior towns of our State, and was at one time the Capital of the State. I was a purchaser of land on the Soscol Rancho, outside of Benicia, to the extent of sev - eral thousand acres, and was in possession of a large portion of the same when the title was rejected by the United States Supreme Court; that by the Act of March 3, 1863, I am entitled to enter at one dollar and twenty-five cents per acre all of said land so purchased by me of Vallejo, and reduced to possession.

John B. Frisbee.

Sworn to and subscribed before me this 9th day of Decem- her, 1864.

OHAS. W. Riley
Justice of the Peace.

State of California, City and County of San Francisco, ss.;

W. F. Swasey, being duly sworn, deposes and savs that he came to California in the year 1845, where he has continued to reside ever since; that he is now, anclJias been for the last year and over, stationed at the Military Depot in Benicia, 'as Assistant Quarter-Master in the United States Armv. Depo- nent further says that he is well acquainted with the tract of

land known as the town of Benicia, and has been so acquainted since the year 1847; that said town was surveyed and laid out as a city in that year by Semple and Larkin, under a purchase from Gen. M. G. Vallejo; that since that time it has grown to be a town of several thousand inhabitants, and is among the more important of, our interior villages, and was at one time the CAPITAL OF THE STATE. I never heard the title of Gen. Vallejo to the Soscol Rancho, under which title all the lots in Benicia were formerly held, seriously questioned until the recent adverse decision of the United States Supreme Court.

W. F. SWASEY.

Sworn to and subscribed before me this 12th day of September, 1864, as witness my hand and official seal, at the City and County of San Francisco, State of California.

[SEAL.]- E. P. PECKHAM, Notary Public.

State of California, City and County of San Francisco, ss.;

Henry F. Teschemacher, of said State, city, and county, being sworn, deposes and says that he came to California in the year 1842, where he has continued to reside ever since; that he is now, and for three years last past has been, the Mayor and Chief Magistrate of the said City and County of San Francisco. * * *

Deponent further states that he was well acquainted with the district of country then and now known as the Soscol Rancho; that from the year 1843 General M. G. Vallejo has been the reputed owner of the said rancho that said Vallejo had thereupon several thousand head of cattle and horses, and exercised over it all the acts of ownership usual at that time in such cases; that said Vallejo had a grant for said rancho as notorious as any other important fact then existing on this coast; that Vallejo had the exclusive use and possession thereof; that deponent never heard the title thereto questioned by any person until recently; from which deponent is of opinion that the grant was unassailed and deemed unassailable. * * *

That in 1847 the town of Benicia was laid out, its projectors and settlers basing their movement upon the Vallejo title. It has grown to be a town of several thousand inhabitants, and is among the more important of our interior villages. The town of Vallejo was laid out early in 1850 and is also of considerable importance. Both Vallejo and Benicia have successively been the Capital of the State. The owners of sites of rival towns, many of them among the earliest residents, and the oldest of the native population, would have availed themselves of any objections to the Soscol title to defeat both Vallejo and Benicia in this competition for the seat of Government. But through all this ordeal, the title was never attacked or questioned. * *

Finally, I do not think there is a just-minded man in California who would not rejoice if Congress by its action should confirm the Soscol grant to the assignees of Vallejo.

H. F. TESCHEMACHER.

Sworn to and subscribed before me this 4th day of Novem-

ber, A. D. 1862. W. C. PABKER, Notary Public.

State of California, City and County of San Francisco, ss. ;

Joseph P. Thompson, of said State, city, and county, being sworn, deposes and says that he came to California in the year 1842, and resides in said city at the present time. * *

Deponent further states that he was well acquainted with the district of country then and now known as the Soscol Rancho; that from the year 1843, General M. G. Vallejo has been the reputed grantee and owner of said rancho; that said Vallejo had thereupon several thousand head of cattle and horses, and exercised over it all the acts of ownership usual at that time.

* * * That said Vallejo had a grant for said rancho was as notorious on this coast as any other important fact then existing. That Vallejo had the exclusive and undisputed title and possession thereof; that deponent never heard the title thereto questioned by any person until recently. * *

That in 1847, the town of Benicia was laid out, its projectors and settlers (one of whom was Consul of the United States during the Mexican "regime," and well acquainted with the condition of titles in the country,) basing this movement upon the Vallejo title. It has grown to be a town of several thousand inhabitants, and is among the more important of our interior villages. That the Military Reservation adjoining the town of Benicia, used for many years as the principal army depot on the Pacific coast, is held under the Vallejo title. The town of Vallejo was laid out early in 1850, and is also of considerable importance. Both Vallejo and Benicia have successively been the Capital of the State, and the State, after rigorous examination of the Vallejo title by the Attorney General has accepted donation of lands from each under the title. The owners of sites of rival towns, many of them among the earliest residents and oldest of the native population, would have availed themselves of any objections to the Soscol title to defeat both Vallejo and Benicia in this competition for the seat of Government. Through all of this ordeal, the title was never attacked or questioned. * * * Finally, deponent declares his belief to be that there is no good citizen in California, acquainted with the subject matter, who would not rejoice if Congress by its action should confirm the Soscol grant to the assignees of Vallejo. Joseph P. Thompson

Subscribed and sworn to before me on this 6th day of November, 1862.

[L.S.]

P.B. Cornwall
Notary Public.