

THE
STATUTES OF CALIFORNIA,

PASSED AT

The Fourth Session of the Legislature,

BEGUN ON THE THIRD OF JANUARY, 1853, AND ENDED ON THE
NINETEENTH DAY OF MAY, 1853, AT THE CITIES OF
VALLEJO AND BENICIA.

PUBLISHED BY AUTHORITY.

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1853.

CHAPTER CLX.

AN ACT

To provide for the Sale of the Interest of the State of California in the Property within the water line front of the city of San Francisco, as defined in and by the act entitled "An Act to provide for the disposition of certain property of the State of California," passed March twenty-sixth, one thousand eight hundred and fifty-one.

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

SECTION 1. The Governor of the State shall, by and with the advice and consent of the Senate, appoint five persons as Commissioners, who shall hold their offices for two years, and shall have the charge and disposition of the property, and interests of property of the State of California, in the city of San Francisco, situated within the water line front as mentioned and described in section five of this Act.

Governor to appoint five Commissioners.

Who shall hold their offices for two years and have charge of certain property of the State.

SEC. 2. Each of the said Commissioners shall, within ten days after his appointment and confirmation by the Senate, take the oath of office, as prescribed by law, before a judge of the supreme court or any district court, and shall further take the following oath or affirmation: "I, A. B., solemnly swear (or affirm) 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 of San Francisco, nor in any property sold, or to be sold under or by virtue of the act under which I am appointed, nor in any property or advantages (except my official salary as fixed by law) to result from the administration of my office, or the office of my associate Commissioners, and that I will not be so interested during my term of office." Said oath shall be endorsed in writing upon a copy of the commission of each Commissioner, and such copy and oath shall be filed in the office of the Secretary of State. A violation of the above oath in any of its parts, or any other violation of duty in office, shall be a felony, for which the person offending shall be punished by fine, not less than five thousand dollars nor more than fifty thousand dollars, and by imprisonment in the State Prison not less than six months nor more than three years. Upon probable cause

They shall qualify within ten days, and

Take the oath herein contained.

Oath to be endorsed on the Commission and a copy deposited in office of Secretary of State. Penalty for violation of oath.

Governor
may remove
Commissioners.

Organization
of Board.

Duties of
President.

Duties of
Secretary.

Record of
proceedings
of Board.

To be open
for inspection.

Proceedings
to be
published.

Meetings
of Board.

Commissioners
may rent
an office.

Commissioners
to take
possession
of certain
interests of
the State and
exercise the
power
necessary to
carry out the
provisions
of this Act.

Every Act and
conveyance of
the Board of
Commissioners
to have the vote
and signatures of
at least three of
the Commission-
ers.

Commissioners
to ascertain the
extent, &c., of
property
described in
section five of
this Act, and
proceed to sell at
public auction
the interests of
the State therein.

the Governor may remove any Commissioner and fill the vacancy, as in other cases according to law.

SEC. 3. The said Commissioners shall, within five days after having been sworn in, organize as a Board, by choosing a President from among their own number, and a Secretary. The duties of the President, besides those herein imposed, shall be such as may be prescribed for him by the Board, not inconsistent with this Act. The Secretary shall keep distinct and proper minutes of the proceedings of the Board, and shall record the names of every commissioner present at each meeting, and voting on each resolution, act or proceeding, and 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 provided by this Act, and as may be prescribed for him by the Board in accordance therewith. His minutes and record shall be open to public inspection during business hours, and the proceedings of said Board at each meeting shall be published in one of the city papers.

SEC. 4. The meetings of the Board shall be public, and shall be held in the city of San Francisco, and at least as often as once a month. The Board shall have power to rent an office, at an expense not to exceed one hundred dollars per month.

SEC. 5. The said Commissioners, after their appointment and confirmation, shall as speedily as possible, and they are hereby empowered to enter upon and take possession of all the property and interests of property of whatever description, of the State of California, within the line fixed by an act entitled "An Act to provide for the disposition of certain property of the State of California," passed March twenty-sixth, one thousand eight hundred and fifty-one, and defining the present water front of the city of San Francisco, and to dispose of the same, in the manner and for the purposes in this Act provided, and they are hereby authorized in and by the name of the people of the State of California, to bring and maintain all suits and proceedings at law in any Court of this State or of the United States, and to do any other act, or exercise any other power necessary to carry out the provisions of this Act.

SEC. 6. Every act of the Board of Commissioners for the disposition of the property, or interests of property of the State as herein provided, or directing the manner of its disposition, shall require the vote of at least three of the Commissioners; and every conveyance or agreement for a conveyance, executed by the Board, shall have the signatures and seals of three of the Commissioners, including the President.

SEC. 7. The Commissioners shall first ascertain the extent, nature and character, of all the property and interests of property of the State of California, situated within the line in section five of this Act referred to; and as soon as possible thereafter, they shall proceed to sell at public auction, in the city of San Francisco, all the right, title and interest of the State of California, of, in

and to, all the said property or interests of property. Such sale shall be made by lots, as the same are now laid out on the official map of said city, and where none such are so laid out, then in such lots as may be laid out by the Board in conformity with the said official map. But no open slip authorized by law to be kept open as a slip shall be sold, but the same shall remain open for the purposes of commerce until otherwise ordered by law. The terms of such sale shall be as follows: Cash, or the civil bonds of the State of California, or the civil warrants of the Comptroller of State on the Treasury. Ten per cent. to be paid on the day of sale, twenty-five per cent. in ten days thereafter, and the remaining sixty-five per cent. in three months; in default whereof, the property shall be resold at the expense and on the account of the purchaser. The acts of sale at the purchaser's expense. At least thirty days' notice of all sales shall be given in three daily newspapers in the city of San Francisco, of which the newspaper known as the "Times and Transcript" shall be one; in the newspaper known as the "Democratic State Journal," in the city of Sacramento, and in the newspaper known as the "San Joaquin Republican," in the city of Stockton. Such notices shall specify the property to be sold, by its numbers, and locality as to streets on the city map, and by such other description as shall be sufficient to fully inform purchasers, and also the time, place and conditions of sale. In closing each bid the auctioneer shall allow a sufficient time to give notice after having declared the same, and then if an advance of twenty-five dollars or more shall be bid, the bidding shall be renewed until finally closed. The compensation of the auctioneer shall not exceed one-half of one per cent. on the gross sales, to be paid by the purchaser: *Provided*, That nothing in this Act contained shall affect any lands legally appropriated for the use of wharves in the said city, prior to the passage of this Act, where the contracts under which said wharves were built have been heretofore ratified or confirmed by a statute of the State. *And, provided also*, That nothing in this Act contained shall authorize or empower the Commissioners, or any officer under this Act, to take charge of or sell any property legally sold by the authorities of the city of San Francisco, under or confirmed, or granted by the provisions of the act entitled "An Act to provide for the disposition of certain property of the State of California," passed March twenty-sixth, one thousand eight hundred and fifty-one, excepting it be the remaining interest of the State in said property, after the expiration of the estate or term granted or mentioned in said last mentioned act, and excepting also it be the property known as the Government Reserves, which remaining interest and reserves may be sold, and are not intended to be exempted from sale by this proviso.

SEC. 8. Upon a sale, the Commissioners shall make to the purchaser, as soon as such purchaser complies with the terms of sale, a conveyance, by deed of bargain and sale; such deed shall convey all the right, title and interest of the State in the premises,

Sale to be made by lots.

Open slips not to be sold.

Terms of sale.

Acts of sale.

Thirty days notice of sales to be published in.

Times and Transcript, State Journal, And Republican.

Contents of notices.

Manner of conducting sales.

Compensation of auctioneer.

Land appropriated for wharves.

Property legally sold by virtue of the provisions of former Act exempted from this Act.

Sale of property known as the Government Reserves.

Upon a compliance with the terms of sale a deed to be executed conveying the interests of the

State in the premises. To be evidence of proceedings. Right of possession.

and shall be *prima facie* evidence of the regularity of all the preliminary proceedings and sale on the part 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 and possession of real property, or for injuries thereto, may be maintained and defended in all the courts of this State having jurisdiction thereof.

Sale may be postponed.

SEC. 9. A sale regularly called and advertised, may be adjourned by public proclamation from day to day, or may be postponed in the discretion of the Commissioners, in which last case it shall be re-advertised, but it shall not be lawful for the Commissioners in any one sale, to sell and dispose of more of the property and interest of property of the State, as herein provided, than shall exceed more than the amount of three hundred and fifty thousand dollars, nor to ordain and call sales at intervals of time of less than two months, one sale from and after another: *Provided*, That the Commissioners may at any time during a public sale, pass and discontinue the sale of any property, when they deem such action to be best for the interest of the State.

To be re-advertised. Each sale not to exceed \$350,000.

And not to be made oftener than at intervals of two months. Interests of the State to be protected.

Appropriation of revenue.

SEC. 10. The cash proceeds of all sales shall forever be and remain—

First: A Sinking Fund for the payment of the three per cent. and of the seven per cent. Bonds.

First. A sinking fund, for the payment and redemption of the principal and interest of the three per cent. bonds of the State, and of the seven per cent. civil bonds, to be applied to such purposes as hereinafter provided, and in accordance with existing law: and,

Second: Balance to be paid into General Fund.

Second. After such payment and redemption, the balance if any, shall be paid into the treasury to the credit of the general fund.

Treasurer of State to attend the sales and receive the proceeds thereof.

SEC. 11. The proceeds of sales, whether bonds, warrants or money, shall be paid to the Treasurer of the State, whose duty it shall be to attend all sales under this Act, and receive all such proceeds.

Salary of Commissioners. Of the President. Of the Secretary. To be paid monthly.

SEC. 12. The salary of each of the said Commissioners shall be three thousand dollars per annum, except of the President, whose salary shall be thirty-five hundred dollars. The salary of the Secretary shall be thirty-five hundred dollars per annum. Said salaries shall be payable monthly, out of the proceeds of any sales under this Act, upon the certificate of the President and of two Commissioners.

Commissioners to file with Comptroller of State a certified statement under oath of the accounts of each sale, and other information connected therewith. They shall also report to the Legislature.

SEC. 13. The said Commissioners shall file with the Comptroller of State at the close of each sale, accounts of such sale, with the number and description of the property sold, the purchaser's name, and other needful information, of their receipts and disbursements, with all necessary vouchers, which accounts shall be sworn to and certified by the President and Secretary of the Board. They shall also make to the Legislature, the first week of the session, a full report of their transactions during the preceding year, with such suggestions as may be proper.

Attorney General to advise with Commissioners.

SEC. 14. It shall be the duty of the Attorney General of this State to aid and advise with said Commissioners, when required

by them, in carrying out the provisions of this Act, and in the prosecution and defending all suits under the same.

SEC. 15. It shall not be lawful for any judge or court of this State, to restrain or prohibit any sale of the Commissioners authorized under this Act, by any order or injunction, and if any such order or injunction shall be issued for that purpose, all officers acting under this Act may proceed with such sale, notwithstanding such injunction shall have been served on such officer.

The issuance of orders restraining Commissioners prohibited. To be disregarded if issued.

SEC. 16. So much of the property known as the Government Reserves, situate on the block bounded by Sansome, Battery, Washington and Jackson streets, as may have been selected by or on behalf of the General Government for the erection of a Custom-House, are reserved and excepted from the provisions of this Act.

Certain portion of the Government Reserves excepted from provisions of this Act.

Approved, May 18, 1853.

CHAPTER CLXI.

AN ACT

Concerning Sureties on Official Bonds.

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

SECTION 1. Whenever it shall be shown by affidavit of a credible witness, duly filed, or presented to any court, judge, board, officer, or person whose duty it is to approve the official bond of any officer, that the sureties thereon, or any of them, have, since such bond was approved, died, removed from the State, become insolvent, or from any other cause have become incompetent or insufficient sureties on such official bond, it shall be the duty of such court, judge, board, officer, or person, to issue a citation to such officer, requiring such officer, on a day therein named, not less than three nor more than ten days after date, to appear and show cause why such office shall not be vacated, which citation shall be served, and return thereof made, as in other cases. If said officer shall fail to appear and show good cause why such office should not be vacated, on the day named, or shall fail to give ample additional surety, it shall be the duty of such court, judge, board, officer, or person, to make an order vacating such

Citations may be issued on officers whose bonds are insufficient.

Additional surety to be given or the office declared vacant.