

## RAILROAD LITIGATION.

### Suit Against the Central and Southern Pacific Railroad Companies.

Attorney-General John L. Love yesterday filed a complaint in the Third District Court, in the name of the people of California against the Central Pacific and the Southern Pacific Railroad Companies. The complaint recites the following facts: By an Act approved by the Legislature March 30, 1868, sixty acres of land lying south of Channel street and outside the line designated as the red line of Mission bay water front was granted to the Western Pacific and Southern Pacific Railroad Companies, to be used as a terminus. The grant stipulated that the two companies should locate thirty acres each, within ninety days from the passage of the Act, and the location was not to extend beyond 24 feet of water at low tide, nor within 300 feet of the line of the permanent water front of the city. Further than this, it was required that the location should be approved by the Governor, Mayor, and President of the Chamber of Commerce. Both companies were given

#### THE RIGHT OF WAY

Over a strip 200 feet wide of the State lands, and the companies were authorized to extend their roads to this terminus. It was further provided by the enactment that when the companies had located their depots, stations, etc., and expended \$100,000 each thereon, the Governor should issue to each company a patent for the land. In case the companies did not expend \$100,000 each in that manner within thirty months after the passage of the Act, the grant was to be void and the lands revert to the State, and the 200-foot strip, if abandoned, wholly or in part, was likewise to wholly or partly revert to the State. Also, a thirty days notice of acceptance was to be given by each company. The 200-foot strip of land was granted to enable the railroad to enter the city by what is called the shore line route, running around the easterly side of San Bruno mountain and avoiding the various curves and the summit, which in the other San Jose route rendered transportation so expensive. In accordance with the Act the lands were located within thirty days by the two companies and the location approved. The strip of land was located by the Tide Land Commissioners in such a manner that it is impossible to build a road over it or extend the tracks as far as Mission bay by any other route. The time set for fulfilling the conditions of the grant was extended by the Legislature on April 2, 1870, for the term of eighteen months, and on March 8, 1872, a further extension was granted. On the 26d of June, 1870, the Western Pacific amalgamated with the Central Pacific under the name of the latter, and the Central Pacific Railroad and Southern Pacific Railroad claim to have succeeded to the grant made to the Western Pacific. Improvements were made on the land to the extent of \$200,000 before the 13th of June, 1872, but neither company

#### EXTENDED ITS ROAD

Over the land granted for the right of way and they have neither used the place as a terminus nor the 200-foot strip as a means of approach, with the exception of a very small portion of the west end of it. This being the case, the Act became void and the companies lost all right to the lands or to any patent to them. On the 24th of April, 1876, the two companies presented a petition to Governor Pacheco asking for a patent and stating that the terminus of the roads had been made as prescribed by law, and further made affidavit that the Western Pacific, being consolidated with the Central, had extended its franchise and road over the bay of San Francisco, and to the foot of King and Second streets, in the city, this being wholly false. They further alleged that the buildings had been constructed on the lands by the 24th of June, 1872, as the law required, whereas the first one was not built until June 30, 1870, and the buildings are

#### NOT USED AS TERMINAL BUILDINGS.

But rented for storage, the real terminal buildings being for the Southern Pacific, on the block bounded by Townsend, King, Third and Fourth streets, and of the Central on the block bounded by Fourth, Townsend, Berry and Third streets. The application failed to state that the Southern Pacific Company still used the San Jose route over the hills and was not the real company to which the grant was made.

The issuance of the letters patent was in violation of law and authority inasmuch as the Governor was imposed upon and not informed as to the true circumstances in the matter, and, again, because the same was a conveyance in fee simple instead of being simply issued for the fifty years term of the company's existence. In view of these facts the plaintiffs demand that the letters be declared null and void by decree of the Court, and the defendants be compelled to surrender them for cancellation.