

Peninsula Diary Mayo Hayes O'Donnell

August 18, 1954

Ejected From the Land

In the last issue of the Peninsula Diary we told of the early history of the Milpitas grant, the origin of its name and the sale to William Randolph Hearst.

The granting of the Milpitas Rancho, like all the other grants by Mexico, was very crude and indefinite as to location and boundaries. By the treaty of Guadalupe Hidalgo it was stipulated that all property rights of Mexicans in California should remain as they were during the Mexican regime.

Just as soon as the United States assumed control of this vast territory it became necessary to settle disputes as to boundaries, establish them in as equitable manner as possible and then issue a patent to them.

The description of the Milpitas was very indefinite and the result was that 115 people, who were residing on certain portions were ordered off the grant. They immediately filed in the circuit court, through U.S. Atty. John M. Coglan, a complaint against Faxton D. Atherton, asking that he be restrained from ejecting people from their homes.

From an old newspaper clipping concerning this ranch and the suit we have learned that the complaint set forth that in 1838 Juan B. Alvarado, claiming to be governor of Mexico granted to one, "Ignacio Pastor, a neophyte of the Mission of San Antonio," as he was called in the petition, asking for the same, "A small rancho known as the Rinconada de los Milpitas as far as the Rinconada of the Potrero."

In 1852 the board of land commissioners confirmed the grant describing it as follows: "The land of which confirmation is made is situated near the Mission of San Antonio in Monterey County, and known by the name of "Milpitas," it being a valley surrounded by hills and the land confirmed from the place known as the Rinconada de los Milpitas to that known as the Rinconada del Potrero and bounded on the other extreme limits of the foothills enclosing this valley."

Pastor and his successor of whom the defendant in his suit, Atherton, is the last, claimed, instead of the "little rancho" of some 12,000 acres bounded as Pastor had originally described it, an area much wider than that intended covering 43,280 acres, the 30.989 acres not intended to be granted originally being now occupied

by 115 parties on whose behalf as pre-emptors of government land, Mr. Coglan sues. His complaint further sets forth that Alvarado was not constitutional governor at the time the original grant was made; that before the U.S. District Court in 1855 confirmed the decree of the land commissioners, Pastor transferred all his title to the land to Jose de Jesus Pico, who asked Gov. Alvarado to give Pastor the land; that in 1866 a United States deputy surveyor fraudulently or by mistake, included in his survey of the Pastor grant not only the valley of the Milpitas, but also the larger valley of 34,000 acres, in which the old Mission of San Antonio was located.

Mr. Coglan further said: "Your orator, upon information and belief, alleges that thereafter certain parties interested in said Milpitas Rancho fraudulently conspired together and by false representations and suppressions of facts imposed upon the officers connected with the Land Office in Washington and fraudulently procured a patent to be issued in the name of said Ignacio Pastor for 43,280.88 acres of land, being 30,980.88 acres more than was confirmed to the claimant by said final decree and as segregation and surveyed under instructions from the commissioner of the General Land Office aforesaid, which said patent bears date of the 15th day of February, 1875, and was sent to the surveyor general of California and by him delivered to the defendant, Faxton D. Atherton, through his attorney. Alex B. Grogan, on the 10th day of May, 1875, and said defendant has since said patent to be recorded in the recorder's office of Monterey County."

The suit was lost in the circuit court and when these alleged squatters refused to move, they were forcibly ejected. The late sheriff, William Nesbitt, was residing in that section when these people were thrown out. A wagon with guards would drive up to the squatter's home and everything he possessed, with the exception of the cows and horses, would be placed on the wagons and they would be driven to the county road near Jolon and unloaded alongside the road.