

THE
STATUTES OF CALIFORNIA,

PASSED AT THE

Seventeenth Session of the Legislature,

1867-8,

BEGAN ON MONDAY, THE SECOND DAY OF DECEMBER, EIGHTEEN HUNDRED
AND SIXTY-SEVEN, AND ENDED ON MONDAY, THE THIRTIETH DAY
OF MARCH, EIGHTEEN HUNDRED AND SIXTY-EIGHT.



SACRAMENTO:

D. W. GELWICKS, STATE PRINTER,

1868.

CHAPTER DXLIII.

An Act to survey and dispose of certain salt marsh and tide lands belonging to the State of California.

[Approved March 30, 1868.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Governor of the State shall appoint three persons, who shall constitute a Board of Tide Land Commissioners, and shall hold office for two years from the date of their appointment, and shall have the charge and disposition of all the salt marsh and tide lands belonging to the State of California, situated in the City and County of San Francisco, as hereinafter provided by this Act, and who shall be known and designated in this Act as "the Commissioners."

Offical
bonds.

SEC. 2. Before entering upon their duties, and within ten days after their appointment, each of the Commissioners shall give to the State of California a bond in the sum of twenty-

five thousand dollars, with two or more sureties, conditioned for the faithful performance of the duties required of him under this Act, which bond shall be approved by the Governor and State Treasurer, in writing indorsed thereon, and be filed in the office of the Secretary of State. They shall also severally subscribe to and execute the following oath, which shall be attached to and filed with their bonds:

I, A B, do solemnly swear that I am not interested, directly or indirectly, by or for myself or any other, in any property or interests of property of the State of California within the limits of the City and County of San Francisco, to be sold under or by virtue of this Act under which I am appointed a member of the Board of Tide Land Commissioners, and that I will not be so interested during my term of office, nor will I become interested in any property or advantages, except my official salary as fixed by law, to result from the administration of my office or of my associate Commissioners.

A violation of the above oath, in any of its parts, or any other corrupt or wilful violation of duty in office, shall be a felony, for which the person offending shall be punished by a fine of not less than five thousand dollars nor more than twenty-five thousand dollars and imprisoned not less than one nor more than three years in the State Prison. The Governor may remove any Commissioner and fill the vacancy, as in other cases, according to law.

SEC. 3. Within five days after having qualified as prescribed by section two of this Act, the Commissioners shall meet in San Francisco and organize as a Board, choosing one of their number as President, and elect a Secretary. The duties of the President shall be to preside at all meetings of the Board and perform such other duties as may be required of him by this Act. The Secretary shall attend the meetings of the Board and shall keep a clear and distinct minute of their proceedings at every meeting. He shall record the name of every Commissioner present at each meeting of the Board and voting on each resolution, act or proceeding, whether he voted in the affirmative or negative. Every such vote shall be taken viva voce and by ayes and nays. He shall perform such other services as are required of him by this Act, or as may be prescribed for him by the Board in accordance therewith. His minutes and record shall be open to inspection by the public during business hours. The Secretary may, at any time, be removed by a majority of the Commissioners and another appointed. The vote of a majority of the Board shall be necessary to adopt any resolution or motion.

SEC. 4. The Commissioners shall take possession of all the salt marsh and tide lands, and lands lying under water, to the point that may be established as the water front, situate along the Bay of San Francisco, and situate in the City and County of San Francisco, belonging to the State of California, and have the same surveyed to a point not beyond twenty-four feet water at the lowest stage of the tide, and cause to be prepared two maps of the same, showing the quantity and extent of the property situated as aforesaid, and exhibiting all the municipal sub-

divisions, streets, alleys, blocks, squares and lots, which lots shall not exceed in area six thousand two hundred and sixty-one and one sixth square feet each. One of said maps they shall retain in their office at San Francisco, and the other they shall file in the office of the State Surveyor. After such preliminary survey the Commissioners, in conjunction with the Governor of the State, the Mayor of San Francisco and the President of the Chamber of Commerce of San Francisco, and who shall be known and designated in this Act as the "State Board," shall meet and by a two thirds vote establish the water line front of San Francisco; but they shall not have power to alter in any manner whatever the water line front of said city north of the terminus of Second street, as established by the Act passed March twenty-sixth, eighteen hundred and fifty-one. After the establishment of the water line front as above provided, the Commissioners shall have all the property lying within the same belonging to the State surveyed, subject to the approval of the State Board, into lots and blocks in accordance with the official map survey of the City of San Francisco, reserving so much thereof for streets, docks, piers, slips, canals, drains, or other use necessary for the public convenience and the purposes of commerce, as in their judgment may be required, and have two maps of the same prepared showing the property as re-surveyed to the water line front, the streets, blocks, reservations, and everything necessary to be shown by such maps; one of which maps shall be filed in the Surveyor-General's office, and the other shall remain in their office at San Francisco; *provided*, that the land belonging or granted to the California Dry Dock Company, and the overflowed land in front thereof, shall be and the same is hereby excepted from the operation of this Act; *provided*, that there is hereby granted and donated to the Southern Pacific Railroad Company and the Western Pacific Railroad Company, for a terminus in the City and County of San Francisco, to each of said companies, thirty acres, exclusive of streets, basins, public squares and docks, out of the aforesaid land, and lying southwardly from Channel street, and outside of the line known as the red line water front of Mission Bay, to be located jointly or severally by the said respective companies within ninety days from the passage of this Act, in a manner and form to be approved by the Governor, the Mayor of the City and County of San Francisco, and the President of the Chamber of Commerce of said city, or a majority of them, and so as not to extend beyond twenty-four feet of water at low tide, nor within three hundred feet of such line as may be established, under the provisions of this Act, as the permanent water line front of said city, together with the use of a right of way for said companies to said terminus over the lands of this State for the road beds and tracks of said company—the Board of Commissioners herein named to fix and designate the lands (not to exceed a strip two hundred feet in width for both said companies) over which said right of way shall be exercised; and *provided*, that such grant of land for terminus and the said right of way shall not be construed to interfere with the proper establishment and regulation of streets and alleys, docks, wharves and basins, culverts and sewers, and the laying down of gas and water pipes by

Establishment of a water line front.

Survey.

Donation of land for railroad terminus

Rights reserved to city and county.

the proper authorities of the City and County of San Francisco; and the authorities of the said City and County of San Francisco shall have such jurisdiction and control over said streets and crossings thereof as is or may be conferred by law in other cases, and said railroad companies shall so construct their roads as to cause the least obstruction to travel over and along their roads and at the crossings thereof; *provided*, that in case either of the said companies shall fail to comply with the conditions of this Act, such company shall forfeit their rights thereunder; and in such event the other company accepting and using the same for the purposes indicated shall receive thirty acres (exclusive of streets, basins, public squares and docks) for terminal purposes, and not exceeding one hundred feet in width for right of way; and the said companies are hereby authorized to extend their roads or purchase other roads so as to reach their terminus. And upon the location by the said companies of their terminus and terminal depots and stations upon the said premises, and the expenditure of one hundred thousand dollars thereon by each of said companies, the Governor shall issue patents therefor to the said companies respectively; *provided*, that unless the said companies shall, within thirty months from the passage of this Act, make the terminus of their roads upon the said premises, and expend thereon the said sum of one hundred thousand dollars each, then any grant herein contained shall be void as to the said company so in default, and the lands herein granted to such company shall revert to and be the property of the State; *provided*, that nothing in this Act shall be construed to interfere with the collection of dockage and wharfage by the State, nor with the right of the State to construct, adjoining the property granted, such wharves and docks as may from time to time be provided by law; *provided* further, that if the two hundred feet herein mentioned for the right of way, or any part thereof, shall at any time be abandoned or cease to be used as such roadway by said companies, then so much thereof as shall be so abandoned or disused shall revert to the State; and *provided* further, that if the said railroad companies, or either of them, shall not, within thirty days of the organization of the Board of Commissioners, notify such Board of the acceptance of the provisions of this donation and grant, the lands herein proposed to be donated and granted to the said company or companies so failing to notify said Board shall be sold at auction, as is otherwise provided in this Act; and in the event said companies, or either of them, shall accept the grant or donation herein made, the same shall be in lieu of all other grants of land made or to be made to the company accepting the same in the City and County of San Francisco at the present session of the Legislature; *provided*, that no part of said land granted or donated to said railroad companies shall be located on any land now in the bona fide possession and occupation of any citizen or citizens of this State.

Forfeiture.

Conditions of donation.

Rights reserved to State.

SEC. 5. After the Commissioners shall have complied with the provisions of section four of this Act, they shall proceed to sell at public auction, and as hereinafter provided, in some public place in the City of San Francisco, all the right, title and interest of the State of California in and to the property

Sale of State lands within water line.

Settlers may purchase at appraised value.

in the lots described in section four. Such sales shall be by lots, in accordance with the survey and map provided for in section four of this Act; *provided*, that in all cases where any settler was on the first day of January, A. D. eighteen hundred and sixty-eight, in the bona fide actual possession of any one lot by himself or tenant, and any additional lot in which he shall have had substantial improvements at the time aforesaid, or who had, within one year previous to the first day of January, A. D. eighteen hundred and sixty-eight, substantial improvements upon any such lot which have been destroyed by fire, the Commissioners may appraise the value of such lot or lots without the improvements, after sufficient sales have been made to furnish a proper standard of value; and at any time within sixty days after such appraisal such settler may purchase such lot or lots by paying twenty-five per cent. of the appraised value thereof at the time of such purchase, and the residue of such appraised value in three equal instalments, in one, two and three years, with interest as hereinafter provided; but the words "substantial improvements," as used in this Act, shall not be construed to mean or include any bridge, wharf, fence, or piles driven in the land, capped or otherwise. Such sale shall be conducted in accordance with and under such rules and regulations as the State Board shall prescribe; and *provided* also, that all sales made under the provisions of this Act, whether at private or public sale, before they shall be deemed complete, shall be approved by the State Board, such approval to be made within sixty days after the report of such sales shall be filed with the State Board. When such sale shall not be thus approved, such lot or lots shall be subject to re-sale by the Board of Commissioners, and the money paid by the purchaser at such disapproved sale shall be returned to him.

Sales to be approved by State Board.

Terms of sale.

SEC. 6. The terms of sale shall be as follows: Cash, in gold coin, twenty-five per cent. payable on the day of sale to the Commissioners; and seventy-five per cent., payable in one, two and three years thereafter, to the State Treasurer at Sacramento. The Commissioners shall receipt to each purchaser for the amount of his payment of twenty-five per cent., stipulating that if within one, two or three years thereafter he pays the additional seventy-five per cent., together with legal interest, to the State Treasurer at Sacramento, he shall receive a deed from the State of California for the property purchased by him. Notices of sale shall be published in two of the San Francisco daily papers and in one daily paper published at the Capital of the State, for thirty days prior to the day of sale. Such notices shall specify the property to be sold, by its numbers and locality as to streets, and by any other descriptions deemed necessary to inform purchasers, as also the time, place and conditions of sale. The compensation of the auctioneer shall be agreed upon by [the] State Board, and shall not exceed the half of one per cent. on the gross amount of sales.

Notice to be given.

Deeds.

SEC. 7. Upon a sale, and after the payment of the twenty-five per cent. provided in section six, the Commissioners, or a majority of the Board, shall sign and execute a deed of grant and release to the purchaser. Such deed shall convey all the right, title and interest of the State of California in the premises, and

shall be prima facie evidence of the regularity of all the preliminary proceedings and sale of the Commissioners, and shall also be prima facie evidence of title and right of possession in the grantee, his heirs and assigns, upon which actions for the recovery of real property or for injuries thereto may be maintained and defended in all the Courts of this State having jurisdiction thereof, which deed shall be forwarded by the Commissioners to the State Treasurer, who, upon the surrender to him of the Commissioner's receipt for the amount paid said Commissioners [and] the payment to him of the additional seventy-five per cent., with legal interest, as hereinbefore provided by this Act, shall deliver the deed to the grantee; and in case of non-compliance with the provisions of this Act on the part of the purchaser, by non-payment of either or any instalment aforesaid, all the money paid by him shall be forfeited and the property considered as unsold by the State.

Deeds.

Forfeiture.

SEC. 8. The Commissioners shall pay over to the State Treasurer all moneys received by them from sales of property within fifteen days after its receipt. At the close of each sale they shall file with the State Board and State Controller accounts of such sale, showing the amount of money received by them on account of such sale, the number and description of the property sold, the purchaser's name, and other needful information, and shall verify the same under oath.

Proceeds of sales.

SEC. 9. The Commissioners shall have power to adjourn any sale regularly called, from day to day, week to week, or month to month, by public proclamation; in which case, each postponement shall be re-advertised by publication of notice in the same manner as required in section six of this Act; but it shall not be lawful to ordain and call sales at intervals of time less than forty-five days, one sale from another; provided, that the Commissioners shall have power at any time during a public sale to pass or discontinue the sale of any property, when they deem such action to be best for the State.

Sales may be postponed.

SEC. 10. The cash proceeds of all sales shall be placed by the Treasurer to the credit of the General Fund.

SEC. 11. The Commissioners are empowered to employ a competent surveyor, and such assistants as may be necessary, to make the surveys and maps required by this Act; also, to rent for their use a suitable office in the City of San Francisco, the rent of which shall not be more than fifty dollars per month, and to do any other act or exercise any other power necessary to carry out the provisions of this Act.

Powers of Commissioners.

SEC. 12. All bills or accounts for expenses incurred in enforcing this Act shall be approved by the State Board; and the President and Secretary, after they shall have been so approved, shall certify the fact to the Controller of State, who thereupon shall draw his warrants, payable out of the General Fund, for the separate amounts of such bills or accounts, in favor of the parties to whom it is due.

Approval of accounts.

SEC. 13. The salary of the Commissioners shall be twenty-five hundred dollars each, payable quarterly out of the General Fund. The Governor of the State, Mayor of the City of San Francisco and President of the Chamber of Commerce shall each be enti-

Salaries.

tled to five hundred dollars to cover expenses incurred in attending to the duties required under this Act. The Secretary shall receive a salary of one hundred and sixty-six and sixty-six one-hundredths dollars per month in full for all services required of him under this Act, payable monthly out of the General Fund.

Legal advice

SEC. 14. It shall be the duty of the Attorney-General of the State to give such legal advice and render such legal services as may from time to time be required of him by the Commissioners in connection with their duties under this Act.

Office hours.

SEC. 15. The office of the Board shall be kept open by the Secretary during all proper business hours, as established by the Board.

Deeds to be
furnished at
expense of
State.

SEC. 16. All deeds under the provisions of this Act shall be furnished, duly executed and stamped, at the expense of the State, the stamps to be paid for out of the General Fund, in legal tender notes of the United States—the expense of acknowledgment to be paid in coin out of the General Fund; *provided*, that no charge shall be made for drawing such deeds, but the necessary blank deeds to be furnished by the Controller at the expense of the State.