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TITLE TO CERTAIN LANDS IN ALBUQUERQUE, N. MEX.

JUNE 4, 1890.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CASWELL, from the Committee on Private Land Claims, submitted the following

REPORT:

[To accompany H. R. 975.]

The Committee on Private Land Claims have had under consideration the bill (H. R. 975) to confirm the title to the land on which the city of Albuquerque, N. Mex., is located.

Under the laws of Spain a community of thirty or more white people were entitled to four square leagues of land for a town. More than one hundred and eighty years ago such a body of inhabitants settled upon the site where Albuquerque now is, claiming it was a town under the laws of Spain. They maintained, through their heirs and assigns, their status down to 1846 and subsequent thereto. Under the treaty of Guadalupe Hidalgo the Government of the United States is bound to respect their rights.

There were adverse claimants to the land, and under the act of Congress approved July 22, 1854, petitions were filed before the surveyor-general of New Mexico, setting forth their claims, and he made full investigation thereof and submitted his report to the General Land Office, as required by law, September 5, 1882, confirming the claim of the town of Albuquerque to the site.

That report was certified to Congress under the act of 1854 for final action, and is as follows:

TOWN OF ALBUQUERQUE.

OPINION.

Before the United States surveyor-general for the Territory of New Mexico.

THE INHABITANTS OF THE TOWN OF ALBUQUERQUE }
vs. }
THE UNITED STATES. }

In the matter of the claim of the inhabitants of the town of Albuquerque, in Bernalillo County, Territory of New Mexico.

This claim is brought before the surveyor-general, under the treaty of Guadalupe Hidalgo and the eighth section of the act of Congress approved July 22, 1854.

The petition of claimants sets forth that they are citizens and property-holders of the town of Albuquerque; that the town has been in existence for over one hundred and seventy-five years; that the muniments of title were lost or destroyed at the time of the expulsion of the Spaniards by the Indians in 1680, but cites numerous official documents on file in the old Spanish and Mexican archives of this office, showing a recognition by such officials of the existence of a grant,

They further claim that by operation of the law, the town is entitled to four square leagues of land, it having been in existence in 1846.

Under the laws and ordinances of Spain settlements of not less than thirty white inhabitants were entitled to four square leagues.

I have no doubt that a grant originally existed to this town, as the numerous documents on file in this office, a portion of which are referred to in the petition of claimants, bear evidence of the fact in their reference to the same, and the records of the office as well as the testimony taken in the case clearly establish the fact that the town was in existence in 1846 and 1854.

The instructions of the Commissioner of the General Land Office to the surveyor-general of August 21, 1854; set forth in substance that where proof is made of the existence of a town at the period when the United States took possession, it may be considered *prima facie* evidence of the existence of a grant to such town or to the individuals under whom the lot-holders claim.

In view of all the facts, I am of the opinion that the inhabitants of the town of Albuquerque have a just and lawful claim for the land petitioned for, and I approve to the inhabitants of said town the claim for four square leagues having the center of the flagstaff and adobe monument surrounding the same in the middle of the main plaza or square about the center of the old town of Albuquerque as the center of said tract, unless it may be subsequently shown that the mutual point is elsewhere, and having for its exterior boundaries north and south and east and west lines through the respective termini of lines one Spanish league in each direction north, south, east, and west, from the central point.

The prayer of the petitioners that the grant be approved to the heirs, successors, and legal representatives of the original settlers or grantees can not be granted, as no evidence of title appears in any specific individuals, but the inhabitants of the town are by operations of the laws and instructions cited entitled to the grant.

The claim is hereby approved and recommended for confirmation by Congress to the inhabitants of Albuquerque.

A transcript in triplicate of all the papers in the case will be forwarded to Congress for its action in the premises.

HENRY M. ATKINSON,
Surveyor-General.

SURVEYOR-GENERAL'S OFFICE,
Santa Fé, N. Mex., September 5, 1882.

The status of the title is further verified by the following letter of the Assistant Attorney-General for the Interior Department:

DEPARTMENT OF THE INTERIOR,
Washington, ———, 18—.

DEAR SIR: Referring to your verbal inquiry as to what departmental (or other) action has been taken in connection with the Albuquerque claim, I find the history to be in brief as follows:

The claim of the town was presented and reported in pursuance of section 8 of act of July 2, 1854 (10 Stat., 308), and departmental instructions thereunder, dated August 25, 1854.

September 5, 1882, Henry M. Atkinson, United States surveyor-general for New Mexico, approved and recommended the confirmation of said grant to the inhabitants of the town—not the heirs and descendants of the original grantees.

Persistent efforts to secure a rehearing and reversal of this approval and recommendation were ineffectual, as the surveyor-general adhered to his recommendation.

The record of the preceding action was transmitted to Congress by the Interior Department, January 14, 1884.

In accordance with the act above cited, the lands involved have since the date thereof been reserved from sale or disposal, and will be until some act is passed authorizing sale or disposal.

The most of the above facts, together with letters, maps, and other exhibits, may be found (as you are probably already aware) in the Senate Executive Document No. 56, Forty-eighth Congress, first session.

Very respectfully,

GEO. H. SHIELDS,
Assistant Attorney-General.

HON. L. B. CASWELL,
House of Representatives.

By a strange feature of the act of Congress of 1854, as soon as the surveyor-general submits his report in any case to the General Land

Office, whether it be for or against the claimant, the land embraced within the claim must be withdrawn from market until the final action of Congress.

Although a great many reports have been submitted, in these contested cases, no action has been taken by Congress for several years, and as in the case under consideration, the title remains unsettled. We see no reason why the report of the surveyor-general in this case should not be confirmed as provided for in the bill, and we report the bill back and recommend its passage.

